

PLANO CITY COUNCIL

WILL CONVENE INTO EXECUTIVE SESSION AT 5:00 P.M. ON NOVEMBER 10, 2008, FOLLOWED BY PRELIMINARY OPEN MEETING IN THE PLANO MUNICIPAL BUILDING, 1520 K AVENUE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:

Mission Statement: The mission of the City of Plano is to provide outstanding services and facilities, through cooperative efforts with our citizens, that contribute to the quality of life in our community.

EXECUTIVE SESSION

- | | | | |
|------|--|-------------|---------|
| I. | Legal Advice | Wetherbee | 5 min. |
| | A. Respond to questions and receive legal advice on agenda items | | |
| II. | Economic Development | Muehlenbeck | 15 min. |
| | A. Discuss a financial offer or other incentive to a business prospect to locate, stay, or expand in Plano and consider any commercial and financial information from the business prospect. | | |
| III. | Personnel | | |
| | A. Appointments
Planning and Zoning Commission | Council | 10 min. |
| | B. Evaluation of Council Appointees | | |

PRELIMINARY OPEN MEETING

- | | | | |
|----|---|---------|--------|
| I. | Consideration and action resulting from Executive Session discussion: | Council | 5 min. |
| | A. Appointments
Planning and Zoning Commission | | |

II.	Personnel Appointments Community Relations Commission Cultural Affairs Commission Public Arts Committee TIF Zone No. 1 Board	Council	10 min.
III.	Comprehensive Monthly Financial Report	Tacke	10 min.
IV.	Discussion and Direction re 2009 Bond Referendum	Rhodes-Whitley	20 min.
V.	Council items for discussion/action on future agendas	Council	5 min.
VI.	Consent and Regular Agenda	Council	5 min.

In accordance with the provisions of the Open Meetings Act, during Preliminary Open Meetings, agenda items will be discussed and votes may be taken where appropriate.

Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Avenue L, with specially marked parking spaces nearby. Access and special parking are also available on the north side of building. The Council Chamber is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.



CITY COUNCIL

1520 AVENUE K

DATE: November 10, 2008

CALL TO ORDER: 7:00 p.m.

INVOCATION: Reverend Shannon Grubbs
First Christian Church Plano

PLEDGE OF ALLEGIANCE: American Legion Honor Guard Post 321-Plano

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>THE MISSION OF THE CITY OF PLANO IS TO PROVIDE OUTSTANDING SERVICES AND FACILITIES, THROUGH COOPERATIVE EFFORTS WITH OUR CITIZENS THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</p> <p>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</p> <p><u>PROCLAMATIONS & SPECIAL RECOGNITION</u></p> <p>Proclamation: Veterans Day</p> <p>Proclamation: Workplace Cares and City of Plano Kick Off of The Salvation Army Red Kettle Campaign</p> <p><u>OATHS OF OFFICE</u></p> <p><u>Community Relations Commission</u> Robert G. Masengill Sharon Marsh-Wyly</p> <p><u>Cultural Affairs Commission</u> Barbara Buehler Marilyn Mahoney A. Basit Siddiqui</p> <p><u>Heritage Commission</u> Anne Quaintance-Howard</p> <p><u>Parks and Recreation Planning Board</u> David L. Downs</p> <p><u>Plano Housing Authority</u> Stella Mercedes Vea</p> <p><u>Public Arts Committee</u> Robert B. Drotman Jacie Moore Margaret Robinette</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Self Sufficiency Committee</u> Louis J. Heck Greg R. Huckaby Shelby Howard Williams III</p> <p><u>Senior Citizens Advisory Board</u> Rose Baker Tracey S. Dry William E. Gibson Gerald Gotcher Dolvin Mack</p> <p><u>CERTIFICATES OF APPRECIATION</u></p> <p><u>Community Relations Commission</u> Kimberly Jene Brogan</p> <p><u>Cultural Affairs Commission</u> Logan Sankaran</p> <p><u>COMMENTS OF PUBLIC INTEREST</u></p> <p><u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></p> <p><u>CONSENT AGENDA</u></p> <p><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></p> <p><u>Approval of Minutes</u></p> <p>(a) October 27, 2008</p> <p><u>Approval of Expenditures</u></p> <p>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</p> <p>(b) Bid No. 2009-1-C for Tire Re-Capping Service to Southern Tire Mart in the estimated annual amount of \$76,745. This will establish an annual fixed-price contract with three optional renewals.</p> <p>(c) Bid No. 2008-215-C for Janitorial and Laundry Supplies to Eagle Brush and Chemical, Inc.; Empire Paper Co.; Complete Supply, Inc.; Pyramid School Products and Eco-Worx, Inc. in the total estimated annual amount of \$57,782. This will establish an annual fixed-price contract with three optional renewals.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(d)	Bid No. 2008-207-C for RFP for Stop Loss Insurance to United HealthCare in the estimated annual amount of \$950,450. The term of this policy is for one year with five City optional one-year renewals.	
(e)	Bid No. 2008-226-B for 2008-2009 Arterial Concrete Pavement Rehabilitation Project – Parker Road – Preston Road to Dallas North Toll Road to Santos Construction, Inc. in the amount of \$437,665. This project involves the replacement of arterial street paving, curb and gutter, sidewalk repair and barrier free ramp construction on Parker Road between Preston Road and Dallas North Toll Road.	
(f)	Bid No. 2008-227-B for 2008-2009 Arterial Concrete Pavement Rehabilitation Project – Legacy Drive – Preston Road to SH 121 to Smith Contracting, Inc. in the amount of \$293,485. This project involves the repair of arterial street paving, and curb/gutter on Legacy Drive between Preston Road and SH 121.	
(g)	Bid No. 2008-233-B for Screening Wall Replacement Cloisters to Tracon Ventures, LTD in the amount of \$768,335 for the base bid. The project consists of the removal and replacement of screening walls at four locations: 15 th Street (south side) – Highedge Drive to Wilson Drive; 15 th Street (north side) – Mill Valley Drive to Stratford Drive; Coit Road (west side) – 150’ north of Whistler Drive to 450’ north of Whistler Drive; and West Park Boulevard (north side) – Willowbrook Way to 1100’ west.	
(h)	Purchase from an Existing Contract To authorize the purchase of a Gemtrac™ Storage System to store 30,000 rolls of microforms for Genealogy, Local History, Texana, and Archives located at Haggard Library, utilizing a TXMAS contract (TXMAS-6-36010) through a local representative, Southwest Solutions Group, to cover the cost for this system amounting to \$84,604 and authorizing the City Manager to execute all necessary documents.	
(i)	To approve the purchase of a Premier Support Service Contract in the amount of \$65,010 from Microsoft Corporation through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-821)	
(j)	Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws) To approve the terms and conditions of an Engineering Services Contract by and between the City of Plano and Hayden Consultants, Inc., in the amount of \$129,836 for the 17 th Street and R Avenue Reconstruction project and authorizing the City Manager to execute all necessary documents.	
(k)	Approval of Change Order To Tiseo Paving Company, increasing the contract by \$80,229 for the Parkwood Boulevard Widening - Park Boulevard to Spring Creek Parkway, Change Order No. 1. This includes the construction of two right turn lanes on Spring Creek Parkway and other items necessary to construct the project. (Original Bid No. 2007-208-B)	

ITEM NO.	EXPLANATION	ACTION TAKEN
(l)	To Birkhoff, Hendricks and Conway, LLP, increasing the professional services contract by \$114,600 for the Mapleshade Lift Station and Sewer Line Project. (First Modification – Project No. 5814)	
	<u>Adoption of Resolutions</u>	
(m)	To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for the widening of Alma Drive from Spicewood Drive to Rowlett Creek; authorizing its execution by the City Manager; and providing an effective date.	
(n)	To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for Intersection Improvements at Plano Parkway and Jupiter Road; authorizing its execution by the City Manager; and providing an effective date.	
(o)	To approve the terms and conditions of a Second Amendment to the Development Agreement with Lexington Park LP for Plano-Rice Field Redevelopment project; authorizing its execution by the City Manager; and providing an effective date.	
(p)	To find Steve Copling is entitled to defense representation pursuant to City Code of Ordinances in connection with the matter of Charles Kenneth Skees, Sr. and Charles Kenneth Skees, Jr., vs. Christopher John Carker; Tommy Walters; Ralph Colberg; Steve Copling; Kim Lee and Ken Mackenzie; and providing an effective date.	
(q)	To approve the use of Best Management Practices to provide alternative industrial user wastewater discharge permit requirements to control and reduce pollutants that may violate local, state or federal pretreatment standards and requirements; and providing an effective date.	
(r)	To approve the purchase of On-Site CBRNE (Chemical, Biological, Radiological, Nuclear, and Explosives) Detection Equipment in the amount of \$120,500 from Smiths Detection, the sole source vendor of such equipment and services; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase; and providing an effective date.	
(s)	To approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas and Sprint Wireless Broadband Company, LLC, a Delaware limited liability company to locate, place, attach, install, and operate, telecommunications equipment in certain specific portions of the public rights-of-way in the City of Plano near the Coit Road water tower site located at 3617 Sandy Trail Lane; authorizing its execution by the City Manager; and providing an effective date.	
(t)	To designate certain municipal vehicles as authorized emergency vehicles; and providing an effective date.	
(u)	To support the Raise Your Hand Texas program; and providing an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(v)	To repeal Resolution No. 2008-9-37(R) in its entirety and approve the terms and conditions of a new Agreement by and between the City of Plano, Texas, the County of Collin, Texas, Connecticut General Life Insurance Company, a Connecticut corporation, and CMC-Plano Pkwy Equity Investors, L.P., a Texas limited partnership; providing for a real and business personal property tax abatement, authorizing its execution by the City Manager; and providing an effective date.	
(w)	To repeal Resolution No. 2008-9-38(R) in its entirety and approve the terms and conditions of a new Economic Development Incentive Agreement by and between the City of Plano, Texas and Connecticut General Life Insurance Company, a Connecticut corporation; authorizing its execution by the City Manager; and providing an effective date.	
<u>Adoption of Ordinances</u>		
(x)	To amend Section VI of Ordinance No. 2008-9-36 so as to provide for new threshold amounts for tax abatement real property and business personalty investments within Reinvestment Zone No. 116 located on a 13.030 acre tract of land at the northeast corner of Plano Parkway and Dallas North Tollway, in the City of Plano, Texas; ordaining other matters relating thereto; and providing an effective date.	
(y)	To abandon all right, title and interest of the City, in and to a portion of that certain Drainage Easement recorded in Volume 2276, Page 167 of the Land Records of Collin County, Texas, being situated in the William Miller Survey, Abstract No. 568, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such Easement to the abutting property owner, CMC-Plano Pkwy, L.P., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date.	
(z)	To amend Ordinance No. 92-7-15 codified as Chapter 21, Article VII, Industrial Wastewater Pretreatment, Plano Code of Ordinances by amending Section 21-301 Definitions by deleting the definition "TWC. Texas Water Commission" and adding definitions for " TCEQ. Texas Commission on Environmental Quality" and "BMP. Best Management Practices"; by amending Sections 21-303(a)(2) and 21-317(c) by replacing "TWC" with "TCEQ"; by amending Section 21-323(a) by replacing "Texas Water Commission" with "TCEQ"; by amending Section 21-307(c) Industrial User Wastewater Discharge Permit Requirements by deleting the phrase "Including Liquid Waste Haulers"; and by adding Section 21-307.1 "Alternative Industrial User Wastewater Discharge Permit Requirements"; providing a savings clause, a severability clause and a effective date.	
(aa)	To repeal Ordinance No. 2004-12-15, entitled "Food Categories and Fees", and replace it with this Ordinance, to be entitled "Health Department Fees" to provide for updated permit and inspection fees; amending Article X, Division 2, Section 6-454(a), Issuance of an operating health permit, of Chapter 6 of the Code of Ordinances by deleting references to specific fee amounts and adding language referring to this fee ordinance; amending Article VIII, Section 21-362(a), Fee and display of permit, of Chapter 21 of the Code of Ordinances by deleting references to specific fee amounts and adding language referring to this fee ordinance; providing a repealer clause, a severability clause, a publication clause and an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(bb)	<p>To repeal Ordinance Nos. 99-9-1, 99-9-5, 2002-9-11, 2003-3-4, 2004-12-15 and 2004-12-16 codified as Chapter 9, Food Code of the Code of Ordinances of the City of Plano and replace them with a new Chapter 9, Food Code; and providing a penalty clause; a repealer clause; a severability clause; a savings clause; a publication clause and an effective date.</p> <p><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></p> <p><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></p> <p><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></p>	
(1)	<p>An Ordinance to amend Section 19-1(a) of Chapter 19, Streets and Sidewalks, of the Code of Ordinances of the City of Plano, providing an exception to the prohibition of the obstruction of streets, alleys, sidewalks, parkway areas, or public grounds; providing a repealer clause, a savings clause, a severability clause, and an effective date.</p>	
(2)	<p>An Ordinance to amend Article 1, Chapter 19 of the Code of Ordinances of the City of Plano, Texas entitled "Streets and Sidewalks", adopting and establishing Section 19-2 entitled "Valet Parking" to provide for licensing and regulation of valet parking operations; providing a severability clause, a repealer clause, a savings clause, and an effective date.</p>	
(3)	<p>Public Hearing and consideration of an Ordinance to amend the Project and Finance Plan for Tax Increment Financing Reinvestment Zone Number Two to include additional property within the zone; fund the purchase and improvement of property within the zone; ordain other matters relating thereto; and provide a severability clause, a savings clause, and an effective date.</p>	
(4)	<p>A Resolution to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Odyssey Information Services, Inc., a Texas corporation; authorizing its execution by the City Manager; and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(5)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2008-67 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 597 so as to allow the additional use of Day Care Center on 0.4± acre of land located on the south side of Legacy Drive, 270± feet west of Coit Road in the City of Plano, Collin County, Texas, presently zoned Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: QD Recreation Academy</p>	
(6)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2008-69 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 598 so as to allow the additional use of Day Care Center on 1.9± acres of land located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive in the City of Plano, Collin County, Texas; presently zoned Planned Development-320-Estate Development; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: John W. Jolly</p>	
(7)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2008-71 to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Section 3.1000 (Screening, Fence, and Wall Regulations) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, regarding golf nets; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Training Room A/Building Inspections Training Room are located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	



Pat Evans
Mayor

Jean Callison
Mayor Pro Tem

Harry LaRosiliere
Deputy Mayor Pro Tem

Pat Miner
Place 1

Scott Johnson
Place 2

Mabrie Jackson
Place 3

Sally Magnuson
Place 4

Lee Dunlap
Place 8

Thomas H. Muehlenbeck
City Manager

November 5, 2008

Mayor Pat Evans
City Council Members
City of Plano
Plano, TX 75074

Honorable Mayor and City Council:

We will begin our meeting on Monday with Executive Session where we will receive legal advice from the City Attorney. Under Item II, potential economic development prospects may be discussed. Item III will consist of appointments to the Planning and Zoning Commission followed by the evaluation of the City Manager.

The Preliminary Open Meeting will begin with consideration and action regarding appointments discussed in Executive Session. Thereafter, you will discuss further appointments to boards and commissions. At Item III, Denise Tacke will present the Comprehensive Monthly Financial Report. Lastly, Karen Rhodes-Whitley will make a presentation regarding the 2009 Bond Referendum.

I look forward to seeing you on Monday.

Sincerely yours,

Thomas H. Muehlenbeck

MEMO

DATE: November 6, 2008

TO: Honorable Mayor and City Council
City Manager Muehlenbeck
City Secretary Zucco

FROM: Alice Snyder, Assistant City Secretary

RE: Personnel Appointments -
Executive and Worksession Meetings

The following appointments will be considered at the November 10, 2008 Council Meeting.

<u>Executive Session</u>	<u>Worksession Meeting</u>
<u>Appointments:</u> Planning and Zoning Commission	<u>Appointments:</u> Community Relations Commission + Chair Cultural Affairs Commission + Chair Public Arts Committee + Chair + Ex-Officio from Cultural Affairs Commission TIF Zone No. 1 Board

comprehensive monthly

FINANCE

REPORT



september
08



ABOUT THIS REPORT

The City of Plano Finance Department is dedicated to excellence in local government, comprehensive fiscal management, compliance and reporting. The Comprehensive Monthly Finance Report (CMFR) is a unique document, directed at providing our audience (internal and external users), with the general awareness of the City's financial positions and economic activity.

This report is comprised of five sections:

1. The **Financial Analysis** reports the performance of the major operating funds of the City. Narrative disclosures are used to highlight any significant changes or fluctuations.
- 1A. The **Financial Summary** provides comparative data for major revenue sources and expenditure items.
2. The **Economic Analysis** section contains a summary of the key economic indicators and an in-depth review with graphic illustrations.
3. The **Investment Report** provides a description of investment activity during the month and a summary of interest earnings.
4. The **Quarterly Investment Report** summarizes investment activity for the previous fiscal quarter, and also provides various data on portfolio performance.

We would like to acknowledge those responsible for this report: Wendy Badgett for the Financial Summary, Brianna Alvarado for the Economic Analysis Report, Quarterly Hotel/Motel Report and the Investment Report.

The CMFR is intended to provide our audience with a timely, unique and informative document. Please provide us with any comments or suggestions you may have and should you desire additional information, feel free to contact my office.



Denise Tacke
Director of Finance
P.O. Box 860358
Plano, TX 75006-0358
972-941-71357135

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SECTION 1

FINANCIAL ANALYSIS



City of Plano *Comprehensive Monthly Finance Report*

This report is designed for internal use and does not include all the funds and accounts included in the City of Plano's operations. For a complete report, refer to the City of Plano Comprehensive Annual Financial Report, available through the City's Finance Department.

september
08

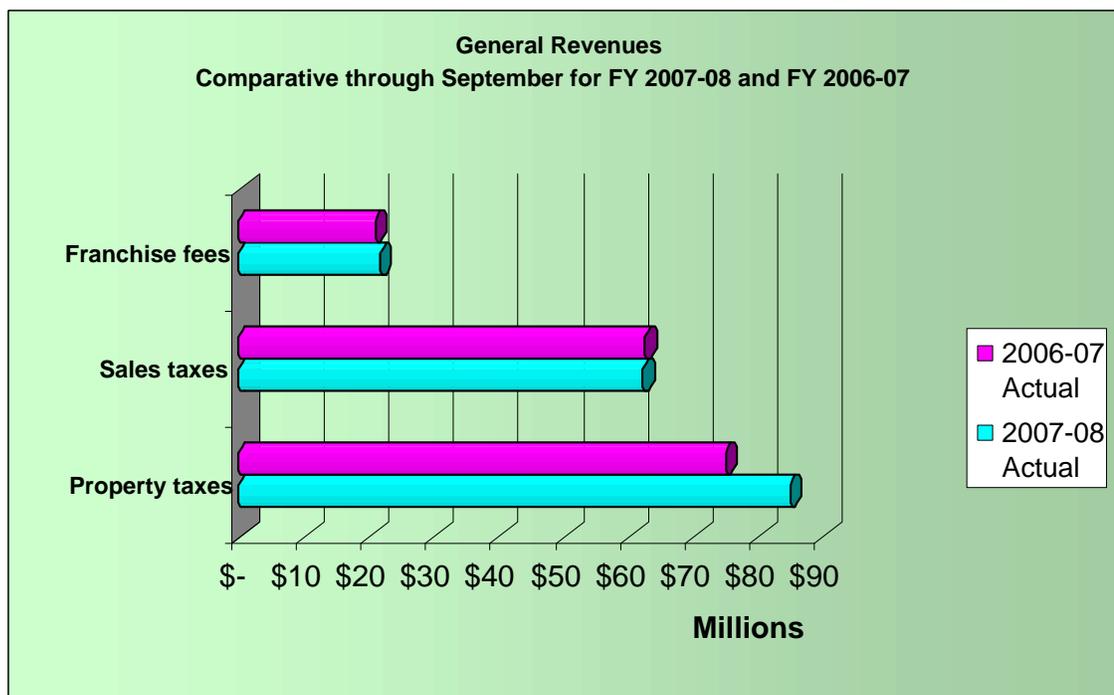
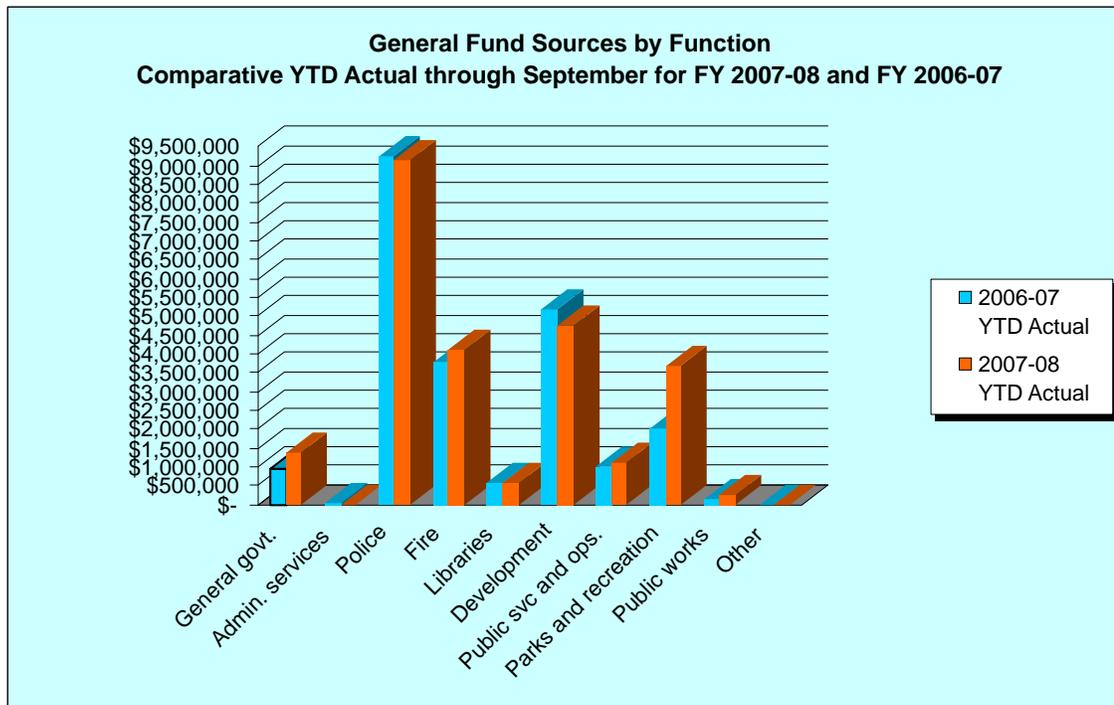


REPORT NOTES SEPTEMBER, 2008

The information represented in the graphs below is derived from the statement of activities which is located after this section. The statement of activities presents information demonstrating how the City's net assets are changing during the current fiscal year. The format of the statement of activities reports General Fund and Business-type revenues and expenses by function which provides readers with a broad overview of the City of Plano's finances.

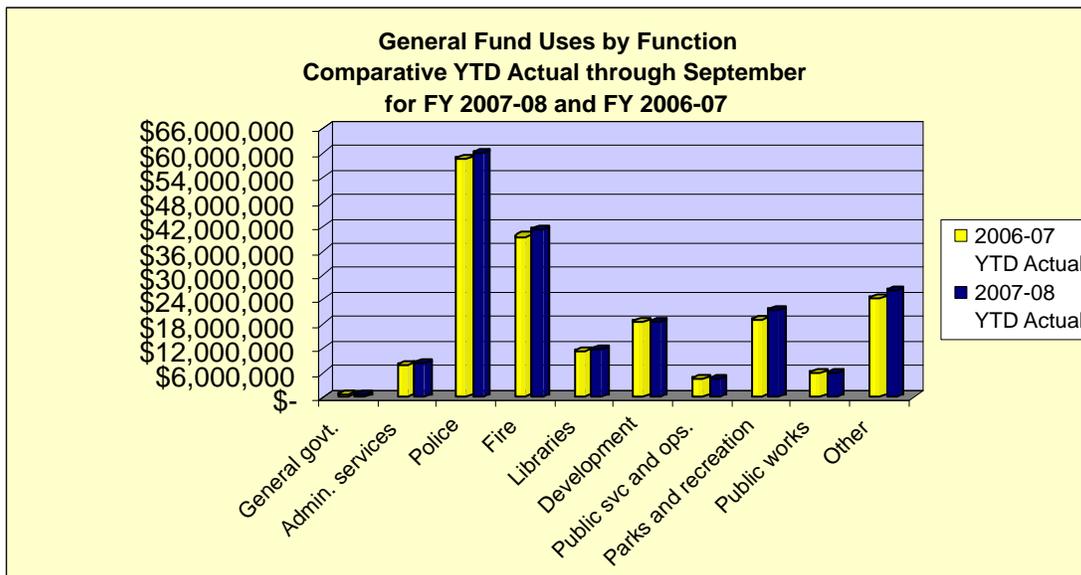
The information in this section compares year to date activity in the current fiscal year to the same time period in prior year. Please note that beginning fund balances in all funds are subject to final audit adjustments.

HIGHLIGHTS OF GENERAL FUND VARIANCES



REPORT NOTES CONTINUED

SEPTEMBER, 2008



GENERAL GOVERNMENT

- Revenues generated for dispatch services by the City's Public Safety Communications department have increased over prior year by \$33,958. These revenues, which are now based on population, are the result of interlocal agreements between the City of Plano and the Cities of Lucas and Parker.
- The City purchased abandoned residential property due to the substandard condition of a home in June 2006 in the amount of \$87,667. The property sold in January 2007 for \$93,853.
- Costs associated with tuition reimbursement have increased over prior year by \$45,748 attributed to an increase in budget which allows for reimbursement up to 100%.
- The Professional Development Center department has purchased a new projector in the current year costing \$5,564.
- Contractual services for class instruction offered through the Professional Development Center have increased over prior year by \$54,097. The increase is primarily due to the Onboarding Program. Since specific classes are offered late in the year, only two were offered in prior fiscal year. In the current year, the Onboarding Program is in full operation and therefore, a total of 36 classes will be offered. The Onboarding Program is a 6 month orientation program for new City employees.

ADMINISTRATIVE SERVICES

- The City entered into an interlocal agreement with the Town of Prosper in the prior fiscal year to provide interim manager services. The City received payments totaling \$19,240 during April and June of 2007.
- Costs associated with the May 2008 elections were expended in the current year totaling \$29,073.
- A compensation study was performed in the current year costing \$95,000.
- Contract costs for professional services increased \$20,500 for the MP3 program due to an increase in leadership seminars.
- \$99,411 has been encumbered in the current year for the human resources office and kitchen remodeling.

POLICE

- Court fines and forfeitures decreased year to date over prior year in the amount of \$290,734. Although citations issued in the current year through September are higher than prior year by 8,577, the decrease in revenues is primarily attributed to procedural changes in collections which now allow for collections at the completion of the deferral period. The decrease in citations and fines and forfeiture revenues is offset by an increase in collections from the City's internal and

REPORT NOTES CONTINUED

SEPTEMBER, 2008

external collection agencies. This section of the Courts department is a state mandated function that began in April 2006. Warrants greater than 90 days from the issuance date that are not collected by the City are turned over to a service provider to pursue collections. The external provider is paid based on the number of warrants collected.

- Intergovernmental revenues have increased \$21,223 due to the Texas Attorney General Crime Victims' Compensation Division's release of updated reimbursement guidelines for costs of sexual assault medical examinations. These updated guidelines, released in October 2007 for use beginning January 2008 allow for increased reimbursements to law enforcement agencies for forensic sexual assault examinations.
- Revenues collected for false alarms increased \$59,901 over prior year. As a result of a tiered fee structure for police false alarms, the number of customers billed continues to increase as fewer free false alarms are allowed. The fee amount increases for each false alarm, depending on the number of false alarms customers continue to incur during a 12-month period.
- Due to an increase in new permits and renewals, alarm permit revenues have increased \$34,686 when compared to prior year.
- Personal services increased over prior year by \$2,142,100. The increase is primarily attributed to increased pay and benefit related costs as well as an increase in civil service employees over last fiscal year. Additionally, a portion of this increase is due to retiree payouts being \$101,788 higher over prior year.
- The Police department has added 5 new Tahoes to the fleet in the current fiscal year costing \$146,145. Additionally, a ½ ton extended cab pickup truck and unmarked police car have been added costing \$22,243 and \$17,888, respectively.
- New mobile data computers, costing \$29,654, have been purchased in the current year and installed in the new police vehicles.
- Refrigerated compartment storage lockers have been purchased in the current year for the Property/Evidence Unit within the Police department. The cost of these lockers totals \$16,815.
- Three taser and key lock-up security systems were purchased for \$36,224 in the current year and installed at the joint use facility, the north Plano Democracy station and the main police station.
- Funds for a new television server have been spent totaling \$13,350 to provide the ability to stream, record and tune 8 analog television programs simultaneously. This is utilized for any media coverage pertaining to the Plano Police Department to be recorded.
- Expenses and encumbrances for software have decreased over prior year by \$33,186 primarily due to the purchase of a new asset management system in the prior year.
- Municipal garage charges to maintain police fleet increased over prior year by \$440,408 attributed to increased fuel prices.
- Replacement charges for police equipment increased \$298,347 over prior year due to an increase in budgeted amounts to repay the equipment replacement fund for equipment purchased in prior years. Additionally, a larger volume and amount of equipment is being depreciated in the current year.
- Charges for police PC replacement have increased \$38,447 due to an increase in budgeted amounts over the prior year.
- The annual maintenance agreement with Motorola for services pertaining to maintenance of the City's radio system has increased over prior fiscal year by \$29,090 primarily due to contractual term changes.
- Replacement of 3 sirens that are part of the existing emergency warning system tower are spent in the current year in the amount of \$12,619.
- Police functioning departments have experienced a decrease of \$826,447 in workers compensation claims and related administrative expenses. Beginning in the current fiscal year, these costs are being absorbed in the Property Liability Loss Fund, whereas last fiscal year, claims expenses were allocated to using departments.

REPORT NOTES CONTINUED

SEPTEMBER, 2008

- Expenses and encumbrances for minor apparatus were higher in the prior year due to the purchase of emergency vehicle equipment, such as LED lights, light bars, light/siren control units and supplies as well as rear prisoner partitions totaling \$101,065.

FIRE

- Ambulance service revenues increased \$428,901 as compared to prior year primarily due to increased usage of services and collections of ambulance revenue.
- Fire protection plan review revenues have decreased \$43,678 when compared to the prior year due to less fire plans as the City continues to get closer to build out.
- Personal services increased \$1,933,757 over prior year primarily due to increased salary and benefit related costs experienced in the current year. \$210,322 of the personal services increase is attributed to salary related expenses associated with emergency support as a result of a severe storm occurring in April of the current year.
- Services for cleanup and tree removal were incurred in the current year as a result of a severe storm occurring in April 2008 costing \$139,354.
- The Office of Emergency Management and Homeland Security has spent funds in the amount of \$34,994 for a new project that provides video conferencing capability.
- Replacement charges for fire rolling stock have increased over prior year by \$177,583 due to timing of vehicles received and placed into service.
- Municipal garage charges to maintain fire fleet increased over prior year by \$440,408 attributed to increased fuel prices.
- Replacement charges for fire equipment increased \$120,764 over prior year due to an increase in budgeted amounts to repay the equipment replacement fund for equipment purchased in prior years.
- Capital outlay purchases decreased \$585,671 as compared to prior fiscal year. In the prior year, the Fire department purchased a new Spartan Command Post Mobile Command Center in the amount of \$652,893. This decrease is offset by capital purchases in the current fiscal year of a new Toyota Prius, ½ ton crew cab pickup truck, Chevrolet Impala and Zodiac rescue boat costing \$21,698, \$23,863, \$17,888 and \$19,040, respectively.
- Fire functioning departments have experienced a decrease of \$311,415 in workers compensation claims and related administrative expenses. Beginning in the current fiscal year, these costs are being absorbed in the Property Liability Loss Fund, whereas last fiscal year, claims expenses were allocated to using departments.
- In the current year, the fire department has received \$23,787 in training reimbursements from federal grants for public safety and emergency response training.
- The National Fire Protection Agency (NFPA) requires an annual inspection of all fire fighters' safety gear. The cost of the inspection in the current year increased by \$24,840 due to stricter NFPA regulations for inspections that went into affect this year, causing an increase in both the inspections and the subsequent repair costs. This increase was offset by a \$55,057 decrease in new uniforms purchased and encumbered in the current year, resulting in an overall decrease in materials and supplies expenditures in the current year.

LIBRARIES

- Revenues received from Collin County Community College and the City of Allen for shared maintenance costs have decreased \$48,004 due to a change in automation systems in the current year.
- Personal services increased \$298,387 over prior year primarily due to increased salary and benefit related costs experienced in the current year.
- The library purchased ID badge readers for library doors in the current year, costing \$49,486 including installation and an Automated External Defibrillator costing \$16,094.
- Expenditures and encumbrances for publications, non-print media and book purchases have

REPORT NOTES CONTINUED

SEPTEMBER, 2008

increased over prior year by \$41,068, \$50,316 and \$114,370 respectively primarily due to price increases as well as increase in the volume purchased.

- Libraries have experienced a decrease of \$116,484 in workers compensation claims and related administrative expenses. Beginning in the current fiscal year, these costs are being absorbed in the Property Liability Loss Fund, whereas last fiscal year, claims expenses were allocated to using departments.

DEVELOPMENT

- Building permit revenues decreased over prior year by \$261,411 due to large commercial projects occurring in the prior year.
- Same day inspection and re-inspection revenues have decreased as compared to prior year by \$34,185 and \$33,135 as these services are directly tied to the decreased amount of construction occurring within the city.
- Revenues generated from issuance of plumbing permits have decreased over prior fiscal year by \$31,924 attributed to the overall decrease in new residential and commercial construction, as well as a decrease in commercial and residential alterations, remodels and interior finish outs requiring plumbing.
- Filing fee revenues have decreased \$29,925 primarily due to the decrease in the number of development applications as a result of fluctuations in construction and development activity.
- Interlocal plan reviews for the City of Murphy are lower than prior year by \$64,458. Currently, the City of Plano is not performing plan review for the City of Murphy, resulting in a decrease in volume of inspections performed as compared to last year. The number of inspections performed by the City of Plano will continue to decline as the City of Murphy approaches build out.
- Facilities Maintenance has experienced an increase over prior year in payments for electric services in the amount of \$280,422. The increase is primarily attributed to the opening of the Tom Muehlenbeck Center and the new computer server room located at Technical Services. Gas payments increased \$91,529 over prior year also attributed to the Tom Muehlenbeck Center opening in the current year. In addition, the cost of natural gas continues to rise.
- Facilities Services experienced an increase in expenditures and encumbrances in janitorial services of \$123,642 due to higher rates to comply with Green Building Standards, as well as adding the Tom Muehlenbeck Center facility.
- Two new cargo vans have been added to the Facilities Maintenance department fleet in the current year costing \$57,398 and a new audio/visual conferencing system was installed in the council chambers, costing \$35,443.
- Demolition costs of \$9,192 were incurred in the current year due to a property owner failing to make necessary repairs. Therefore, this substandard property was ordered by the Building Standards Commission to be demolished.
- In August of the current year, the Property Standards department reconfigured their office space, at a cost of \$15,791.
- Unconsensual mowing expense has increased \$18,064 in the Property Standards department due to an increase in unresolved property violations.
- The Safe Streets Program spent and encumbered \$270,483 through September of the current year. This resulted in a decrease of \$211,081 over prior year as operations resumed in March 2007. Costs for this program consist of purchases for traffic calming devices as well as preparation and installation of speed cushions.
- The Planning department purchased a replacement microfilm scanner/viewer in the current year costing \$15,372.
- Municipal garage charges to maintain development functioning department's fleet increased over prior year by \$60,591 attributed to increased fuel prices.
- Development functioning departments have experienced a decrease of \$144,433 in workers compensation claims and related administrative expenses. Beginning in the current fiscal year, these costs are being absorbed in the Property Liability Loss Fund, whereas last fiscal year, claims expenses were allocated to using departments.

REPORT NOTES CONTINUED

SEPTEMBER, 2008

- The Building Inspections department has a decrease in salary related expenditures of \$96,893 due to an increase in vacant positions in the current year. The Engineering department has also experienced a decrease in salary expenditures of \$145,434 primarily due to positions in the current year being vacant from 2 to 11.5 months, which are now filled. One other position remains vacant.
- The Property Standards department purchased two Toyota Prius vehicles in the current year costing \$43,397.
- In the prior year, the Engineering department purchased 5 new Ford Escape Hybrids costing \$120,620, the Property Standards department purchased 2 new Toyota Prius vehicles costing \$41,076, and the Rental Registration department purchased 2 new Toyota Prius for \$41,076.
- Contractual costs decreased in the current year as a result of the prior year purchase of a new plotter for \$27,725, office remodeling, including adding counter space in the reception area, in the amount of \$17,937 and \$29,826 in GIS system upgrades.
- Beginning in the prior fiscal year through the current period, the Planning department paid and encumbered funds for technical review services of the City's zoning and development regulations costing \$85,250.

PUBLIC SERVICES AND OPERATIONS

- Animal adoption revenues have increased \$43,600 over prior year primarily due to an average increase of \$12.30 per animal adoption. The average adoption fee is approximately \$60 per animal. In addition, there have been 560 more adoptions over prior year.
- Child safety fees have increased over prior year by \$25,132 due to increased school zone violations in the current year. As of September of the current year, there have been 2,984 school zone citations compared to 1,933 through the same period of 2007.
- Reimbursements to the Health department from the Municipal Drainage Fund have decreased \$55,647 due to a full time storm water program administrator position being moved to the Municipal Drainage Fund in the current year. This position was budgeted in the General Fund in the prior year.
- The Health department purchased a new mosquito fogger in the current year, costing \$7,038.
- Medical and surgical supplies costs and encumbrances at the animal shelter have increased \$46,036 due to requirement for all adopted animals to be spayed or neutered before leaving the animal shelter.
- In prior fiscal year, the Records Management department purchased a new Ford Escape Hybrid vehicle costing \$24,124.
- Materials and supplies costs and encumbrances in the public information department have decreased \$17,700 primarily due office remodeling and purchase of upgraded computer software and a new color laser printer in the prior year.

PARKS AND RECREATION

- The Parks and Recreation department has experienced an increase in membership revenues of \$1,184,877 which is primarily attributed to the opening of the Tom Muehlenbeck Center in November of the current fiscal year.
- A portion of membership fees is used to fund replacement recreation equipment at the various facilities. Due to membership fee revenues being higher in the current year, revenues generated for replacement equipment have increased \$223,612 as compared to prior year.
- As part of parks and recreation revenues, user fees at the rate of \$4 per resident participant and \$8 per non-resident participant are collected for classes facilitated by the City and fees for athletic field rental. User fee revenues increased over prior year by \$182,035 primarily due to the opening of seven new athletic fields.
- Rental fees for use of rooms at recreation facilities have increased over prior fiscal year by \$27,711. This increase is primarily caused by the opening of the Tom Muehlenbeck Center which has generated \$23,216 of recreation rental fee revenues.
- Swimming fees have increased in the current year by \$37,707 primarily due to the opening of the Tom Muehlenbeck Center which has generated \$189,957 of swimming fee income.

REPORT NOTES CONTINUED

SEPTEMBER, 2008

- The recreation centers experienced a \$41,153 increase in pool rental revenues in the current year, mainly attributable to “back to school” pool parties. Due to the new facility and the three pools available at the Tom Muehlenbeck Center, \$20,650 was generated in the month of August at that location.
- The Courtyard Theater received a donation from Plano Arts and Cultural Endowment in the amount of \$49,000 in the current year which is to be used to purchase new interior lighting and equipment.
- Revenue generated from ticket sales for Concerts in the Park Series 2008 at the Amphitheater at Oak Point increased \$28,235 in the current year due to increased ticket prices and citizen participation.
- In the current year, Parks and Recreation cost centers have received \$197,995 in insurance and damage receipts from the Property Liability Loss Fund pertaining to events that have resulted in damage to City property. Collections received through September in prior year were \$85,677. The majority of this year's increase was due to an April storm that resulted in \$91,079 of damages within the Park Planning department.
- Personal services increased \$1,537,217 over prior year primarily due to the opening of the Tom Muehlenbeck Center as well as the Oak Point Nature Preserve in the current year. Additionally, increased salary and benefit related costs are higher in the current year as compared to prior period.
- To promote parks and recreation center facilities, a guide was mailed to residents to provide information about the various locations. This is a new expenditure that did not occur in the prior year. The cost of the brochure and postage was \$33,061.
- Expenditures and encumbrances, including personal costs, associated with the Tom Muehlenbeck Center have been incurred in the current year in the amount of \$1,416,626, as this new facility opened in November of the current fiscal year. This represents an increase as compared to prior year of \$932,472. An integrated customer relationship fitness management tool for the Tom Muehlenbeck Center costing \$46,032 and two pieces of fitness equipment for the Liberty Recreation Center costing \$44,212 were purchased by the Recreation Administration.
- An increase of approximately \$36,000 occurred in the current year for purchase and application of chemical products at various parks areas. The Parks Grounds Maintenance Service Districts utilized limited amounts of pre-emergent and post emergent herbicides in prior fiscal year due to drought conditions. Once drought restrictions were lifted, routine fall and spring pre- and post emergent herbicide applications resumed. Additionally, during the current year, the districts are experimenting with an alternative higher priced pre-emergent herbicide that has a longer residual and covers a larger variety of weeds. If success is noted utilizing this product, it will eliminate the cost of repeated pre-and post emergent applications. Also, the significant fuel cost increase has added to the cost of manufacturing and shipping these products.
- The Park Field Services department purchased a new ½ ton pickup truck in the current year costing \$18,994. In the prior year a Chevrolet pick up was purchased for \$20,260.
- Purchase of chemicals for trim and playing turf has increased over prior year by \$132,249. Efforts to recover from the drought, increased athletic program participation and meeting the demand for higher quality fields have resulted in a need to improve athletic fields. Therefore, the Athletic Fields Maintenance and Sports Turf Maintenance departments have increased purchases of fertilizer to cover 400 acres of athletic fields and grassy areas. The 2007-08 re-estimate increased over prior year's re-estimate by \$39,538.
- Park Support Services purchased a new Ford F250 pickup truck in the amount of \$24,440. The Sports Turf Maintenance department included a new ¾ ton pickup truck, tractor, and 2 soil relievers to the fleet costing \$23,827, \$24,790 and \$58,400 respectively. In addition, the Sports Turf Maintenance department also purchased a Versa Vac Sweeper with upgraded options for \$22,030.
- The Natural Resources department purchased a grass drill, ¾ ton pickup truck, Toro mower and all terrain utility vehicle in the current period in the amount of \$13,053, \$23,604, \$12,421 and \$10,076, respectively.

REPORT NOTES CONTINUED

SEPTEMBER, 2008

- The District No. 3 Grounds Maintenance department purchased a new ½ ton pickup truck in the current year in the amount of \$18,994.
- Municipal garage charges to maintain parks and recreation fleet increased over prior year by \$290,457 attributed to increased fuel prices.
- Replacement charges for parks and recreation rolling stock have increased over prior year by \$46,269 due to timing of vehicles received and placed into service.
- Highpoint Tennis Center has expended funds for a security system in the current year costing \$38,642.
- The Douglass Recreation Center purchased new furniture in the current year in the amount of \$20,466.
- Payment to PISD has decreased \$150,186 for usage of utility and custodial services for Williams and Clark Recreation Centers. This decrease is attributed to closing Clark Recreation Center in May 2007, which resulted in the utilization of fewer PISD facilities in the current year.

PUBLIC WORKS

- In the current year, the Public Works departments have received \$165,166 in insurance and damage receipts from the Property Liability Loss Fund pertaining to events that have resulted in damage to City property. Collections received through September in prior year were \$67,625.
- Municipal garage charges to maintain public works fleet increased over prior year by \$121,378 attributed to increased fuel prices.
- Public works functioning departments have experienced a decrease of \$145,351 in workers compensation claims and related administrative expenses. Beginning in the current fiscal year, these costs are being absorbed in the Property Liability Loss Fund, whereas last fiscal year, claims expenses were allocated to using departments.
- Personal services increased \$171,028 over prior year. Personal costs for the Public Works Administration, Streets and Signals departments increased over prior year by \$251,122 due to higher salary and benefit related costs. This increase is offset by a \$80,094 decrease in salary expenditures in the Signs & Marking department primarily due to more vacant positions in the current year than in prior year. In addition, the Signs & Marking department has experienced a reorganization resulting in lower salaries residing in these departments in the current year as compared to prior period.
- Asphalt purchases for the Streets department have increased \$33,057. A new asphalt product is being utilized in the current year that will lengthen the longevity of the repair, which will initially cost more but require less maintenance.
- Concrete purchases for the Streets department have decreased \$47,107 as a result of allocating staff to complete the increased volume of projects in the Drainage and Utility Cut Services departments.
- Maintenance parts and supplies have increased for the streets department as compared to prior year by \$37,674 as a result of the price increase in reinforcing steel, diamond tipped concrete saw blades and construction lumber which all have nearly doubled in price.
- Maintenance parts and supplies have decreased for the signals department as compared to prior year by \$56,690. The re-estimate budgeted amount for the current fiscal year is comparable to prior year's re-estimate.
- The Signs & Markings department utilizes contractual services for installation of street buttons and paving marking materials on the City's streets. These services have decreased over prior year by \$46,636. The re-estimate amount budgeted for this service has decreased \$12,959 as compared to prior year's re-estimate.

OTHER

- Payments for retiree health insurance have increased over prior year by \$130,178 due to restructuring of retiree insurance, as well as increases in the number of retirees and premium amounts in the current year.
- Payment made to Collin County Central Appraisal District for property tax collection services has increased over prior year by \$148,312. The calculated pro-rata cost is determined by the City's percent of tax levy in relation to the county's tax levy. Additionally, the City has paid Denton County

REPORT NOTES CONTINUED

SEPTEMBER, 2008

Central Appraisal District in the amount of \$28,815 which began in the current fiscal year as new state legislation was passed.

- Electric payments have decreased over prior year by \$148,312 due to timing of payments.
- Expenditures for interdepartmental water billings have increased \$577,930 due to watering restrictions being lifted in July 2007.
- Technology services charges increased over prior year by \$689,428 due to higher costs budgeted in the current year.
- In the current year, the City paid \$46,500 in support of the Blackland Prairie Festival. Prior year payment to the Blackland Prairie Festival was \$15,225.
- Funds to support the Boys and Girls Club of Collin County have been spent in the amount of \$30,000 in the current year. This sponsorship did not occur last fiscal year.
- The General Fund is absorbing \$29,330 of additional funding in support of the Plano African American Museum which is mainly funded through the Convention and Tourism Fund. The total amount of funding in prior year for this entity was \$21,921 while current year funding, including the General Fund portion, is \$49,330.
- Payment of \$26,000 for the Plano International Festival was incurred in June of the current year. In the prior year, the payment was \$28,000. The festival continues to be held in the month of October.
- Expenditures were incurred in the prior year in the amount of \$104,475 for a street light audit conducted by an external contractor.
- \$17,800 was spent in the prior year for contractual work to administer a service prioritization assessment requesting citizen feedback.
- In the prior year, a transfer of funds of \$205,756 to the Retirement Security Plan was made in July to ensure that the Plan was appropriately funded. That ordinance was presented and approved by the City Council on June 25, 2007.
- In the prior year, the City spent \$67,100 for 4,650 courses of Tamiflu vaccinations to be reserved for City employees and their immediate families in the event of a pandemic influenza outbreak.
- As part of the new Live Green in Plano Program, new trash receptacles were purchased in the amount of \$34,791 in the prior year.

PROPERTY TAX REVENUES

- Ad valorem tax revenues increased \$7,946,782 over prior year primarily attributed to an increase in existing property values. In addition, new property came on-line in the current year.

SALES TAX REVENUES

- Sales tax revenues decreased over prior year by \$81,517. There was a \$128,470 favorable audit adjustment in the current period compared to a \$20,399 unfavorable adjustment in the same period of the prior year. Unfavorable audit adjustments through September of the current year are recorded at \$341,751. Unfavorable audit adjustments through September 2007 were recorded at \$786,242. When comparing the cash received in the months of September 2008 and September 2007, a decrease of 10.5% is noted in sales tax revenues.

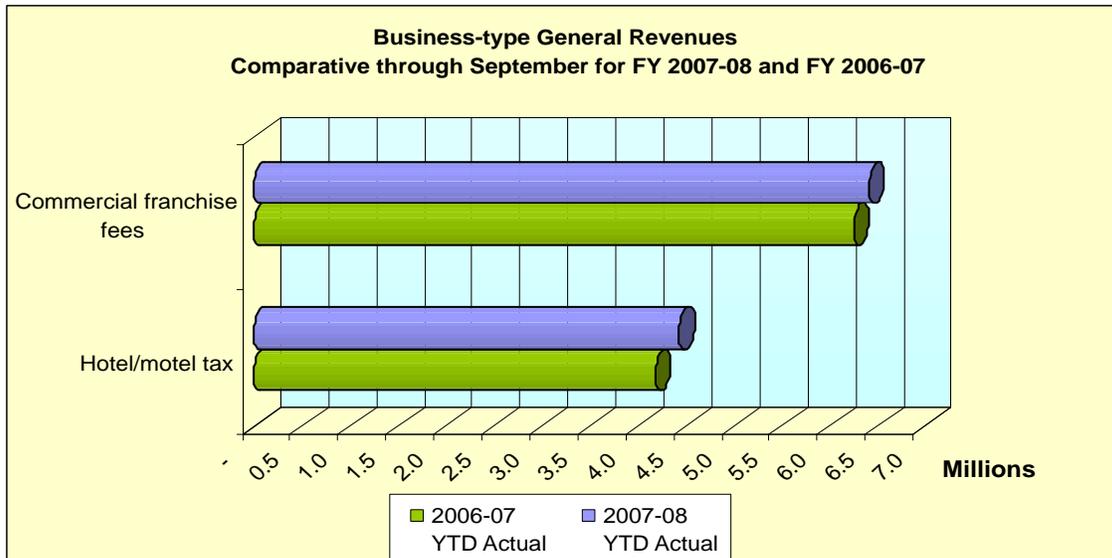
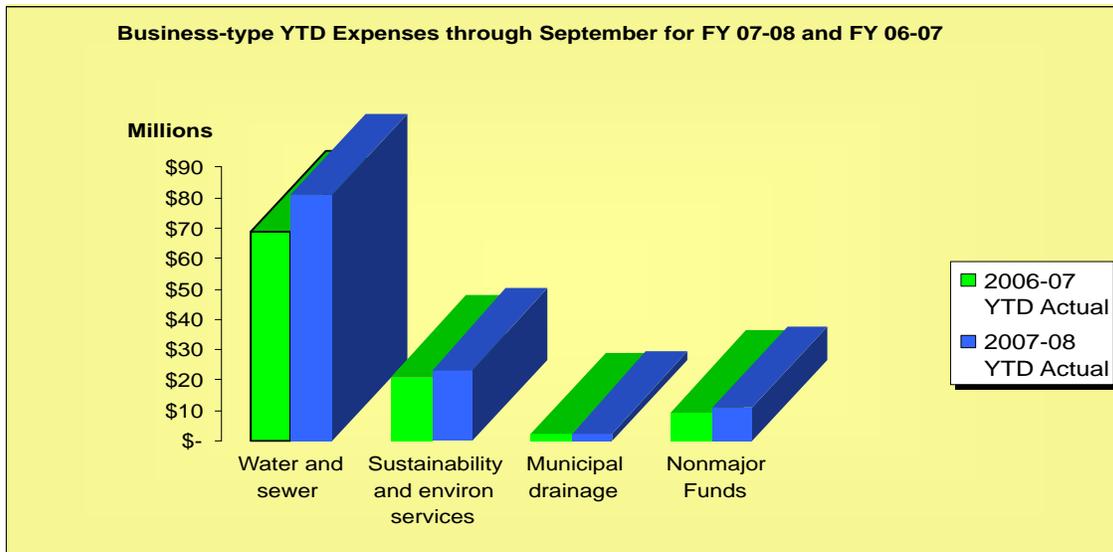
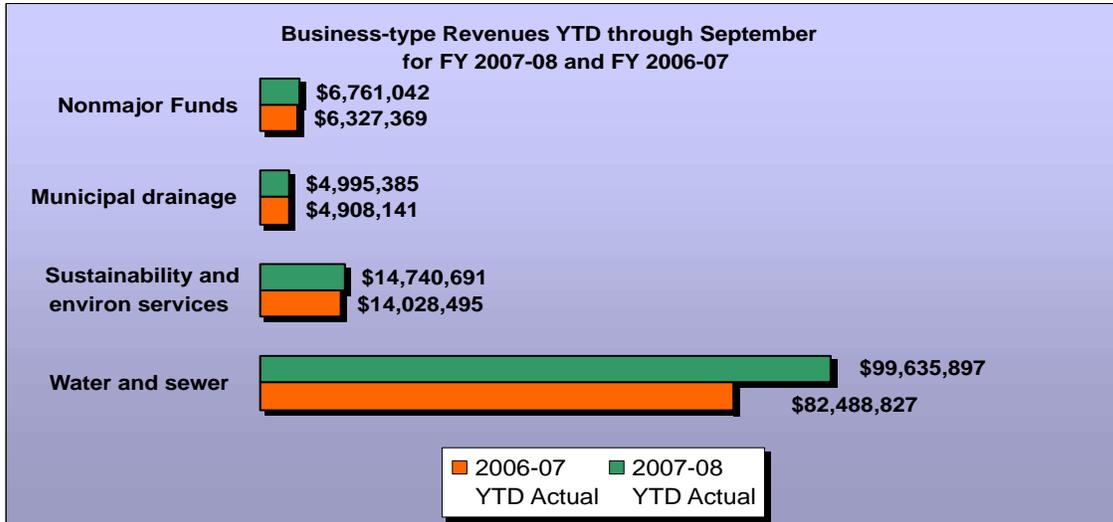
FRANCHISE FEE REVENUES

- Electric franchise fee revenues increased \$132,104 as compared to prior year. The City's franchise fee is based on the number of kWh sold by Oncor to the citizens of Plano.
- Gas franchise fee revenues are higher than prior year by \$710,537. The increase in gas franchise collections is primarily due to a fee increase from 4% to 5% as well as increased gas prices.
- Telephone franchise revenues decreased \$1,258,674 as compared to prior year primarily due to a decline in traditional land line phone service. The City does not collect franchise fees from digital and cellular users.
- Cable television franchise revenues increased over prior year by \$101,185 primarily due to timing of payments received.

REPORT NOTES CONTINUED

SEPTEMBER, 2008

HIGHLIGHTS OF BUSINESS-TYPE VARIANCES



REPORT NOTES CONTINUED

SEPTEMBER, 2008

WATER & SEWER

- Water and sewer revenues increased over prior year by \$12,784,013 and \$2,841,657, respectively. Overall water consumption for the current year is up as compared to the same time period in the prior year due to water restrictions being lifted in July 2007. Sewer income increased due to a more stable three year winter quarter averaging as well as increased water consumption by non-residential water users.
- Water penalty revenues have increased over prior year by \$250,926 primarily due to an increase in water bills of late paying customers and as a result of watering restrictions being lifted.
- Consumption and rate increases for construction water meters have occurred in the current year resulting in an increase of revenues of \$157,613.
- Cellular telephone companies place antennas on city elevated water towers and therefore, the City charges rental fees. These revenues have increased \$26,940 as each individual contract renews and is subject to rate increases.
- Expenses and encumbrances to Datamatic.Com for maintenance parts pertaining to the automated meter reading project have decreased over prior year by \$413,964. The current phase of the project is now complete and replacements are occurring. A new vendor will be utilized beginning in the current fiscal year to install new hardware and software for the automated meter reading project. Encumbrances for these services are \$2,700,000.
- Postage cost for UB mailings has increased by \$30,308 due to an increase in postage rates effective May 12, 2008.
- Water meter purchases are lower than prior year by \$99,384. A new program will be implemented over the next several years that will replace water meters and AMR devices. Therefore, water meter replacements have ceased until this program begins.
- Contractual services are \$79,211 higher in the current year mainly attributable to a \$72,000 contract to dismantle, inspect and repair a pump and motor at Ridgeview Pump Station.
- Payments to North Texas Municipal Water District (NTMWD) for services such as wastewater and pre-treatment, as well as water services, increased over prior year by \$1,553,806 and \$2,027,145 respectively. These increases are the result of an increase in contractual amounts.
- Electricity expenses have increased \$195,712 due to the current summer being much hotter than the prior year.
- Municipal garage charges to maintain water and sewer fleet increased over prior year by \$187,623 due to increased fuel prices.
- Water and Sewer functioning departments have experienced a decrease of \$127,165 in workers compensation claims and related administrative expenses. Beginning in the current fiscal year, these costs are being absorbed in the Property Liability Loss Fund, whereas last fiscal year, claims expenses were allocated to using departments.
- Equipment rentals have decreased due to equipment rented in the prior year to repair a sewer line break at Custer Road and Highway 190 costing \$138,852.
- Payment in lieu of taxes made to the General Fund increased \$859,803 over prior year.
- In the current year, the Pumping Facilities department purchased a new trailer mounted generator for \$29,598 and the Utility District # 3 department purchased a Ford Escape hybrid vehicle costing \$24,599.
- A new imaging processor has been purchased for \$17,181 in the current fiscal year to process utility payments. Additionally, funds for a new kiosk for utility customers to make payments at City Hall have been spent and encumbered in the current fiscal year in the amount of \$63,000.
- Expenses and encumbrances associated with the Environmental Education Complex were incurred last fiscal year in the amount of \$127,855. In the current year, \$9,672 of modifications has been added and services are rendered and encumbered in the current fiscal year in the amount of \$88,392.

REPORT NOTES CONTINUED

SEPTEMBER, 2008

SUSTAINABILITY AND ENVIRONMENTAL SERVICES

- Commercial franchise fee revenues increased over prior year by \$161,449. These revenues are based upon commercial tonnage disposed, which has increased over prior year. Additionally, there has been an increase in the number of commercial entities serviced.
- Residential solid waste revenues are \$119,420 higher than prior year primarily due to an increase in rates for use of 95-gallon carts. The rate increased from \$12.75 per month in the prior year to \$13.85 per month in the current year. Approximately 98% of customers utilize the 95-gallon cart.
- Recycling revenues increased over prior year by \$336,831 primarily due to an increase in the market. Due to the nature of the recycling business, the recycling market fluctuates.
- Compost revenues are higher over prior year by \$163,312 primarily due to weather related factors experienced last year. Due to drought conditions in the area, residential and commercial sites did not landscape as much therefore, resulting in lower compost sales. Additionally, new commercial customers are purchasing compost in bulk in the current year.
- Tipping fee revenues increased over prior year by \$75,970 primarily due to an increase in volume of materials brought to the City. These revenues are collected when other cities and commercial businesses bring yard waste, wood and other types of material used to make compost products to the City.
- Overtime charges from the Compost department have increased over prior year by \$44,251. This is primarily due to additional work being done pertaining to the fire at the Melissa Compost Site, as well as the April storm.
- The Sustainability department printed and distributed 75,000 calendars to employees and Plano residents to promote The Live Green in Plano Program as well as collection services provided to residents. The cost of printing and postage totaled \$64,606. In addition, \$11,235 has been spent for 46 Live Green slogan panels to be attached to the City's trash and recycle collection trucks.
- Contracts for the Live Green Expo increased in the current year by \$24,810 as a result of contracting professional services for the planning, coordination and implementation of the 2008 Live Green Expo. These services were not contracted in the prior year. Live Green Expo advertising also increased by \$24,899.
- Payments to NTMWD increased \$738,225 over prior year as payments are based on contractual amounts.
- Municipal garage charges to maintain environmental waste fleet increased over prior year by \$708,695 attributed to increased fuel prices.
- Replacement charges for environmental waste services rolling stock have increased over prior year by \$181,988 due to timing of vehicles received and placed into service.
- Costs for equipment rentals have been incurred in the current year to manage a fire that occurred in October 2007 at the Melissa Compost Site totaling \$111,173.
- A new John Deere Front End Loader with attachments, as well as a truck mounted fork lift, was added to the Compost Operations department in the current year costing \$300,942 and \$42,950, respectively.

MUNICIPAL DRAINAGE

- Drainage fee revenues have increased \$74,094 primarily due to an increase in commercial accounts serviced as these entities are charged by square footage.
- Personal services increased \$188,894 over prior year primarily due to increased salary and benefit related costs experienced in the current year.
- Reimbursements to the Health department from the Municipal Drainage Fund have decreased \$84,553 due to a full time storm water program administrator position being moved to the Municipal Drainage Fund in the current year. This position was budgeted in the General Fund in the prior year. Although reimbursements have decreased, salary expenses for the Storm Water Drainage department have increased in the Municipal Drainage Fund by \$68,489.
- Due to a larger volume of projects, concrete purchases and encumbrances have increased over prior year by \$55,506. The re-estimate amount budgeted is comparable to prior year's re-estimate.
- Costs for debris hauling services have decreased \$137,052. These costs are shared between

REPORT NOTES CONTINUED

SEPTEMBER, 2008

Municipal Drainage Operations and Utility Operations. In the current year, Municipal Drainage Operations paid for the 2nd half of the year, while in the prior year, they paid for the 1st half of the year.

- Municipal garage charges to maintain municipal drainage fleet increased over prior year by \$49,622 attributed to increased fuel prices.
- In prior year, a new Ford Escape Hybrid was purchased for the Storm Water Drainage department costing \$24,124.

CIVIC CENTER

- Inside catering revenues at Plano Centre, Pecan Hollow and Plano Station have increased over prior year by \$88,313, with \$50,000 of this increase attributed to new event business in March of the current year. As a result of the increase in volume and size of events in the current year, alcohol sales, equipment rental and service charge revenues have increased \$46,442, \$14,309 and \$17,142, respectively.
- Alcohol revenues increased over prior year by \$46,442. The increase in alcohol sales is a direct result of an increase in corporate holiday events and one large event increasing sales \$13,000 over prior year.
- Concession revenues increased over prior year by \$138,514 primarily due to the opening of the Tom Muehlenbeck Center in the current year generating revenues of approximately \$113,237.
- Personal services increased \$110,609 over prior year primarily due to increased salary and benefit related costs experienced in the current year.
- Expenses and encumbrances for minor apparatus have increased \$124,009 in the current year mainly due to \$179,592 encumbered for design and build services for the addition to the Plano Centre to be used for storage space. This addition is scheduled to take 90 days to complete. In addition, \$42,668 has been encumbered for new table place settings and silverware and expenses of \$18,879 have been incurred for a new flagpole at the Plano Centre.
- As a result of increased inside catering and concession revenues, rising prices and supplemental fuel charges, food costs have increased \$99,416 over prior year.
- Advertising costs have increased \$75,063 over prior year attributed to an increase in volume of advertising publications as well as increased fees from media providers.
- Expenses and encumbrances for professional services have increased \$199,075 primarily attributed to the increase in volume and size of events held in the current year and \$60,527 for design and enhancements for the new Plano Convention & Visitors Bureau website.
- Payments made in support of cultural arts and historic preservation have increased \$72,289 and \$101,074, respectively, due to increased funding in the current year as compared to prior year's re-estimate.
- Funds totaling \$18,000 have been spent in the current year for consulting and design services to expand the parking lot at Plano Centre. Additionally, funds of \$197,764 have been spent for construction work on the parking lot expansion.
- The Civic Center purchased a new Chevrolet ½ ton pick up in the current year costing \$19,410.
- Funds encumbered in the prior year for a replacement phone system have been spent in the current fiscal year costing \$71,582.

GOLF COURSE

- Golf revenues are higher than prior year by \$18,644. Rounds recorded in September 2008 are 5,222 compared to 5,381 rounds played in September of prior year. September rounds are down slightly due to the windy, misty weather the weekend of hurricane Ike. Year to date rounds of golf played are recorded at 55,004 compared to 51,254 in prior year. This increase is mainly attributed to more rainy days in the prior year.
- Maintenance parts and supplies have decreased \$9,047 primarily due to last year's purchase of new putting greens and golf green turf covers costing \$14,491.
- Pecan Hollow Golf Course has purchased a new greens mower in the current fiscal year in the amount of \$22,104.
- Replacement charges for the Golf Course increased \$28,403 over prior year due to an increase in

REPORT NOTES CONTINUED

SEPTEMBER, 2008

budgeted amounts to repay the equipment replacement fund for equipment purchased in prior years.

RECREATION REVOLVING

- Recreation revenues increased over prior year by \$378,316 primarily as a result of the Tom Muehlenbeck Center opening in the current fiscal year. Revenues generated year to date at the Tom Muehlenbeck Center are \$367,230 which results in increased costs to pay for class instructors in the amount of \$50,196.
- As an additional part of Recreation Revolving revenues, user fees at the rate of \$4 per resident participant and \$8 per non-resident participant are collected for classes facilitated by the City. User fee revenues increased over prior year by \$70,220 primarily due to the opening of the Tom Muehlenbeck center which has generated \$26,892 in user fees in the current fiscal year.
- Costs for personal services increased \$159,742 primarily due to the opening of the Tom Muehlenbeck Center in November 2007 as well as increased salary and benefit related costs in the current year.
- Expenses and encumbrances for publications have increased \$16,805 attributed to the Tom Muehlenbeck Center opening in November, incurring publications costs of \$16,763 for materials and books for first aid and safety classes offered.
- Expenses and encumbrances for postage of the Leisure Catalogs for the current fiscal year have increased \$7,515, while the overall cost of the catalogs has decreased \$4,641. The Leisure Catalogs increased in pages, printing and distribution to accommodate programs located at the Tom Muehlenbeck Center.

PROPERTY MANAGEMENT

- Rental revenues for have decreased \$9,018 due to a decrease in tenants at Downtown Center South due to pending sale. In addition, the rent revenue will fluctuate depending on expenses for the individual month.
- Contractual professional services have increased \$7,041 in the current year primarily due to the cost of an appraisal for retail property on 15th street as well as a 5% 3-year contract renewal commission in the amount of \$4,024 for Downtown Center North.
- Contractual repair services have decreased \$49,374 primarily due to expenses in the prior year for work related to parking lot improvements and building repairs at Downtown Center North.

DOWNTOWN CENTER DEVELOPMENT

- The City has an agreement to share costs affiliated with the Eastside Village. Costs have increased over prior year by \$1,133 primarily due to the City absorbing insurance and tax expenses.

SECTION 1A

FINANCIAL SUMMARY



*City of Plano
Comprehensive Monthly Finance Report*

september
08



MONTHLY FINANCIAL SUMMARY REPORT
 THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008, 2007, AND 2006
 GENERAL FUND

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Ad valorem tax	2008	\$ 77,467,000	77,641,000	77,594,000	99.9%	99.94
	2007	69,461,000	69,461,000	68,489,000	98.6%	98.60
	2006	61,823,000	61,823,000	61,125,000	98.9%	98.87
Sales tax	2008	61,181,000	59,194,000	62,227,000	105.1%	105.12
	2007	57,606,000	61,181,000	62,514,000	102.2%	102.18
	2006	50,590,000	58,782,000	58,667,000	99.8%	99.80
Other revenue	2008	55,150,000	56,791,000	57,064,000	100.5%	100.48
	2007	53,159,000	54,822,000	54,548,000	99.5%	99.50
	2006	51,140,000	54,826,000	57,653,000	105.2%	105.16
TOTAL REVENUE	2008	193,798,000	193,626,000	196,885,000	101.7%	101.68
	2007	180,226,000	185,464,000	185,551,000	100.0%	100.05
	2006	163,553,000	175,431,000	177,445,000	101.1%	101.15
EXPENDITURES & ENCUMBRANCES:						
Current operating	2008	\$ 210,265,000	205,829,000	196,267,000	95.4%	95.35
	2007	198,280,000	193,756,000	187,021,000	96.5%	96.52
	2006	176,624,000	173,909,000	167,921,000	96.6%	96.56
Capital outlay	2008	2,255,000	3,059,000	2,511,000	82.1%	82.09
	2007	1,466,000	2,077,000	2,838,000	136.6%	136.64
	2006	1,697,000	2,099,000	2,287,000	109.0%	108.96
Total expenditures and encumbrances	2008	212,520,000	208,888,000	198,778,000	95.2%	95.16
	2007	199,746,000	195,833,000	189,859,000	96.9%	96.95
	2006	178,321,000	176,008,000	170,208,000	96.7%	96.70
Excess (deficiency) of revenues over (under) expenditures	2008	(18,722,000)	(15,262,000)	(1,893,000)	-	-
	2007	(19,520,000)	(10,369,000)	(4,308,000)	-	-
	2006	(14,768,000)	(577,000)	7,237,000	-	-
OTHER FINANCING SOURCES (USES)						
Transfers in	2008	9,528,000	9,670,000	9,670,000	100.0%	100.00
	2007	9,497,000	9,463,000	9,463,000	100.0%	100.00
	2006	8,645,000	9,572,000	9,572,000	100.0%	100.00
Transfers out	2008	(10,844,000)	(10,810,000)	(11,945,000)	110.5%	110.50
	2007	(11,559,000)	(11,560,000)	(11,560,000)	100.0%	100.00
	2006	(10,240,000)	(10,740,000)	(10,740,000)	100.0%	100.00
NET CHANGE IN FUND BALANCES	2008	(20,038,000)	(16,402,000)	(4,168,000)		
	2007	(21,582,000)	(12,466,000)	(6,405,000)		
	2006	(16,363,000)	(1,745,000)	6,069,000		
FUND BALANCES-BEGINNING	2008			45,684,000		
	2007			48,805,000		
	2006			39,224,000		
FUND BALANCES-ENDING SEPTEMBER 30	2008			41,516,000		
	2007			42,400,000		
	2006			45,293,000		

MONTHLY FINANCIAL SUMMARY REPORT
 THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008, 2007, AND 2006
 WATER AND SEWER FUND

	<u>Fiscal Year</u>	<u>Annual Budget</u>	<u>Re-estimated Budget</u>	<u>12 Months Actual</u>	<u>Actual/ Re-estimate</u>	<u>Performance Index</u>
REVENUES:						
Water and sewer revenue	2008	\$ 96,340,000	94,628,000	97,047,000	102.6%	102.56
	2007	93,434,000	81,485,000	80,170,000	98.4%	98.39
	2006	83,000,000	86,275,000	87,419,000	101.3%	101.33
Other fees and service charges	2008	2,693,000	2,490,000	2,429,000	97.6%	97.55
	2007	2,556,000	2,698,000	2,345,000	86.9%	86.92
	2006	<u>2,360,000</u>	<u>3,087,000</u>	<u>2,981,000</u>	96.6%	96.57
TOTAL REVENUE	2008	99,033,000	97,118,000	99,476,000	102.4%	102.43
	2007	95,990,000	84,183,000	82,515,000	98.0%	98.02
	2006	<u>85,360,000</u>	<u>89,362,000</u>	<u>90,400,000</u>	101.2%	101.16
EXPENSES & ENCUMBRANCES:						
Capital outlay	2008	1,245,000	1,324,000	218,000	16.5%	16.47
	2007	80,000	397,000	149,000	37.5%	37.53
	2006	70,000	1,927,000	501,000	26.0%	26.00
Other expenses & encumbrances	2008	75,268,000	75,090,000	80,706,000	107.5%	107.48
	2007	72,761,000	71,522,000	68,573,000	95.9%	95.88
	2006	<u>67,431,000</u>	<u>68,768,000</u>	<u>68,322,000</u>	99.4%	99.35
Total expenses and encumbrances	2008	76,513,000	76,414,000	80,924,000	105.9%	105.90
	2007	72,841,000	71,919,000	68,722,000	95.6%	95.55
	2006	<u>67,501,000</u>	<u>70,695,000</u>	<u>68,823,000</u>	97.4%	97.35
Excess (deficiency) of revenues over (under) expenses	2008	22,520,000	20,704,000	18,552,000	-	-
	2007	23,149,000	12,264,000	13,793,000	-	-
	2006	17,859,000	18,667,000	21,577,000	-	-
TRANSFERS IN (OUT)						
Transfers in	2008	255,000	255,000	255,000	100.0%	100.00
	2007	268,000	292,000	292,000	100.0%	100.00
	2006	230,000	333,000	333,000	100.0%	100.00
Transfers out	2008	(21,795,000)	(21,910,000)	(21,910,000)	100.0%	100.00
	2007	(21,257,000)	(26,532,000)	(26,532,000)	100.0%	100.00
	2006	<u>(19,439,000)</u>	<u>(20,890,000)</u>	<u>(20,890,000)</u>	100.0%	100.00
CHANGE IN NET ASSETS	2008	\$ 980,000	(951,000)	(3,103,000)		
	2007	2,160,000	(13,976,000)	(12,447,000)		
	2006	(1,350,000)	(1,890,000)	1,020,000		
TOTAL NET ASSETS-BEGINNING	2008			315,706,000		
	2007			324,871,000		
	2006			<u>317,131,000</u>		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2008			312,603,000		
	2007			312,424,000		
	2006			<u>318,151,000</u>		

MONTHLY FINANCIAL SUMMARY REPORT
 THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008, 2007, AND 2006
 SUSTAINABILITY AND ENVIRONMENTAL SERVICES FUND

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Commerical solid waste franchise	2008	\$ 6,352,000	6,422,000	6,421,000	100.0%	99.98
	2007	5,901,000	6,267,000	6,260,000	99.9%	99.89
	2006	5,307,000	5,783,000	5,877,000	101.6%	101.63
Refuse collection revenue	2008	12,273,000	12,734,000	12,929,000	101.5%	101.53
	2007	12,078,000	12,189,000	12,406,000	101.8%	101.78
	2006	11,106,000	11,263,000	11,461,000	101.8%	101.76
Other fees and service charges	2008	2,100,000	1,920,000	1,820,000	94.8%	94.79
	2007	1,545,000	1,627,000	1,622,000	99.7%	99.69
	2006	1,367,000	1,393,000	1,316,000	94.5%	94.47
TOTAL REVENUE	2008	20,725,000	21,076,000	21,170,000	100.4%	100.45
	2007	19,524,000	20,083,000	20,288,000	101.0%	101.02
	2006	17,780,000	18,439,000	18,654,000	101.2%	101.17
EXPENSES & ENCUMBRANCES:						
Capital outlay	2008	142,000	480,000	375,000	78.1%	78.13
	2007	312,000	460,000	132,000	28.7%	28.70
	2006	532,000	880,000	787,000	89.4%	89.43
Other expenses & encumbrances	2008	21,144,000	21,268,000	22,836,000	107.4%	107.37
	2007	19,736,000	19,464,000	20,866,000	107.2%	107.20
	2006	18,219,000	18,366,000	18,465,000	100.5%	100.54
Total expenses and encumbrances	2008	21,286,000	21,748,000	23,211,000	106.7%	106.73
	2007	20,048,000	19,924,000	20,998,000	105.4%	105.39
	2006	18,751,000	19,246,000	19,252,000	100.0%	100.03
Excess (deficiency) of revenues over (under) expenses	2008	(561,000)	(672,000)	(2,041,000)	-	-
	2007	(524,000)	159,000	(710,000)	-	-
	2006	(971,000)	(807,000)	(598,000)	-	-
TRANSFERS IN (OUT)						
Transfers in	2008	100,000	100,000	100,000	100.0%	100.00
	2007	85,000	85,000	85,000	100.0%	100.00
	2006	-	-	-	-	-
Transfers out	2008	-	-	-	-	-
	2007	-	-	-	-	-
	2006	-	-	-	-	-
CHANGE IN NET ASSETS	2008	\$ (461,000)	(572,000)	(1,941,000)		
	2007	(439,000)	244,000	(625,000)		
	2006	(971,000)	(807,000)	(598,000)		
TOTAL NET ASSETS-BEGINNING	2008			2,308,000		
	2007			1,759,000		
	2006			2,578,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2008			367,000		
	2007			1,134,000		
	2006			1,980,000		

MONTHLY FINANCIAL SUMMARY REPORT
 THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008, 2007, AND 2006
 MUNICIPAL DRAINAGE FUND

	<u>Fiscal Year</u>	<u>Annual Budget</u>	<u>Re-estimated Budget</u>	<u>12 Months Actual</u>	<u>Actual/ Re-estimate</u>	<u>Performance Index</u>
REVENUES:						
Fees and service charges	2008	\$ 4,724,000	4,908,000	4,983,000	101.5%	101.53
	2007	4,700,000	4,700,000	4,899,000	104.2%	104.23
	2006	4,812,000	4,677,000	4,895,000	104.7%	104.66
Miscellaneous revenue	2008	125,000	175,000	176,000	100.6%	100.57
	2007	109,000	145,000	228,000	157.2%	157.24
	2006	47,000	112,000	151,000	134.8%	134.82
TOTAL REVENUE	2008	4,849,000	5,083,000	5,159,000	101.5%	101.50
	2007	4,809,000	4,845,000	5,127,000	105.8%	105.82
	2006	4,859,000	4,789,000	5,046,000	105.4%	105.37
EXPENSES & ENCUMBRANCES:						
Capital outlay	2008	-	54,000	-	-	-
	2007	28,000	28,000	25,000	89.3%	89.29
	2006	27,000	52,000	105,000	201.9%	201.92
Other expenses & encumbrances	2008	2,599,000	2,639,000	2,358,000	89.4%	89.35
	2007	2,702,000	2,473,000	2,121,000	85.8%	85.77
	2006	2,581,000	2,366,000	2,065,000	87.3%	87.28
Total expenses and encumbrances	2008	2,599,000	2,693,000	2,358,000	87.6%	87.56
	2007	2,730,000	2,501,000	2,146,000	85.8%	85.81
	2006	2,608,000	2,418,000	2,170,000	89.7%	89.74
Excess (deficiency) of revenues over (under) expenses	2008	2,250,000	2,390,000	2,801,000	-	-
	2007	2,079,000	2,344,000	2,981,000	-	-
	2006	2,251,000	2,371,000	2,876,000	-	-
TRANSFERS OUT						
Operating transfers in	2008	-	-	-	-	-
	2007	-	-	-	-	-
	2006	-	-	-	-	-
Operating transfers out	2008	(2,691,000)	(2,766,000)	(2,766,000)	100.0%	100.00
	2007	(2,539,000)	(2,603,000)	(2,603,000)	100.0%	100.00
	2006	(2,421,000)	(2,412,000)	(2,412,000)	100.0%	100.00
CHANGE IN NET ASSETS	2008	(441,000)	(376,000)	35,000		
	2007	(460,000)	(259,000)	378,000		
	2006	(170,000)	(41,000)	464,000		
TOTAL NET ASSETS-BEGINNING	2008			21,106,000		
	2007			20,754,000		
	2006			17,924,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2008			21,141,000		
	2007			21,132,000		
	2006			18,388,000		

MONTHLY FINANCIAL SUMMARY REPORT
 THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008, 2007, AND 2006
 NONMAJOR BUSINESS-TYPE FUNDS

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Hotel/motel tax	2008	\$ 4,518,000	4,774,000	4,435,000	92.9%	92.90
	2007	4,009,000	4,408,000	4,194,000	95.1%	95.15
	2006	3,411,000	3,911,000	4,416,000	112.9%	112.91
Other revenue	2008	6,695,000	6,957,000	6,969,000	100.2%	100.17
	2007	6,324,000	6,312,000	6,596,000	104.5%	104.50
	2006	6,071,000	6,094,000	6,289,000	103.2%	103.20
TOTAL REVENUE	2008	11,213,000	11,731,000	11,404,000	97.2%	97.21
	2007	10,333,000	10,720,000	10,790,000	100.7%	100.65
	2006	9,482,000	10,005,000	10,705,000	107.0%	107.00
EXPENSES & ENCUMBRANCES:						
Capital outlay	2008	81,000	112,000	343,000	306.3%	306.25
	2007	52,000	78,000	343,000	439.7%	439.74
	2006	5,000	11,000	53,000	481.8%	481.82
Other expenses & encumbrances	2008	11,659,000	11,921,000	10,569,000	88.7%	88.66
	2007	10,489,000	10,720,000	9,197,000	85.8%	85.79
	2006	9,541,000	9,897,000	8,551,000	86.4%	86.40
Total expenses and encumbrances	2008	11,740,000	12,033,000	10,912,000	90.7%	90.68
	2007	10,541,000	10,798,000	9,540,000	88.3%	88.35
	2006	9,546,000	9,908,000	8,604,000	86.8%	86.84
Excess (deficiency) of Revenues over (under) expenses	2008	(527,000)	(302,000)	492,000	-	-
	2007	(208,000)	(78,000)	1,250,000	-	-
	2006	(64,000)	97,000	2,101,000	-	-
TRANSFERS OUT:						
Operating transfers out	2008	(1,120,000)	(1,147,000)	(1,147,000)	100.0%	100.00
	2007	(651,000)	(669,000)	(669,000)	100.0%	100.00
	2006	(538,000)	(573,000)	(573,000)	100.0%	100.00
CHANGE IN NET ASSETS	2008	(1,647,000)	(1,449,000)	(655,000)		
	2007	(859,000)	(747,000)	581,000		
	2006	(602,000)	(476,000)	1,528,000		
TOTAL NET ASSETS-BEGINNING	2008			13,468,000		
	2007			12,926,000		
	2006			11,317,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2008			12,813,000		
	2007			13,507,000		
	2006			12,845,000		

MONTHLY FINANCIAL SUMMARY REPORT
 THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008, 2007, AND 2006
 ECONOMIC DEVELOPMENT FUND

	<u>Fiscal Year</u>	<u>Annual Budget</u>	<u>Re-estimated Budget</u>	<u>12 Months Actual</u>	<u>Actual/ Re-estimate</u>	<u>Performance Index</u>
REVENUES:						
Miscellaneous revenue	2008	\$ 185,000	361,000	362,000	100.3%	100.28
	2007	-	210,000	324,000	154.3%	154.29
	2006	-	-	58,000	-	-
EXPENSES & ENCUMBRANCES						
Personal services	2008	551,000	535,000	558,000	104.3%	104.30
	2007	529,000	527,000	524,000	99.4%	99.43
	2006	528,000	449,000	462,000	102.9%	102.90
Materials and supplies	2008	24,000	26,000	21,000	80.8%	80.77
	2007	26,000	50,000	46,000	92.0%	92.00
	2006	23,000	58,000	39,000	67.2%	67.24
Contractual / professional and other	2008	6,275,000	12,015,000	1,453,000	12.1%	12.09
	2007	6,276,000	6,334,000	580,000	9.2%	9.16
	2006	183,000	233,000	221,000	94.8%	94.85
Capital outlay	2008	-	-	-	-	-
	2007	-	7,000	7,000	100.0%	100.00
	2006	-	-	-	-	-
Total Expenses and Encumbrances	2008	6,850,000	12,576,000	2,032,000	16.2%	16.16
	2007	6,831,000	6,918,000	1,157,000	16.7%	16.72
	2006	734,000	740,000	722,000	97.6%	97.57
Excess (Deficiency) of Revenues Over (Under) Expenses	2008	(6,665,000)	(12,215,000)	(1,670,000)	-	-
	2007	(6,831,000)	(6,708,000)	(833,000)	-	-
	2006	(734,000)	(740,000)	(664,000)	-	-
TRANSFERS IN						
Operating transfers in	2008	6,850,000	6,850,000	6,985,000	102.0%	101.97
	2007	6,831,000	6,918,000	6,918,000	100.0%	100.00
	2006	734,000	740,000	612,000	82.7%	82.70
CHANGE IN NET ASSETS						
	2008	185,000	(5,365,000)	5,315,000		
	2007	-	210,000	6,085,000		
	2006	-	-	(52,000)		
TOTAL NET ASSETS-BEGINNING						
	2008			6,941,000		
	2007			1,030,000		
	2006			885,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30						
	2008			12,256,000		
	2007			7,115,000		
	2006			833,000		

EQUITY IN TREASURY POOL

SEPTEMBER 2008

FUND NO.	FUND NAME	CASH	EQUITY IN TREASURY POOL	TOTAL 9/30/08	TOTAL 10/01/07	TOTAL 9/30/07
GENERAL FUND:						
01	General	\$ 22,000	41,710,000	41,732,000	39,348,000	38,381,000
77	Payroll	-	1,949,000	1,949,000	1,894,000	1,894,000
24	City Store	-	10,000	10,000	9,000	9,000
		<u>22,000</u>	<u>43,669,000</u>	<u>43,691,000</u>	<u>41,251,000</u>	<u>40,284,000</u>
DEBT SERVICE FUND:						
03	G.O. Debt Service	-	5,484,000	5,484,000	4,675,000	4,675,000
		<u>-</u>	<u>5,484,000</u>	<u>5,484,000</u>	<u>4,675,000</u>	<u>4,675,000</u>
CAPITAL PROJECTS:						
22	Recreation Center Facilities	-	579,000	579,000	523,000	471,000
23	Street Enhancement	-	1,629,000	1,629,000	1,507,000	1,417,000
25	1991 Police & Courts Facility	-	1,260,000	1,260,000	1,653,000	1,533,000
27	1991 Library Facility	-	864,000	864,000	637,000	366,000
28	1991 Fire Facility	-	2,276,000	2,276,000	1,943,000	1,344,000
29	Technology Improvements	-	746,000	746,000	252,000	93,000
31	Municipal Facilities	-	441,000	441,000	414,000	404,000
32	Park Improvements	-	5,735,000	5,735,000	4,737,000	4,428,000
33	Street & Drainage Improvement	-	4,779,000	4,779,000	2,454,000	2,310,000
35	Capital Reserve	-	39,463,000	39,463,000	36,993,000	36,952,000
38	DART L.A.P.	-	761,000	761,000	732,000	732,000
39	Spring Creekwalk	-	23,000	23,000	23,000	23,000
52	Park Service Areas	-	5,804,000	5,804,000	5,573,000	5,573,000
53	Creative & Performing Arts	-	2,185,000	2,185,000	2,009,000	1,831,000
54	Animal Control Facilities	-	336,000	336,000	249,000	207,000
59	Service Center	-	131,000	131,000	126,000	126,000
60	Joint Use Facilities	-	628,000	628,000	573,000	564,000
85	Public Arts	-	116,000	116,000	99,000	16,000
110	G.O. Bond Clearing - 1999	-	343,000	343,000	519,000	579,000
190	G.O. Bond Clearing - 2000	-	3,641,000	3,641,000	3,641,000	3,849,000
230	Tax Notes Clearing - 2001	-	1,343,000	1,343,000	2,231,000	2,471,000
240	G.O. Bond Clearing - 2001-A	-	182,000	182,000	182,000	193,000
250	Tax Notes Clearing - 2001-A	-	158,000	158,000	158,000	179,000
270	G.O. Bond Refund/Clearing - 2003	-	137,000	137,000	1,183,000	1,329,000
310	G.O. Bond Refund/Clearing - 2005	-	-	-	1,000,000	983,000
093	G.O. Bond Clearing - 2006	-	-	-	1,806,000	2,611,000
089	C.O. Bond Clearing - 2006	-	269,000	269,000	371,000	454,000
102	G.O. Bond Clearing - 2007	-	9,664,000	9,664,000	27,382,000	27,995,000
105	Tax Notes Clearing - 2007	-	555,000	555,000	6,992,000	7,150,000
082	G.O. Bond Clearing - 2008	-	34,778,000	34,778,000	-	-
083	Tax Notes Clearing - 2008	-	17,207,000	17,207,000	-	-
		<u>-</u>	<u>136,033,000</u>	<u>136,033,000</u>	<u>105,962,000</u>	<u>106,183,000</u>
ENTERPRISE FUNDS:						
26	Municipal Drainage CIP	-	281,000	281,000	236,000	236,000
34	Sewer CIP	-	8,134,000	8,134,000	9,218,000	9,218,000
36	Water CIP	-	5,531,000	5,531,000	5,121,000	5,134,000
37	Downtown Center Development	-	119,000	119,000	95,000	95,000
41	Water & Sewer - Operating	239,000	2,989,000	3,228,000	(7,614,000)	(7,392,000)
42	Water & Sewer - Debt Service	-	207,000	207,000	641,000	641,000
43	Municipal Drainage - Debt Service	-	3,288,000	3,288,000	2,805,000	2,805,000
44	W & S Impact Fees Clearing	-	3,293,000	3,293,000	2,731,000	2,731,000
45	Sustainability & Environmental Services	56,000	721,000	777,000	1,019,000	1,075,000
46	Convention & Tourism	4,000	4,244,000	4,248,000	4,172,000	4,186,000
81	Friends of Plano Centre	-	4,000	4,000	4,000	4,000
47	Municipal Drainage	18,000	4,330,000	4,348,000	4,189,000	4,188,000
48	Municipal Golf Course	-	139,000	139,000	165,000	160,000
49	Property Management	-	440,000	440,000	386,000	386,000
51	Recreation Revolving	-	1,412,000	1,412,000	1,095,000	1,120,000
104	Municipal Drain Bond Clearing-1996	-	180,000	180,000	173,000	173,000
320	Municipal Drain Rev Bond Clearing - 2005	-	152,000	152,000	530,000	530,000
094	Municipal Drain Rev Bond Clearing - 2006	-	164,000	164,000	1,545,000	1,545,000
330	Municipal Drain Rev Bond Clearing - 2007	-	2,604,000	2,604,000	2,914,000	2,914,000
340	Municipal Drain Rev Bond Clearing - 2008	-	2,091,000	2,091,000	-	-
		<u>317,000</u>	<u>40,323,000</u>	<u>40,640,000</u>	<u>29,425,000</u>	<u>29,749,000</u>

EQUITY IN TREASURY POOL

SEPTEMBER 2008

FUND NO.	FUND NAME	CASH	EQUITY IN TREASURY POOL	TOTAL 9/30/08	TOTAL 10/01/07	TOTAL 9/30/07
SPECIAL REVENUE FUNDS:						
2	Sproles Library	-	185,000	185,000	22,000	22,000
4	TIF-Mall	-	-	-	50,000	50,000
5	TIF-East Side	-	6,002,000	6,002,000	7,789,000	7,788,000
11	LLEBG-Police Grant	-	26,000	26,000	123,000	123,000
12	Criminal Investigation	-	989,000	989,000	1,009,000	1,040,000
13	Grant	-	(69,000)	(69,000)	-	(666,000)
14	Wireline Fees	-	399,000	399,000	364,000	364,000
15	Judicial Efficiency	-	118,000	118,000	113,000	113,000
16	Industrial	-	18,000	18,000	17,000	17,000
17	Intergovernmental	-	370,000	370,000	491,000	490,000
18	Government Access/CATV	-	431,000	431,000	571,000	569,000
19	Teen Court Program	-	46,000	46,000	40,000	40,000
20	Municipal Courts Technology	-	1,538,000	1,538,000	1,412,000	1,409,000
55	Municipal Court-Building Security Fees	-	1,328,000	1,328,000	1,244,000	1,242,000
56	911 Reserve Fund	-	8,462,000	8,462,000	7,121,000	7,121,000
57	State Library Grants	-	(53,000)	(53,000)	23,000	23,000
67	Disaster Relief	-	1,114,000	1,114,000	1,141,000	1,147,000
68	Animal Shelter Donations	-	180,000	180,000	125,000	125,000
73	Memorial Library	-	378,000	378,000	192,000	192,000
86	Juvenile Case Manager	-	167,000	167,000	136,000	135,000
87	Traffic Safety	-	1,213,000	1,213,000	665,000	665,000
88	Child Safety	-	827,000	827,000	679,000	932,000
		-	23,669,000	23,669,000	23,327,000	22,941,000
INTERNAL SERVICE FUNDS:						
6	Public Safety Technology	-	1,718,000	1,718,000	1,593,000	1,773,000
9	Technology Infrastructure	-	(108,000)	(108,000)	4,087,000	4,067,000
58	PC Replacement	-	2,024,000	2,024,000	1,568,000	1,568,000
61	Equipment Maintenance	-	(4,201,000)	(4,201,000)	(4,933,000)	(5,119,000)
62	Information Technology	-	3,261,000	3,261,000	69,000	651,000
63	Office Services	-	(277,000)	(277,000)	(237,000)	(256,000)
64	Warehouse	-	238,000	238,000	207,000	207,000
65	Property/Liability Loss	-	5,629,000	5,629,000	7,156,000	7,377,000
66	Technology Services	-	12,786,000	12,786,000	11,617,000	11,471,000
71	Equipment Replacement	-	9,898,000	9,898,000	11,371,000	11,915,000
78	Health Claims	-	7,943,000	7,943,000	27,113,000	27,113,000
79	Parkway Service Ctr. Expansion	-	(28,000)	(28,000)	(28,000)	(29,000)
		-	38,883,000	38,883,000	59,583,000	60,738,000
FIDUCIARY FUNDS:						
7	Unclaimed Property	-	57,000	57,000	52,000	52,000
8	Library Training Lab	-	5,000	5,000	6,000	6,000
69	Collin County Seized Assets	-	263,000	263,000	295,000	295,000
74	Developers' Escrow	-	4,185,000	4,185,000	4,112,000	4,112,000
75	Plano Economic Development Trust	-	683,000	683,000	-	-
76	Economic Development	-	11,727,000	11,727,000	7,228,000	7,228,000
84	Rebate	-	1,017,000	1,017,000	1,152,000	1,152,000
		-	17,937,000	17,937,000	12,845,000	12,845,000
TOTAL		\$ 339,000	305,998,000	306,337,000	277,068,000	277,415,000
		CASH	TRUST INVESTMENTS	TOTAL 9/30/08	TOTAL 10/01/07	TOTAL 9/30/07
TRUST FUNDS						
42	Water & Sewer Reserve	-	-	-	-	-
72	Retirement Security Plan	-	70,000	70,000	70,007,000	58,403,000
91	115 Trust	-	23,000,000	23,000,000	-	-
TOTAL TRUST FUNDS		\$ -	23,070,000	23,070,000	70,007,000	58,403,000

A Treasury Pool fund has been created for the purpose of consolidating cash and investments. All City funds not restricted or held in trust are included in this consolidated fund. Each fund's "Equity in Treasury Pool" represents the fund's proportionate share of the Treasury Pool Fund. At September 30, 2008 the Treasury Pool, including an adjustment to Fair Value as required by GASB 31, consisted of the following:

Cash	28,799,000
Local Government Investment Pool	232,954,000
Federal Securities	26,934,000
Certificates of Deposit	16,500,000
Fair Value Adjustment	196,000
Interest Receivable	615,000
	<u>305,998,000</u>

HEALTH CLAIMS FUND THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008 AND 2007

Health Claims Fund	6 month Variance			4 month Variance			1 month Variance			Year to Date Variance		
	FY 07-08 Oct-March	FY 06-07 Oct-March	Favorable (Unfavorable)	FY 07-08 April-August	FY 06-07 April-August	Favorable (Unfavorable)	FY 07-08 September	FY 06-07 September	Favorable (Unfavorable)	FY 07-08 Total	FY 06-07 Total	Favorable (Unfavorable)
Revenues												
4771 Employees Health Ins. Contributions	\$ 1,400,000	\$ 1,145,000	255,000	\$ 1,263,000	\$ 978,000	285,000	\$ 251,000	\$ 197,000	54,000	\$ 2,914,000	\$ 2,320,000	594,000
4772 Employers Health Ins. Contributions	9,660,000	9,945,000	(285,000)	7,753,000	8,672,000	(919,000)	1,549,000	1,752,000	(203,000)	18,962,000	20,369,000	(1,407,000)
4772.RET Contributions for Retirees	354,000	275,000	79,000	314,000	252,000	62,000	41,000	51,000	(10,000)	709,000	578,000	131,000
4773 Cobra Insurance Receipts	33,000	14,000	19,000	19,000	20,000	(1,000)	10,000	4,000	6,000	62,000	38,000	24,000
4775 Retiree Insurance Receipts	233,000	205,000	28,000	187,000	173,000	14,000	51,000	49,000	2,000	471,000	427,000	44,000
4779 Plano Housing Authority	-	19,000	(19,000)	-	-	-	-	-	-	-	19,000	(19,000)
4999 Miscellaneous Revenue	-	-	-	-	69,000	(69,000)	-	-	-	-	69,000	(69,000)
4901 Interest	719,000	572,000	147,000	154,000	477,000	(323,000)	7,000	239,000	(232,000)	880,000	1,288,000	(408,000)
Total Revenues	12,399,000	12,175,000	224,000	9,690,000	10,641,000	(951,000)	1,909,000	2,292,000	(383,000)	23,998,000	25,108,000	(1,110,000)
Expenses												
6305 Insurance	702,000	715,000	13,000	582,000	588,000	6,000	116,000	118,000	2,000	1,400,000	1,421,000	21,000
6312 Contracts- Professional Svc.	108,000	150,000	42,000	55,000	35,000	(20,000)	41,000	75,000	34,000	204,000	260,000	56,000
6319 Contracts- Other	503,000	583,000	80,000	490,000	492,000	2,000	141,000	117,000	(24,000)	1,134,000	1,192,000	58,000
6463 Health Claims Paid Reinsurance	(507,000)	(23,000)	484,000	(71,000)	(16,000)	55,000	740,000	87,000	(653,000)	162,000	48,000	(114,000)
6463.SCR Health Claims - Prescription	1,535,000	1,314,000	(221,000)	1,269,000	1,272,000	3,000	272,000	301,000	29,000	3,076,000	2,887,000	(189,000)
6463.7539 Health Claims Paid -UHC	6,552,000	5,638,000	(914,000)	6,838,000	4,704,000	(2,134,000)	1,431,000	879,000	(552,000)	14,821,000	11,221,000	(3,600,000)
6464 Cobra Insurance Paid	3,000	2,000	(1,000)	2,000	2,000	-	-	1,000	1,000	5,000	5,000	-
6466 Retiree Insurance Paid	59,000	56,000	(3,000)	35,000	53,000	18,000	8,000	11,000	3,000	102,000	120,000	18,000
6466.MEDICARE Retiree Insurance Paid- Medicare	57,000	-	(57,000)	111,000	-	(111,000)	-	-	-	168,000	-	(168,000)
6469 Plano Housing Authority	-	2,000	2,000	-	-	-	-	-	-	-	2,000	2,000
Total Expenses	9,012,000	8,437,000	(575,000)	9,311,000	7,130,000	(2,181,000)	2,749,000	1,589,000	(1,160,000)	21,072,000	17,156,000	(3,916,000)
Transfers Out												
Transfers Out	15,500,000	-	(15,500,000)	7,500,000	-	(7,500,000)	-	-	-	23,000,000	-	(23,000,000)
Net increase (decrease)	\$(12,113,000)	\$ 3,738,000	(15,851,000)	(7,121,000)	3,511,000	(10,632,000)	(840,000)	703,000	(1,543,000)	\$(20,074,000)	\$ 7,952,000	(28,026,000)
Health Claims Fund Balance - Cumulative	\$ 11,940,000	\$ 19,841,000	(7,901,000)	\$ 4,821,000	\$ 23,351,000	(18,530,000)	\$ 3,980,000	\$ 24,054,000	(20,074,000)			

ANALYSIS OF PROPERTY LIABILITY LOSS FUND THROUGH SEPTEMBER 30 OF FISCAL YEARS 2008, 2007, AND 2006

PROPERTY LIABILITY LOSS FUND

	Fiscal Year 2008	Fiscal Year 2007	Fiscal Year 2006
Claims Paid per General Ledger	\$ 1,049,000	1,108,000	1,268,000
Net Judgments/Damages/Attorney Fees	1,143,000	681,000	1,654,000
Total Expenses	\$ 2,192,000	1,789,000	2,922,000

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

<u>Project Description</u>	Construction Start (Est.) Complete (Est.)	2007-08 Budget (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
<u>14th STREET – K Avenue to Ridgewood</u>	06/09 03/10	5,580	8,080	328	331	65% engineering design plans are being reviewed by staff.
<u>15th STREET – G Avenue to I Avenue</u>	02/07 10/08	100	2,005	2,926	20	All street pavement is done. Contractor is waiting for Oncor to remove power poles to complete the work. All lanes are open for traffic.
<u>15th STREET – G Avenue to US 75</u>	01/10 11/10	400	1,954	59	196	Engineering design has started.
<u>15th STREET AND MISCELLANEOUS DRAINAGE IMPROVEMENTS</u>	03/08 12/08	1,750	1,900	1,247	586	Construction is finishing on the south side of 15th Street between Alma and US 75. Contractor is installing pipe west of Alma on the north side.
<u>ALMA – Spicewood to Rowlett Creek</u>	11/08 07/09	1,100	1,210	123	9	The construction project is set for award at the October 13th City Council meeting.
<u>ALMA & PARKER DRAINAGE</u>	12/08 06/09	1,227	1,347	91	23	Design is proceeding. Second submittal plans were reviewed by City staff and returned to the consultant for correction.
<u>BAFFIN BAY AND MORTON VALE</u>	03/09 09/09	90	841	75	29	Design is underway. Preliminary plans have been reviewed by City staff and returned to the consultant for revision.
<u>CHAPARRAL – Avenue K to East City Limits</u>	03/09 10/09	997	2,212	142	97	Reviewed plans have been sent to consultant.
<u>COMMUNICATIONS Parker to Spring Creek Parkway</u>	12/08 08/09	2,550	2,745	318	17	Final plans are complete. The project will be scheduled for bidding in the near future. Right of way activity is underway.
<u>COMMUNICATIONS Spring Creek to Tennyson</u>	06/09 06/10	2,440	3,710	185	62	Pre-final plans have been reviewed by City staff and returned to the consultant for correction. 404 Environmental issue being evaluated. Right of way negotiations underway.
<u>CUSTER GROUND STORAGE TANKS</u>	11/08 09/09	-	3,530	-	7	The construction project is set for award at the October 13th City Council meeting.
<u>DALLAS NORTH TRUNK SEWER III– Pittman Creek to Custer</u>	06/07 10/08	-	2,040	1,504	59	Construction is complete, waiting for grass to be established.
<u>HEADQUARTERS – Preston to Parkwood</u>	03/08 09/08	700	1,072	829	111	Final walk through was on Sept. 11th. Punch list remains.
<u>INDEPENDENCE- MCDERMOTT TO SH 121</u>	12/08 07/09	1,500	1,600	83	18	Final plans have been received and the construction project will be put out for bid in October.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

<u>Project Description</u>	<u>Construction Start (Est.) Complete (Est.)</u>	<u>2007-08 Budget (thousands)</u>	<u>Total Project Budget (thousands)</u>	<u>Inception to Date Cost (thousands)</u>	<u>Encumbrances (thousands)</u>	<u>Comments:</u>
<u>INTERSECTION IMPROVEMENTS 2004</u>	09/08 06/09	35	912	522	98	Coit at Legacy: ROW acquisition underway. Notice to proceed with construction was issued April 25th. Utility adjustments are delaying construction start. Jupiter/Park/Parker/Independence: Final plans are complete. Project will be scheduled for bidding after right of way acquisition is completed.
<u>INTERSECTION IMPROVEMENTS – 2005</u>	07/07 09/08	405	1,038	959	45	All locations are complete and opened to traffic. Only minor items and grassing remain.
<u>INTERSECTION IMPROVEMENTS - JUPITER/PLANO PARKWAY</u>	09/08 03/09	550	873	238	677	Construction started September 22nd.
<u>INTERSECTION IMPROVEMENTS – Preston and Legacy</u>	04/09 11/09	100	2,504	334	90	Schematic approved. MAPOs sent to TXDOT. Environmental Categorical Exclusion awaiting TxDot Austin approval. City staff, consultants and TxDOT met to discuss common signing. 95% engineering plans have been submitted to TXDOT.
<u>INTERSECTION IMPROVEMENTS - PRESTON/PLANO PARKWAY</u>	01/10 09/10	31	2,190	172	118	Consultant is currently addressing comments from TxDOT/Austin on the Schematics and CATEX/Environmental Report.
<u>JUPITER ELEVATED TANK REPAINT</u>	11/08 05/09	-	425	25	4	Contract awarded to Tank Pro at September 22nd Council meeting. Work scheduled to start on November 1st.
<u>MAPLESHADE LIFT STATION</u>	01/09 11/09	-	2,000	-	-	Preliminary lift station plans have been reviewed.
<u>MARSH LANE – Plano Parkway to Parker</u>	3/09 9/09	-	405	15	45	Engineering design is underway.
<u>MCDERMOTT – Coit To Ohio</u>	01/09 11/09	3,155	4,086	367	7	TXDOT funding is not currently available for construction. We are proceeding with a City of Plano bid package to construct the Robinson@McDermott intersection.
<u>MCDERMOTT At ROBINSON</u>	01/09 08/09	-	500			Preparing contract with Half Assoc. for construction plan revisions to construct intersection.
<u>P AVENUE, 18TH STREET & BELLE VIEW ADDITION</u>	03/09 12/09	130	985	174	26	Design is underway by R-Delta Engineers. Sidewalk survey has been completed. The City will not construct additional sidewalks. 90% plans are being reviewed by staff.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

<u>Project Description</u>	<u>Construction Start (Est.) Complete (Est.)</u>	<u>2007-08 Budget (thousands)</u>	<u>Total Project Budget (thousands)</u>	<u>Inception to Date Cost (thousands)</u>	<u>Encumbrances (thousands)</u>	<u>Comments:</u>
<u>PARKER ROAD – K Ave. to Raton Lane</u>	07/07 01/09	2,792	4,420	2,903	1,899	Construction is underway. Roadway widening on the north side of Parker from K Avenue to east of P Avenue is complete. Reconstruction on the south side is underway and near complete.
<u>PARKWOOD BOULEVARD - Park Boulevard to Spring Creek Parkway</u>	01/08 12/08	4,100	5,300	3,023	1,899	Excavation and utilities are complete on the new pavement portion north of Windhaven. All main lane paving is completed. Right turn lanes and patches are still under construction.
<u>PLANO PARKWAY WIDENING - Midway to West City Limits</u>	02/09 11/09	100	1,200	116	13	Plano Parkway will be widened from four to six lanes and the intersection at Marsh Lane will be improved. The consultant's 3rd submittal has been reviewed and sent back for revisions. Work on purchase of easements in progress.
<u>RAILROAD CROSSINGS –Quiet Zones</u>	09/08 12/08	-	1,197	770	482	Pre-construction meeting held August 29th.
<u>RASOR BOULEVARD - Ohio to SH 121</u>	03/09 12/09	2,035	3,724	333	21	100% plans are being reviewed by staff. Project is being held for funding agreement.
<u>RIDGEVIEW – Independence to Coit</u>	01/09 09/09	1,800	2,080	114	26	Final plans have been reviewed and sent back for revisions.
<u>SH 121 WATER LINE – Spring Creek Parkway to Dallas North Tollway</u>	10/08 02/09	200	615	51	10	Construction contract awarded at August 25th City Council meeting.
<u>SHILOH PUMP STATION</u>	11/09 05/10	80	1,680	143	9	Design has started. Project will be delayed until 2009.
<u>SPRING CREEK PARKWAY AT COIT ROAD INTERSECTION IMPROVEMENTS</u>	01/10 09/10	-	450	176	140	The schematic plan and environmental report were submitted to TxDOT for review. TxDOT review comments for the environmental report are being addressed by the consultant. Schematic comments have been received from TxDOT and are being done by the consultant.
<u>SPRINGBROOK – Quill to Janwood</u>	01/08 09/09	1,225	1,381	156	46	The project was bid on September 30th and will be scheduled for City Council award on October 27th.
<u>US 75/PARKER ROAD INTERCHANGE</u>	08/08 02/10	5,000	6,250	1,893	2	Low bid was \$20,172,429. TxDOT managing construction. Construction started in September and should take about two years.
<u>WATER REHAB - Ridgewood</u>	11/09 11/10	-	1,900	38	135	Design is proceeding.
<u>WINDHAVEN – Spring Creek Parkway to West City Limits</u>	03/10 03/11	300	4,060	226	246	TxDOT has reviewed the schematic and design report. Traffic study has been completed and results have been given to the design engineer to finish the design report and schematic.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

<u>Project Description</u>	<u>Construction Start (Est.) Complete (Est.)</u>	<u>2007-08 Budget (thousands)</u>	<u>Total Project Budget (thousands)</u>	<u>Inception to Date Cost (thousands)</u>	<u>Encumbrances (thousands)</u>	<u>Comments:</u>
<u>ANIMAL SHELTER EXPANSION</u>	01/09 10/09	1,000	3,755	399	148	Design complete. 100% package in review.
<u>FIRE STATION 12/LOGISTICS FACILITY & Emergency Operations Center</u>	06/08 08/09	6,073	12,902	7,184	9,598	Under construction – 25% complete. Vertical construction in progress; structural block 50% complete; starting structural steel.
<u>FIRE STATION 13</u>	TBD	2,000	4,256	225	148	Design is complete. Project on hold pending approval of additional funding.
<u>POLICE ACADEMY RANGE EXPANSION</u>	12/07 09/08	-	3,759	2,685	216	Project complete.
<u>OAK POINT MAINTENANCE FACILITY</u>	TBD	-	1,900	-	13	Design-builder selected. Contract being developed. Initial design begun. Schematic developed. Project d e-scoped to meet max price of \$1.9M
<u>AQUATIC CENTER & LIBERTY RECREATION CENTER IMPROVEMENTS</u>	09/08 03/09	-	150	6	157	Improvements include deck surfacing at Liberty pool and pool shell plastering at both pools. Construction is complete at Plano Aquatic Center (PAC). Construction at Liberty Recreation Center is underway on the pool deck and pool plastering, including some health and safety code compliance modifications.
<u>BIKE ROUTE SYSTEM</u>	05/09 03/10	-	1,600	80	96	On-street bike route improvements include route signs, pavement markings and improvements where collector street routes intersect with major thoroughfares. Project partially funded by \$1,200,000 Federal grant. Design is in progress,
<u>CARPENTER PARK/RUSSELL CREEK PARK ATHLETIC FIELD IMPROVEMENTS</u>	12/08 09/09	-	1,000	PROJECTS COMBINED 981	PROJECTS COMBINED 175	The addition of 75 parking spaces and renovation of backstops at Carpenter Park south. The addition of bleacher shade structures on 16 soccer fields at Russell Creek Park. The project is out for bids.
<u>CHEYENNE & RUSSELL CREEK PARKS IMPROVEMENTS</u>	01/08 11/08	-	2,000			Construction of improvements, including irrigation system renovations, plaza renovations, loop trail, backstop/dugout renovations, bleacher shade, cricket pitch renovations and bleacher pads, is substantially complete.
<u>CHISHOLM TRAIL IMPROVEMENTS</u>	03/09 11/09	-	2,000	43	151	Design in progress for improvements, including restroom, directional signage, lighting, bridge improvements, erosion improvements and extension of trail on west side of Spring Creek under 15th Street to the mall ring road.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

<u>Project Description</u>	<u>Construction Start (Est.) Complete (Est.)</u>	<u>2007-08 Budget (thousands)</u>	<u>Total Project Budget (thousands)</u>	<u>Inception to Date Cost (thousands)</u>	<u>Encumbrances (thousands)</u>	<u>Comments:</u>
<u>CARPENTER PARK RECREATION CENTER</u>	11/09 12/10	-	8,300	54	15	Architect has been selected. Cost estimates exceed funding authorized. Parks will request additional funds. Design will begin with intent to delete pool if fund increase does not pass.
<u>LEGACY GREENBELT ADDITION</u>	01/09 09/09	-	2,500	44	91	Construction of trail along White Rock Creek from south of Tennyson Parkway to Preston Road, running through the Legacy area within easements provided by adjacent property owners. Acquisition of easements in progress. Design of improvements 65% complete.
<u>BLUEBONNET TRAIL EXTENSION (EAST)</u>	11/08 06/09	-	900	796	2,165	BLUEBONNET TRAIL EXTENSION (EAST): Plans for construction of trail from Alma Road to U.S. 75 are near completion. Bidding is scheduled for this fall.
<u>BLUEBONNET TRAIL EXTENSION (WEST)</u>	04/08 01/09	-	1,669			BLUEBONNET TRAIL EXTENSION (WEST): Construction of trail from White Rock Creek to Shady Brook Trail (Midway Road) within Spring Creek Parkway right of way is 75% complete.
<u>LEGACY GREENBELT ADDITION-NORTH</u>	01/09 06/09	-	500			LEGACY GREENBELT ADDITION-NORTH: Construction of trail connection between Ohio Drive and Preston Road along White Rock Creek. Plans are complete.
<u>SHADY BROOK TRAIL AT SPRING CREEK PARKWAY</u>	02/08 10/08	-	450			Construction pending resolution of issues with an adjacent developer.
<u>TRANSIT VILLAGE VELOWEB</u>	10/09 05/10	-	1,500			SHADY BROOK TRAIL AT SPRING CREEK PARKWAY: Construction of trail between Midway Road and the west City limit to complete gaps in Shady Brook Trail is 98% complete.
<u>COTTONWOOD CREEK GREENBELT IMPROVEMENTS</u>	11/08 3/09	-	213	-	87	TRANSIT VILLAGE VELOWEB: A recreational trail and on-street bike route between DART 190 Station and DART Parker Road Station along the DART right of way will be partially funded by a Federal grant of \$1,200,000. Design and TxDOT reviews in progress. Project was delayed due to changes in route necessitated by DART decisions. City funding included in 2009 Bond Program.
<u>MEDIAN LANDSCAPING</u>	05/08 12/08	-	255	78	197	Addition of shelter, playground equipment and shade structure.
<u>MEDIAN TREE REPLACEMENT</u>	01/09 03/09		200	-	-	Trees and irrigation on Emerald Coast Drive, Parkwood Boulevard and Plano Parkway from K to Alma. Irrigation in progress. Construction 35% complete.
						City wide replacement of median trees. Project is going out to bid. Tree planting expected to begin in late December.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

Project Description	Construction Start (Est.) Complete (Est.)	2007-08 Budget (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
<u>MEMORIAL PARK IMPROVEMENTS</u>	12/07 10/08	-	2,000	570	357	Park renovation and addition of a veterans' memorial with public art is 90% complete.
<u>CLEARVIEW PARK IMPROVEMENTS</u>	10/09 04/10	-	700	27	66	<p>CLEARVIEW PARK IMPROVEMENTS: New playground equipment, renovation of irrigation system, additional shade structure, sidewalk loop, drainage improvements, seating areas and tree planting are part of the neighborhood revitalization program (2009 bonds).</p> <p>DOUGLAS NEIGHBORHOOD PARK: Improvements include playground, picnic shelter, irrigation, trees, sidewalks and parking (2009 bonds). Schematic design underway.</p> <p>EVANS PARK: Addition of parallel parking, sidewalk, fence replacement and re-platting of the park are part of the neighborhood revitalization program (2009 Bonds). Survey underway.</p>
<u>DOUGLAS NEIGHBORHOOD PARK</u>	10/09 02/10	-	250			
<u>EVANS PARK</u>	10/09 02/10	-	200			
<u>OAK POINT PARK & NATURE PRESERVE, PHASE 3</u>	10/08 09/09	-	7,300	19	6,305	Includes trail connection from Woodruff Park to Jupiter Road, a large pavilion for group reservations, restrooms, parking, earth work and associated improvements. Mobilization and erosion control measures initiated.
<u>PARK & SIDEWALK IMPROVEMENTS</u>	06/08 12/08	-	250	98	359	<p>PARK & SIDEWALK IMPROVEMENTS: Tree planting, irrigation renovations and sidewalk improvements at Arrowhead, Caddo, Hackberry and Westwood Parks is 15% complete.</p> <p>PARKWOOD GREEN, COYOTE CREEK AND SUNSET PARK - PARKING ADDITIONS: Trail addition at Coyote Creek is complete. Parking construction at Parkwood Green is 85% complete.</p>
<u>PARKWOOD GREEN, COYOTE CREEK AND SUNSET PARK - Parking Additions</u>	04/08 08/08	-	255			
<u>2008 TRAIL IMPROVEMENTS</u>	11/08 05/09	-	1,235	-	85	Repair and replacement of existing recreational trails. Bids opened August 21st. Contract award pending Council approval on October 13th.
<u>2007/2008 RESIDENTIAL & ARTERIAL PAVEMENT UNDERSEALING & RAISING (Requirements Contract)</u>	12/07 10/08	-	1,660	664	453	Uretex USA completed 89 residential locations, using 54,963 lbs. of foam to raise and underseal 70,660 SF of street pavement (1.13 lbs/SF). Contractor also did work on Park, Plano Parkway and Parker during the month.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

<u>Project Description</u>	Construction Start (Est.) Complete (Est.)	2007-08 Budget (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
<u>2006 SANITARY SEWER REHAB REQUIREMENTS</u>	03/08 09/08	-	1,992	853	666	Miller completed Work Order 2R laterals at residential alley locations. Crews completed lining of the larger industrial lines along Dart right of way and on Summit Drive. Contractor was also assigned two additional line segments on Melville and Harvest Hill to line and replace services to close out the contract.
<u>2007/2008 SIDEWALK CONSTRUCTION</u>	12/08 04/09	-	316	-	-	Inventory is being conducted to identify locations to install concrete sidewalk at various locations in the City.
<u>2007/2008 ARTERIAL AND RESIDENTIAL CONCRETE PAVEMENT REHABILITATION – Various Locations (Requirements Contract)</u>	09/08 11/08	-	382	-	348	Contractor completed work on Jupiter Road between Summit and 190, Plano Parkway between Independence and Custer and Garden Hill Drive during the month and moved operations to Park Blvd between Independence and Coit.
<u>SPLIT TRAIL DRIVE ASPHALT OVERLAY</u>	10/08 12/08	-	180	-	-	Plans and bid documents are being prepared for repair of the existing asphalt paving and overlay of Split Trail Drive from south of Spring Creek to K Avenue.
<u>2008 STADIUM & CUSTER PUMP STATION IRRIGATION</u>	06/08 08/08		77	-	58	Meeting was held with the contractor to close out the project and agree on funds needed to pay for items purchased for Custer Pump Station which were deleted from the contract.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

Project Description	Construction Start (Est.) Complete (Est.)	2007-08 Budget (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
				ALL PROJECTS COMBINED	ALL PROJECTS COMBINED	
<u>2007/2008 ARTERIAL CONCRETE PAVEMENT REHABILITATION – Legacy Drive</u>	05/08 10/08	-	650	749	1,472	2007/2008 ARTERIAL CONCRETE PAVEMENT REHAB -LEGACY: Jerusalem Corporation completed 8,518 SY of street pavement on Legacy between K Avenue and Custer and between Preston and Coit Road.
<u>2007/2008 ARTERIAL CONCRETE PAVEMENT REHABILITATION – Park Boulevard – Alma to Shiloh</u>	09/09 01/09	-	540			2007/2008 ARTERIAL CONCRETE PAVEMENT REHAB-PARK BOULEVARD- ALMA TO SHILOH: Contractor started work on Park between Alma and Republic at the beginning of the month and by the end of the month had completed this section and moved operations to Park between Republic and P Avenue.
<u>2007/2008 ARTERIAL CONCRETE PAVEMENT REHABILITATION – Parker Road, Pleasant Valley Trail, Country Place Drive</u>	07/08 02/09	-	818			2007/2008 ARTERIAL CONCRETE PAVEMENT REHAB-PARKER/PLEASANT VALLEY TRAIL/COUNTRY PLACE DR: Contractor completed repairs on Country Place between Park and Parker during the month and moved operations to Pleasant Valley between Custer and Spring Creek.
<u>2008/2009 ARTERIAL CONCRETE PAVEMENT REHABILITATION – Parker Rd - Preston to Dallas North Toll Road</u>	11/08 03/09	-	400			2008/2009 ARTERIAL CONCRETE PAVEMENT REHABILITATION– PARKER RD – PRESTON TO DALLAS NORTH TOLL ROAD: This project will repair arterial pavement on Parker Road between Preston Road and Dallas North Toll Road. Project was bid in September.
<u>2008/2009 ARTERIAL CONCRETE PAVEMENT REHABILITATION – Legacy Drive between Preston Rd and SH121</u>	11/08 03/09	-	350			2008/2009 ARTERIAL CONCRETE PAVEMENT REHABILITATION – LEGACY DRIVE BETWEEN PRESTON AND SH121: This project will repair arterial pavement on Legacy Drive between Preston Road and SH 121. Project was bid in September.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

Project Description	Construction Start (Est.) Complete (Est.)	2007-08 Budget (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
<u>2007/2008 RESIDENTIAL CONCRETE PAVEMENT REHAB - Zone I8</u>	05/08 09/08	-	626	792	1,515	Hencie repaired 3,143 SY of street paving and 3,236 SY of alley on the project to date. This zone is bounded by Legacy, Coit, Hedgcoxe and Independence.
<u>2007/2008 RESIDENTIAL CONCRETE PAVEMENT REHAB - Zone L5</u>	09/08 01/09	-	840			Project was awarded by Council and contract documents were prepared and sent to the contractor for signatures and bonding. This project is for street and alley pavement repairs in the area bordered by Alma, Spring Creek, Custer and Parker.
<u>2007/2008 RESIDENTIAL CONCRETE PAVEMENT REHAB - Zone L7</u>	05/08 11/08	-	433			Jerusalem completed 5,429 SY of street pavement repairs in the project area and started alley repairs with 2,642 SY of alley repaired during the month. Change order is being processed to increase the contract for additional street repairs in the area. This residential area is bounded by Spring Creek, Alma, Legacy and Custer.
<u>2007/2008 RESIDENTIAL CONCRETE PAVEMENT REHAB - Zone Q3</u>	05/08 10/08	-	632			Jerusalem repaired 4,571 SY of street pavement and 3,514 SY of alley pavement by the end of the month. Zone Q3 covers the residential area bounded by 14th, Los Rios, Rowlett Creek and Shiloh. With money remaining in the contract, the contractor will repair 18th Street west of Shiloh where the road is in need of repair over a box culvert.

CURRENT CAPITAL IMPROVEMENT PROJECTS
STATUS REPORT
SEPTEMBER 30, 2008

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SECTION 2

ECONOMIC ANALYSIS



*City of Plano
Comprehensive Monthly Finance Report*

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08

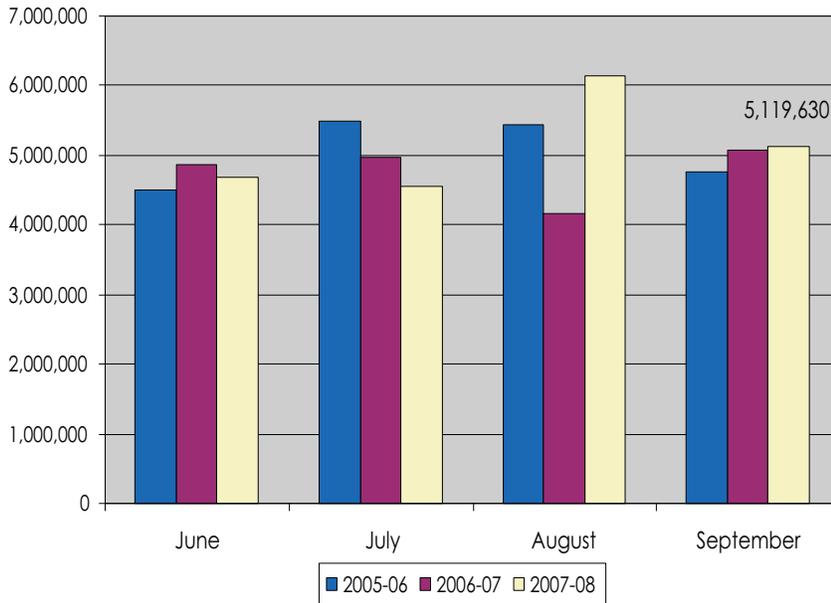


ECONOMIC ANALYSIS

Sales tax allocation of \$5,119,630 was remitted to the City of Plano in the month of September 2008. This amount represents an increase of .68% compared to the amount

received in September 2007.

SALES TAX
ACTUAL MONTHLY REVENUE
FIGURE I



Sales tax revenue is generated from the 1% tax on applicable business activity within the City. These taxes were collected in June by businesses filing monthly returns, reported in August to the State, and received in September by the City of Plano.

Figure I represent actual sales and use tax receipts for the months of June through September for fiscal years 2005-2006, 2006-2007, and 2007-2008.

ANNUALIZED SALES TAX INDEX
COMPARED TO DALLAS CONSUMER PRICE INDEX
FIGURE II

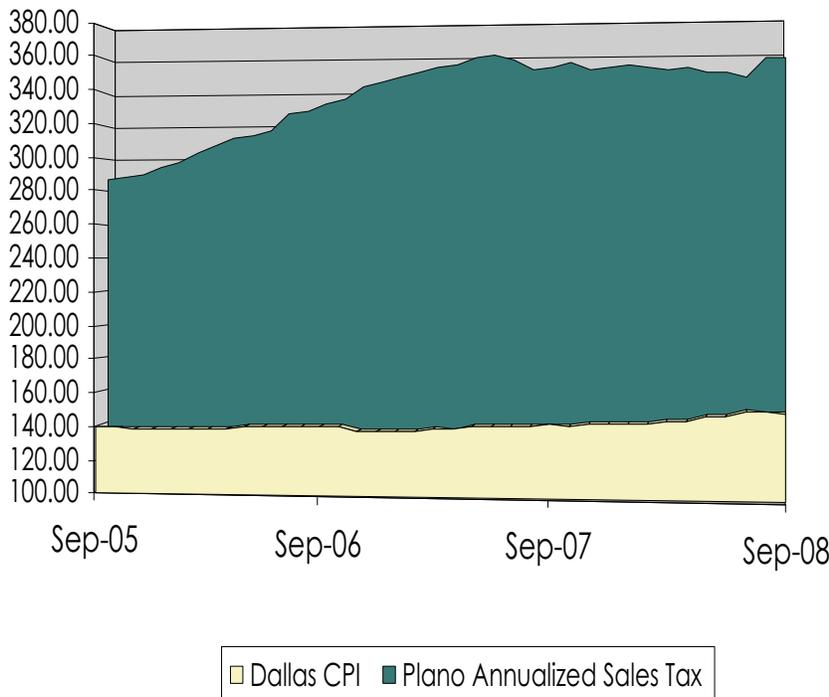


Figure II, left, tracks the percentage change in annualized sales tax revenues compared to the percentage change in the Dallas-area CPI, using 1982-84 as the base period. For September 2008, the adjusted CPI was 151.27 and the Sales Tax Index was 356.52.

Since January 1998, the BLS has moved the Dallas-Area pricing cycle for CPI computation to odd-numbered months.

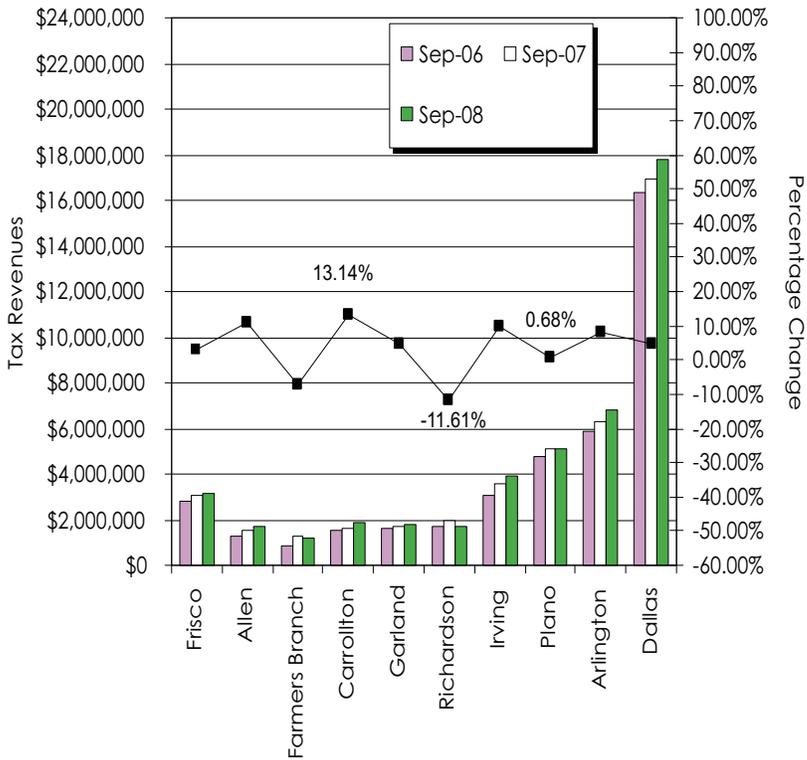
ECONOMIC ANALYSIS

Figure III shows sales tax allocations in the months of September 2006, September 2007 and September 2008 for the City of Plano and nine area cities. Each of the cities shown has a sales tax rate of 1%, except for the cities of Allen and Frisco, which have a 2% rate, but distribute half of the amount shown in the graph to 4A and 4B development corporations within their respective cities, and the City of Arlington which has a 1.75% sales tax rate with .25% dedicated to road maintenance and .50% for funding of the Dallas Cowboys Complex Development Project. In the month of September, the City of Plano received \$5,119,630 from this 1% tax.

SALES TAX COMPARISONS

CITY OF PLANO AND AREA CITIES

FIGURE III



The percentage change in sales tax allocations for the area cities, comparing September 2007 to September 2008, ranged from 13.14% for the City of Carrollton to -11.61% for the City of Richardson.

In September 2008, a total of 23 actual single-family housing permits, representing a value of \$6,859,982, were issued. This value represents a 17.25% decrease from the same period a year ago. Annualized single-family housing starts of 412 represent a value of \$94,958,963.

SINGLE FAMILY HOUSING STARTS

FIGURE IV

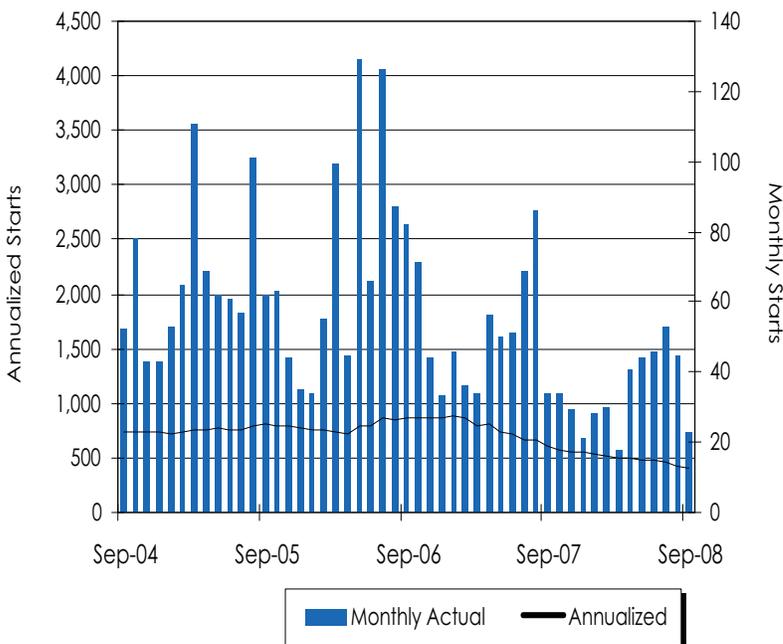


Figure IV above shows actual single-family housing starts versus annualized housing starts for September 2004 through September 2008.

ECONOMIC ANALYSIS

YIELD CURVE
FIGURE V

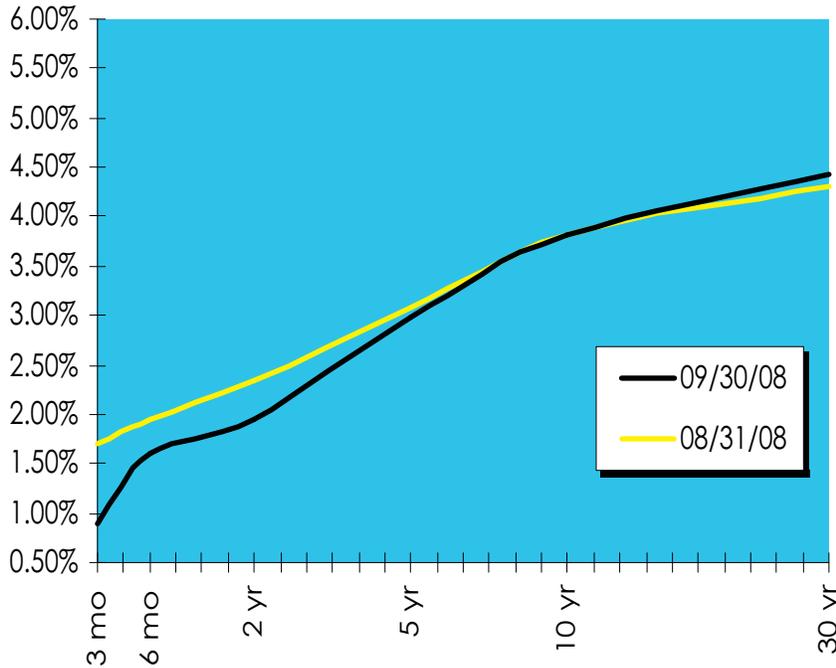


Figure V, left, shows the U.S. Treasury yield curve for September 30, 2008 in comparison to August 31, 2008. Of the reported treasury yields, the only yield increase in the month of September was the 10 year yield, with a .09 basis point increase.

UNEMPLOYMENT RATES
UNADJUSTED RATE COMPARISON
FIGURE VI*

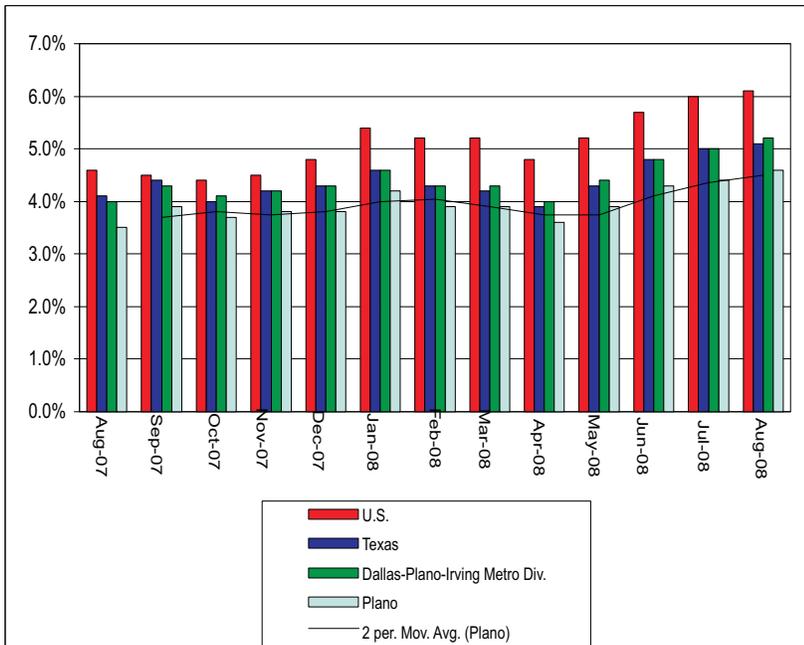


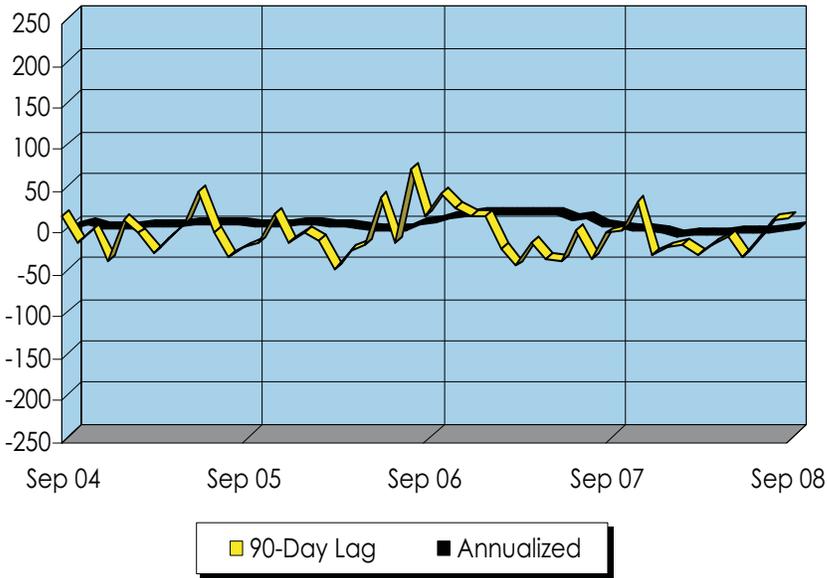
Figure VI shows unadjusted unemployment rates based on the BLS U.S. City Average, and LAUS estimates for the State of Texas, the Dallas-Plano-Irving Metropolitan Division and the City of Plano from August 2007 to August 2008.

*Due to changes in labor force estimation methodology by the BLS and the TWC, sub-state unemployment rate data prior to January 2005 are no longer comparable with current estimates. As a result, statistically significant changes in the reported unemployment rates may have occurred.

ECONOMIC ANALYSIS

Figure VII shows the net difference between the number of housing starts three months ago (90-day lag) and new refuse customers in the current month (90-day lag) as well as the average

HOUSING ABSORPTION
90-DAY LAG FROM PERMIT DATE
FIGURE VII

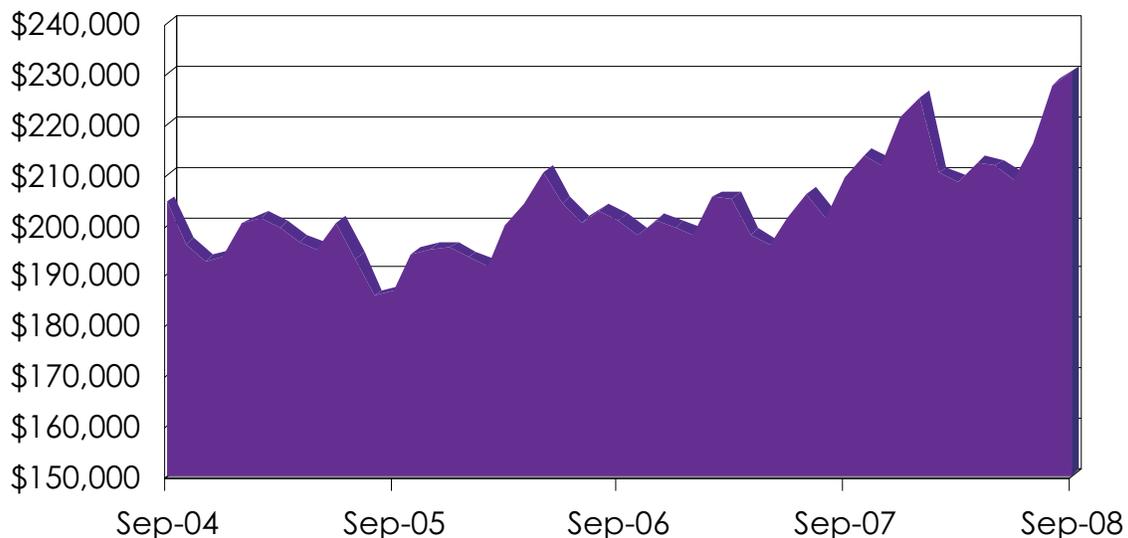


difference between these measures for the past four years (annualized).

For the current month, the 90-day lag is 17 homes, meaning that in June 2008 there were 17 more housing starts than new refuse customers in September 2008. The annualized rate is -7 which means there was an average of 7 fewer housing starts than new garbage customers per month over the past year.

The annualized average declared construction value of new homes increased 9.90% to \$230,483 when compared to September 2007.

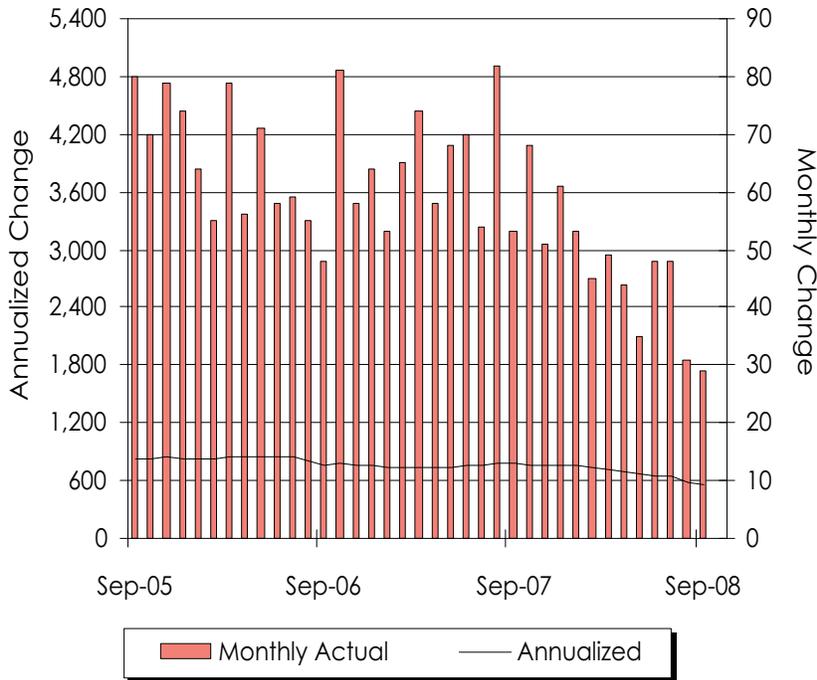
SINGLE-FAMILY NEW HOME VALUE
FIGURE VIII



ECONOMIC ANALYSIS

REFUSE COLLECTIONS ACCOUNTS NET GAINS/LOSSES

Figure IX

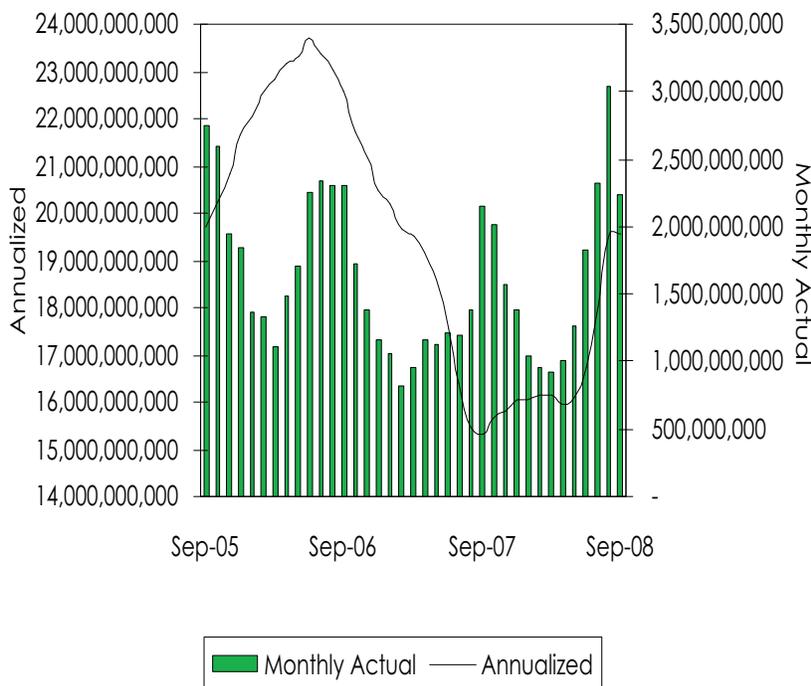


In September, net new refuse collection accounts totaled 29, in comparison to 53 new accounts in September of 2007. This change represents a 45.28% decrease on a year-to-year basis. Annualized new refuse accounts totaled 562, showing a decrease of 218, or a -27.95% change when compared to the same time last year.

Figure IX shows actual versus annualized new refuse collection accounts.

LOCAL WATER CONSUMPTION (GALLONS)

FIGURE X



In September, the City of Plano pumped 2,262,638,000 gallons of water from the North Texas Municipal Water District (NTMWD). Consumption was 2,234,908,310 gallons among 78,642 billed water accounts while billed sewer accounts numbered 74,938. The minimum daily water pumpage was 52,403,000 gallons, which occurred on Sunday, September 14th. Maximum daily pumpage was 93,921,000 gallons and occurred on Monday, September 1st. This month's average daily pumpage was 75,421,000 gallons.

Figure X shows the monthly actual and annualized average for local water consumption.

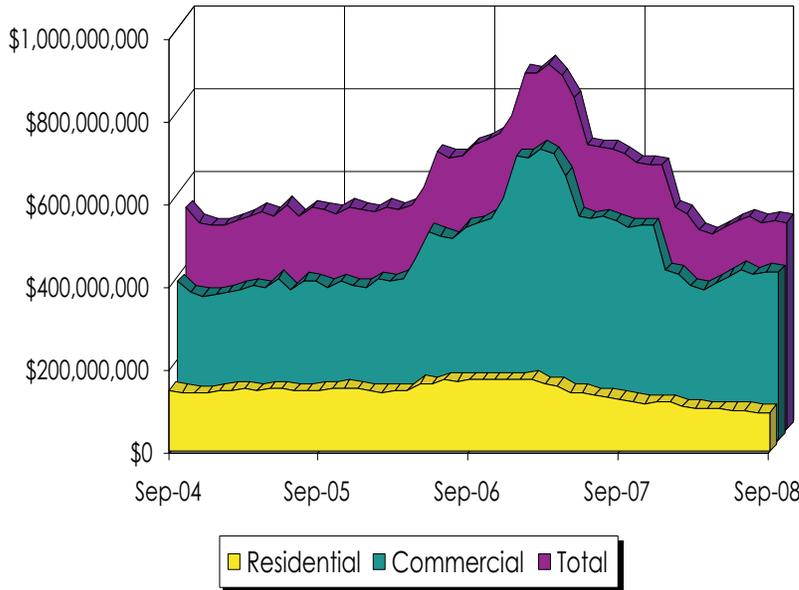
ECONOMIC ANALYSIS

In September a total of 77 new construction permits were issued, for properties valued at \$28,352,418. This includes 23 single-family residences, 1 church, 1 school, 1 office/banks, 3 other, 18 commercial additions/alterations, 24 interior finish-outs, and 1 demolition. There

were 13 permits issued for pools/spas.

ANNUALIZED BUILDING PERMIT VALUES

FIGURE XI



The overall annualized value was \$499,860,600, down 22.32% from the same period a year ago. The annualized value of new residential construction decreased to a value of \$94,958,963, down 25.17% from a year ago. The annualized value of new commercial construction decreased 21.46% to \$404,901,637.*

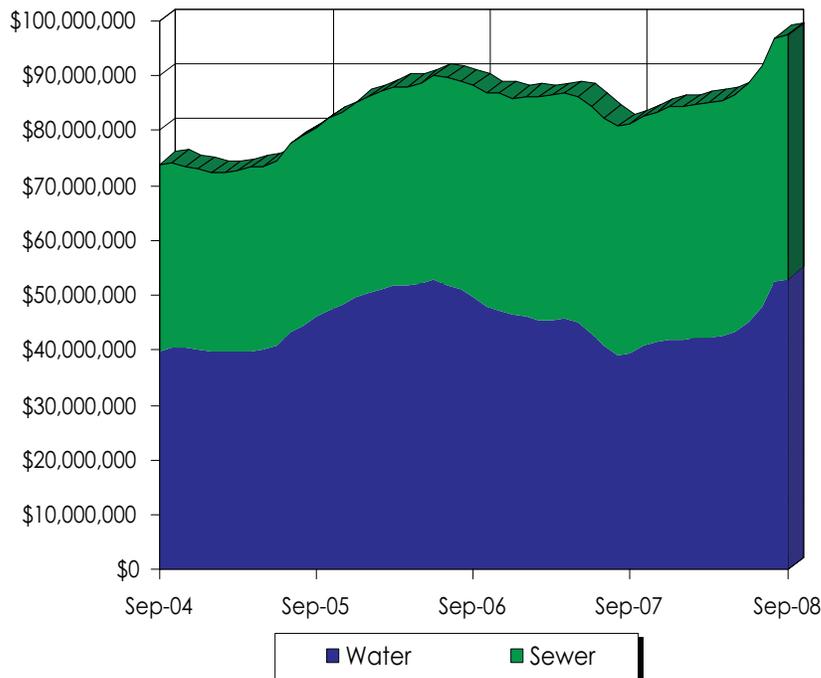
* As of January 2002, data on commercial construction value is based on both the building shell and interior finish work, per the Building Inspection Department.

The actual water and sewer customer billing revenues in September were \$6,216,383 and \$3,856,273, representing an increase of 7.598% and 4.35% respectively, compared to

September 2007 revenues. The aggregate water and sewer accounts netted \$10,072,656 for an increase of 6.33%.

ANNUALIZED WATER & SEWER BILLINGS

FIGURE XII



September consumption brought annualized revenue of \$53,001,729 for water and \$44,471,750 for sewer, totaling \$97,473,479. This total represents an increase of 19.80% compared to last year's annualized revenue.

Figure XII represents the annualized billing history of water and sewer revenues for September 2004 through September 2008.

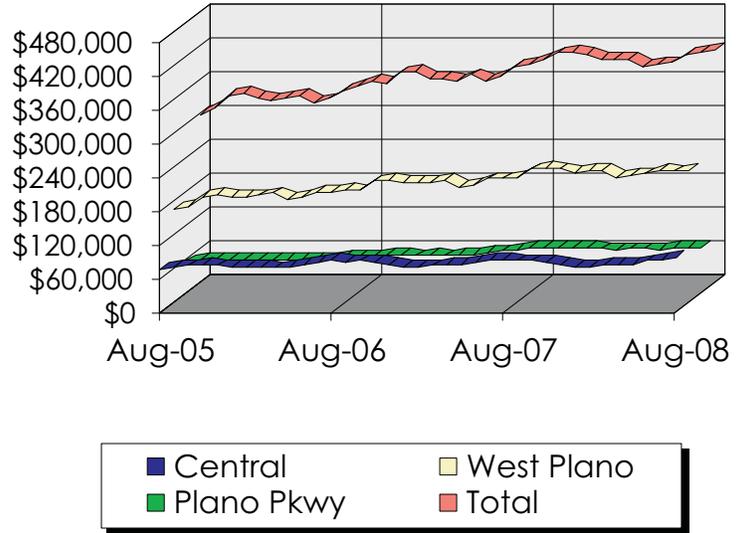
ECONOMIC ANALYSIS

August revenue from hotel/motel occupancy tax was \$417,581. This represents an increase of \$25,559 or 6.52% compared to August 2007. The average monthly revenue for the past six months (see graph) was \$410,672, an increase of 4.32% from the previous year's average. The six-month average for the Central area increased to \$97,117, the West Plano average increased to \$232,671, and the Plano Pkwy average decreased to \$80,885 from the prior year.

¹This amount will not always equal the hotel/motel taxes reported in the financial section. The economic report is based on the amount of taxes earned during a month, while the financial report indicates when the City received the tax.

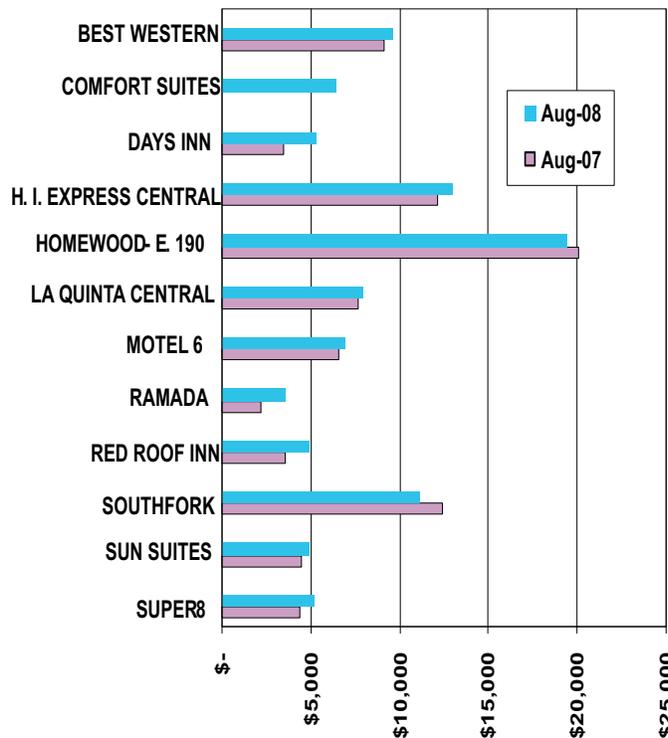
HOTEL/MOTEL OCCUPANCY TAX SIX MONTH TREND

FIGURE XIII

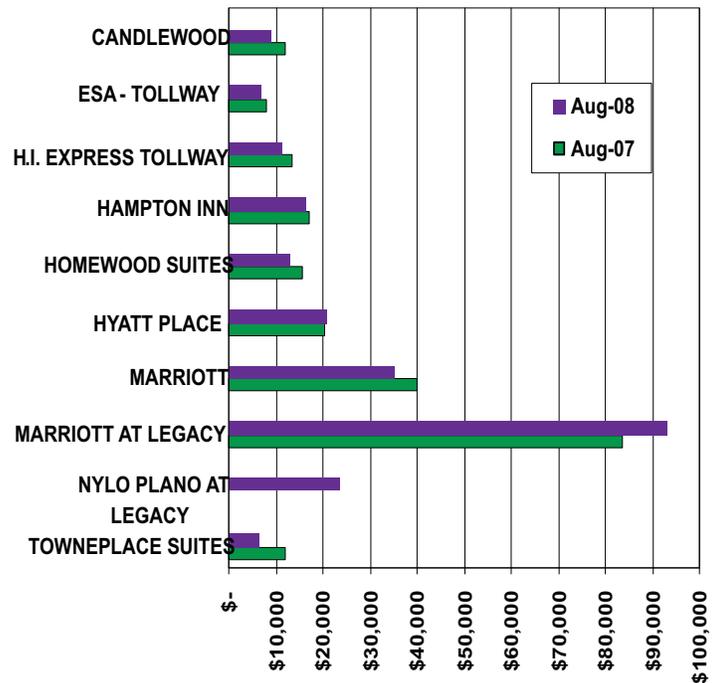


Figures XIV, XV and XVI show the actual occupancy tax revenue received from each hotel/motel in Plano for August 2008 compared to the revenue received in August 2007.

HOTEL/MOTEL OCCUPANCY TAX MONTHLY COMPARISON BY HOTEL - CENTRAL FIGURE XIV



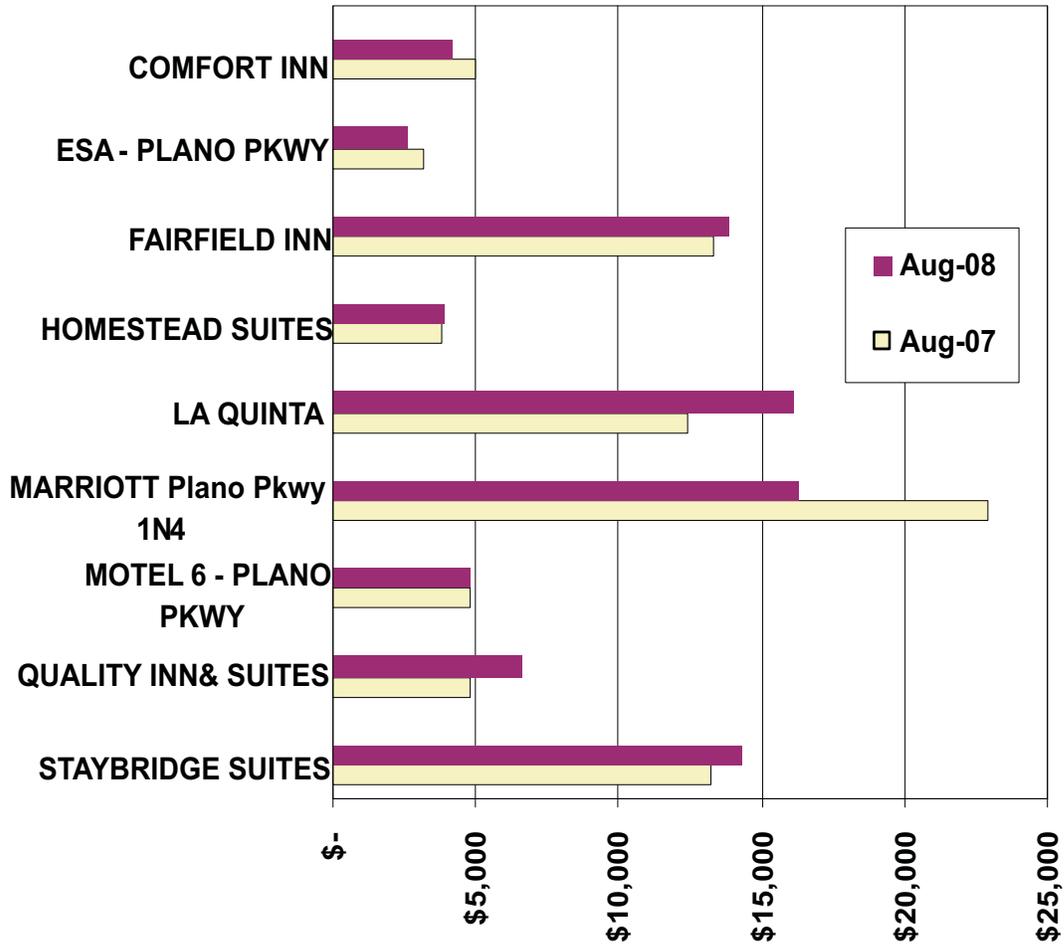
HOTEL/MOTEL OCCUPANCY TAX MONTHLY COMPARISON BY HOTEL - WEST PLANO FIGURE XV



*Since August 2005, Marriott International Tax Revenue numbers on this graph represent two (2) Marriott owned hotels (Courtyard by Marriott 1ND and Residence Inn # 323) **Hyatt Place: Formerly AmeriSuites; began renovation in June 2006

ECONOMIC ANALYSIS

HOTEL/MOTEL OCCUPANCY TAX
MONTHLY COMPARISON BY HOTEL-PLANO PKWY
FIGURE XVI



*Since August 2005, Marriott International tax revenue on this graph represent one (1) Marriott owned hotel (Courtyard by Marriott # N14) **Quality Inn & Suites: Formerly Baymont Inn & Suites

SECTION 3

INVESTMENT REPORT



City of Plano Comprehensive Monthly Finance Report

Funds of the City of Plano are invested in accordance with Chapter 2256 of the "Public Funds Investment Act." The Act clearly defines allowable investment instruments for local governments. The City of Plano Investment Policy incorporates the provisions of the Act and all investment transactions are executed in compliance with the Act and the Policy.

september
08



INVESTMENT REPORT

SEPTEMBER, 2008

Earned income during September totaled \$685,815 and represents interest paid on maturing investments and coupon payments on investments. Interest allocation is based on average balances within each fund during the month.

The two-year Treasury note yield increased throughout the month of September, starting at 2.39% and ending at 2.01%.

As of September 30, a total of \$296.7 million was invested in the Treasury Fund. Of this amount, \$71.2 million was General Obligation Bond Funds, \$5.06 million was Municipal Drainage Revenue Bond Funds, and \$220.44 million was in the remaining funds.

Metrics	Current Month Actual	Fiscal YTD	Prior Fiscal YTD	Prior Fiscal Year Total
Funds Invested ¹	\$ 5,000,000	\$ 115,200,000	\$ 219,706,000	\$ 219,706,000
Interest Received ²	\$ 868,255	\$ 11,929,749	\$ 12,660,107	\$ 12,660,107
Weighted Average Maturity (in days) ³	104			
Modified Duration ⁴	0.2582			
Average 2-Year T-Note Yield ⁵	2.01%			

* See interest allocation footnote on Page C-3.

- (1) Does not include funds on deposit earning a "NOW" rate, and/or moneys in investment pools or cash accounts.
- (2) Cash Basis.
- (3) The length of time (expressed in days) until the average investment in the portfolio will mature. The Prior fiscal YTD column represents current month, prior year.
- (4) Expresses the measurable change in the value of the portfolio in response to a 100-basis-point (1%) change in interest rates. The modified duration number in the Prior fiscal YTD column represents current month, prior year.
- (5) Compares 2008 to 2007.

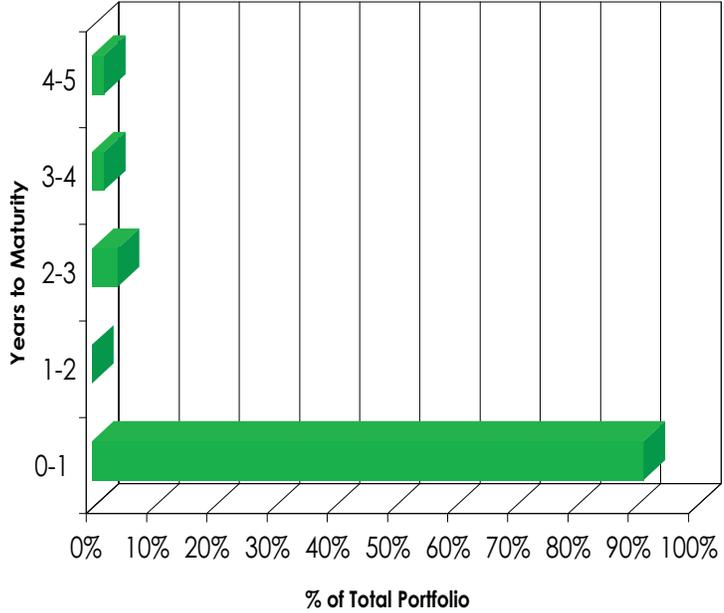
Month-to-Month Comparison

Metrics	Aug-08	Sep-08	Difference
Portfolio Holding Period Yield	2.70%	2.55%	-0.15% (-15 Basis Points)
Average 2-Year T-Note Yield	2.39%	2.01%	-0.38% (-38 Basis Points)

INVESTMENT REPORT

Portfolio Maturity Schedule Figure I

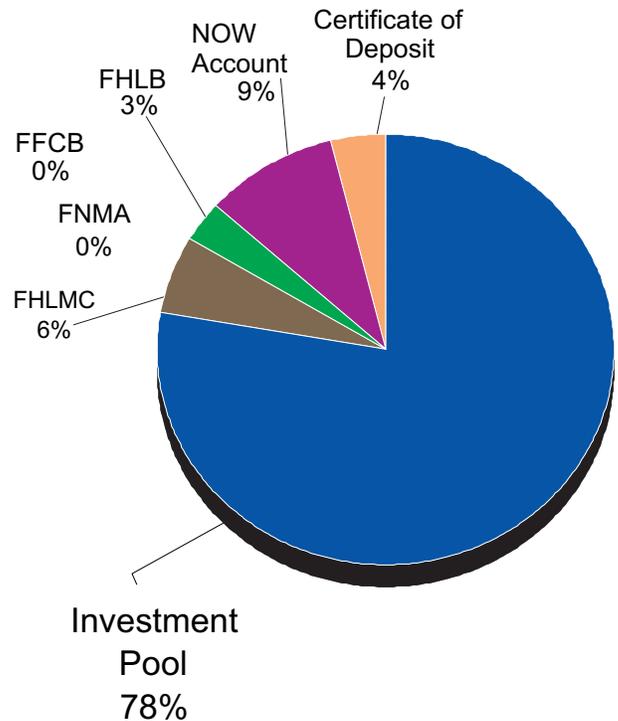
Years to Maturity*	Face Value	% Total
0-1	\$ 274,920,950	91.66%
1-2	0	0.00%
2-3	13,000,000	4.33%
3-4	6,000,000	2.00%
4-5	6,025,000	2.01%
Total	\$ 299,945,950	100.00%



*Does not take into consideration callable issues that can, if called, significantly shorten the Weighted Average Maturity.

Portfolio Diversification Figure II

Type	Face Value	% Total
Investment Pool	\$ 232,953,827	77.67%
Commercial Paper	0	0.00%
FHLMC	18,000,000	6.00%
FNMA	1,000,000	0.33%
FFCB	0	0.00%
FHLB	8,025,000	2.68%
NOW Account	28,467,123	9.49%
Certificate of Deposit	11,500,000	3.83%
Total	\$ 299,945,950	100.00%



INVESTMENT REPORT

Allocated Interest/Fund Balances September 2008

Fund	Beginning Fund Balance 9/30/2008	Allocated Interest Current Month	Fiscal Y-T-D	Ending Fund Balance 9/30/2008	% of Total
General	40,493,699	37,632	1,827,365	40,531,331	13.66%
G. O. Debt Services	5,466,249	17,998	941,997	5,484,247	1.85%
Street & Drainage Improvements	4,774,430	4,110	120,878	4,778,540	1.61%
Sewer CIP	8,127,731	6,576	296,230	8,134,307	2.74%
Capital Reserve	39,384,479	33,802	1,489,557	39,418,281	13.28%
Water & Sewer Operating	2,830,214	-	-	2,830,214	0.95%
Water & Sewer Debt Service	205,909	1,151	53,277	54,428	0.02%
W & S Impact Fees Clearing	3,289,976	2,796	112,809	3,292,773	1.11%
Park Service Area Fees	5,798,582	4,987	222,208	5,803,569	1.96%
Property/ Liability Loss	5,685,282	5,346	299,337	5,690,628	1.92%
Information Services	12,779,116	10,516	44,784	12,789,632	4.31%
Equipment Replacement	9,888,704	9,482	285,964	9,898,186	3.34%
Developer's Escrow	4,180,052	3,598	159,766	4,183,650	1.41%
G. O. Bond Funds	71,181,654	61,676	2,170,464	71,243,330	24.01%
Municipal Drainage Bond Clearing	5,054,010	4,420	156,576	5,058,430	1.70%
Other	77,239,666	290,921	3,811,277	77,530,587	26.13%
Total	296,379,753	495,012	11,992,491	296,722,133	100%

September 30, 2008 allocated interest to these funds may include an adjustment to fair value as required by GASB 31

Portfolio Statistics

Month	Total Invested (End of Month)	Portfolio Yield	Securities Purchased	Maturities/ Sold/Called	Weighted Ave. Mat. (Days)	# of Securities
April, 2007	\$ 308,567,825	4.50%		5	6	248
May, 2007	\$ 292,825,559	4.49%		8	7	259
June, 2007	\$ 328,244,921	4.68%		6	14	255
July, 2007	\$ 319,849,907	4.80%		4	18	305
August, 2007	\$ 314,475,970	4.81%		3	5	301
September, 2007	\$ 280,880,178	4.69%		4	13	352
October, 2007	\$ 271,859,396	4.65%		9	9	372
November, 2007	\$ 267,923,119	4.50%		0	13	336
December, 2007	\$ 297,081,403	4.38%		5	5	330
January, 2008	\$ 331,733,593	3.89%		0	7	271
February, 2008	\$ 355,395,292	3.74%		0	47	201
March, 2008	\$ 387,032,318	3.15%		2	6	185
April, 2008	\$ 381,330,126	2.74%		1	5	139
May, 2008	\$ 372,180,688	2.87%		3	1	154
June, 2008	\$ 364,394,409	2.80%		3	10	89
July, 2008	\$ 335,954,990	2.83%		5	4	114
August, 2008	\$ 334,980,268	2.69%		7	6	119
September, 2008	\$ 299,945,950	2.55%		1	5	104

INVESTMENT REPORT

Equity in Treasure Pool
By Major Category
Figure IV

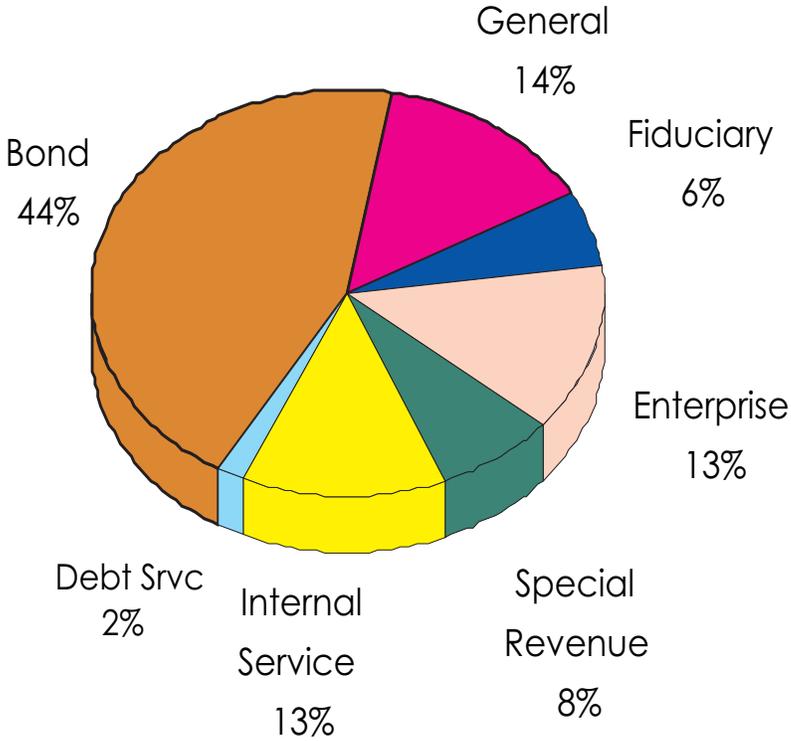
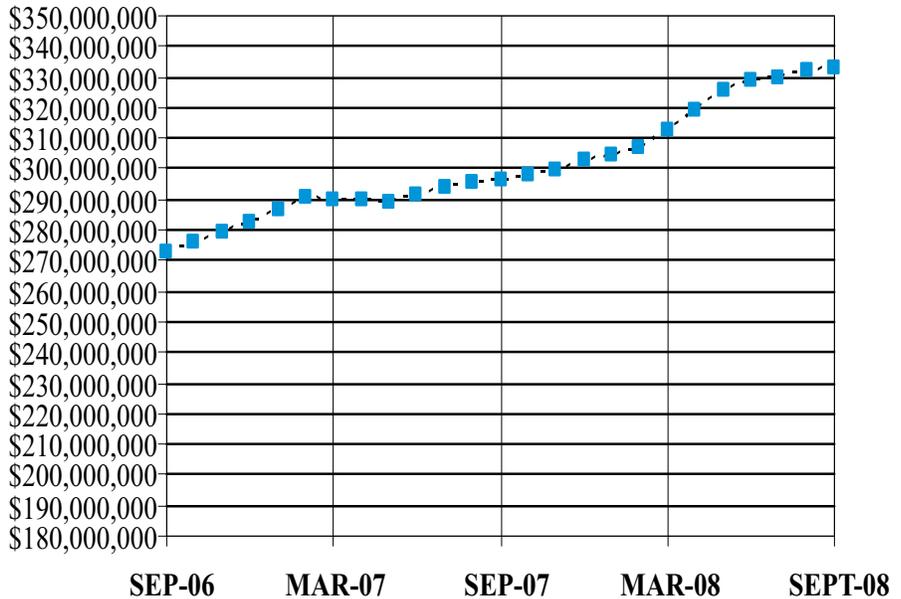


Figure IV shows a breakdown of the various sources of funds for the City's Treasury Pool as of September 30, 2008. The largest category is the Bond Funds in the amount of \$136.0 million. Closest behind is the General Fund with a total of \$43.6 million, and the Internal Service Funds with \$38.8 million.

Annualized Average Portfolio
Figure V

The annualized average portfolio for September 30, 2008 was \$333,317,629. This is an increase of \$36,624,887 when compared to the September 2007 average of \$296,692,742



SECTION 4

QUARTERLY INVESTMENT REPORT



*City of Plano
Comprehensive Monthly Finance Report*

september
08



Investment Report

City of Plano - Treasury

07/01/1 - 09/30/08

This report summarizes the investment position of City of Plano - Treasury for the period 07/01/08 to 09/30/08.

	06/30/08	09/30/08
Book Value	359,631,853.41	299,934,013.85
Market Value	359,798,753.99	300,050,499.11
Par Value	359,657,859.78	299,945,949.61
Change in Market Value		-26,971.30
Weighted Average Maturity (in Days)	89	104
Weighted Average Yield-to-Maturity of Portfolio	2.7983%	2.5558%
Yield-to-Maturity of 2 Yr. Treasury Note	2.6205%	1.9759%
Accrued Interest		329,163.53

This report is presented in accordance with the Texas Government Code Title 10 Section 2256.023. The below signed hereby certify that, to the best of their knowledge on the date this report was created, City of Plano -Treasury is in compliance with the provisions of Government Code 2256 and with the stated policies and strategies of City of Plano - Treasury.



 Director of Finance



 Treasury Analyst

Portfolio Position
City of Plano - Treasury
Effective Interest - Actual Life
Receipts in Period
07/01/08 - 09/30/08

CUSIP		Invest Number	Security Description	Purchase Date	Par Value On 07/01/08	Par Value On 09/30/08	Market Val On 07/01/08	Market Val On 09/30/08	Amor Value On 07/01/08	Amor Value On 09/30/08	
Combined Port	LegacyTexas Bank NOW Acct.	AR-0005	Cash	12/05/05	17,137,539.68	28,467,122.54	17,137,539.68	28,467,122.54	17,137,539.68	28,467,122.54	
	Cash Total				17,137,539.68	28,467,122.54	17,137,539.68	28,467,122.54	17,137,539.68	28,467,122.54	
		08-0004-01	Certificate of Deposit 4.94 07/10/08	10/18/07	3,500,000.00	0.00	3,500,000.00	0.00	3,500,000.00	0.00	
		08-0026	Certificate of Deposit 3.00 11/13/08	07/14/08	0.00	3,500,000.00	0.00	3,500,000.00	0.00	3,500,000.00	
		08-0025-01	Certificate of Deposit 2.86 09/02/08	07/14/08	0.00	0.00	0.00	0.00	0.00	0.00	
		08-0015-01	Certificate of Deposit 3.47 09/02/08	03/04/08	15,000,000.00	0.00	15,000,000.00	0.00	15,000,000.00	0.00	
		08-0013-01	Certificate of Deposit 4.4744 09/02/08	12/21/07	6,500,000.00	0.00	6,500,000.00	0.00	6,500,000.00	0.00	
		08-0014	Certificate of Deposit 4.4744 11/26/08	12/21/07	3,500,000.00	3,500,000.00	3,500,000.00	3,500,000.00	3,500,000.00	3,500,000.00	
		08-0038-01	Certificate of Deposit 2.36 07/31/08	07/01/08	0.00	0.00	0.00	0.00	0.00	0.00	
		08-0036-01	Certificate of Deposit 2.34 08/31/08	08/01/08	0.00	0.00	0.00	0.00	0.00	0.00	
		08-0016	Certificate of Deposit 3.47 11/20/08	03/11/08	4,500,000.00	4,500,000.00	4,500,000.00	4,500,000.00	4,500,000.00	4,500,000.00	
		08-0037-01	Certificate of Deposit 2.36 09/30/08	09/01/08	0.00	0.00	0.00	0.00	0.00	0.00	
		Certificate of Deposit Total				33,000,000.00	11,500,000.00	33,000,000.00	11,500,000.00	33,000,000.00	11,500,000.00
		21684EGAO	08-0021-01	Commercial Paper 0.00 07/10/08	06/05/08	3,500,000.00	0.00	3,498,120.78	0.00	3,496,665.85	0.00
		36859HH75	08-0023-01	Commercial Paper 0.00 08/07/08	06/18/08	3,500,000.00	0.00	3,493,223.93	0.00	3,491,719.51	0.00
	Commercial Paper Total				7,000,000.00	0.00	6,991,344.71	0.00	6,988,385.36	0.00	
	3133XCHX4	08-0029-01	FHLB 4.50 08/04/10	07/28/08	0.00	0.00	0.00	0.00	0.00	0.00	
	3133XDBY6	06-0098	FHLB 4.375 10/03/08	08/22/06	1,000,000.00	1,000,000.00	1,004,060.00	1,000,000.00	997,999.24	999,956.51	
	3133XLWS8	07-0063-01	FHLB 5.75 08/15/12	08/15/07	1,000,000.00	0.00	1,003,130.00	0.00	999,868.11	0.00	
	3133XLYY3	07-0064	FHLB 5.40 08/20/12	08/20/07	1,000,000.00	1,000,000.00	1,025,940.00	1,021,560.00	1,000,000.00	1,000,000.00	
	3133XMPK2	08-0002	FHLB 5.10 10/15/12	10/15/07	2,025,000.00	2,025,000.00	2,038,932.00	2,026,903.50	2,023,895.84	2,023,953.62	
	3133XMT43	08-0007	FHLB 5.00 10/29/12	10/30/07	2,000,000.00	2,000,000.00	2,013,120.00	2,003,760.00	1,998,903.38	1,998,960.42	
	3133XN2F5	08-0012	FHLB 5.00 11/28/12	12/27/07	2,000,000.00	2,000,000.00	2,013,120.00	2,005,620.00	2,000,000.00	2,000,000.00	
	FHLB Total				9,025,000.00	8,025,000.00	9,098,302.00	8,057,843.50	9,020,666.57	8,022,870.55	
	3128X4ST9	06-0006	FHLMC 4.90 11/03/08	11/03/05	1,000,000.00	1,000,000.00	1,007,930.00	1,001,430.00	999,668.66	999,913.09	
	3128X7N83	08-0027	FHLMC 5.00 07/22/13	07/22/08	0.00	2,000,000.00	0.00	2,013,812.00	0.00	1,999,698.19	
	3128X7P32	08-0033	FHLMC 4.30 06/30/11	08/22/08	0.00	3,000,000.00	0.00	3,000,420.00	0.00	3,000,000.00	
	3128X7P65	08-0034	FHLMC 4.375 07/28/11	08/28/08	0.00	3,000,000.00	0.00	3,002,952.00	0.00	3,000,000.00	
	3128X7U44	08-0030	FHLMC 4.50 08/25/11	08/25/08	0.00	2,000,000.00	0.00	2,004,312.00	0.00	1,998,184.05	
	3128X7UL6	08-0032	FHLMC 4.00 06/03/11	08/22/08	0.00	2,000,000.00	0.00	2,001,920.00	0.00	1,995,219.92	
	3128X7ud4	08-0018	FHLMC 4.05 11/21/11	05/21/08	5,000,000.00	5,000,000.00	5,005,500.00	5,007,800.00	5,000,000.00	5,000,000.00	
	FHLMC Total				6,000,000.00	18,000,000.00	6,013,430.00	18,032,646.00	5,999,668.66	17,993,015.25	
	31359MF81	06-0037	FNMA 5.05 02/07/11	02/07/06	1,000,000.00	1,000,000.00	1,039,380.00	1,039,060.00	996,897.21	997,178.44	
	31398ASA1	08-0022-01	FNMA 5.00 06/26/13	06/26/08	5,000,000.00	0.00	5,023,437.50	0.00	4,993,375.83	0.00	
	FNMA Total				6,000,000.00	1,000,000.00	6,062,817.50	1,039,060.00	5,990,273.04	997,178.44	
	TexPool	AR-0003	Slate Pool	10/01/99	281,495,320.10	232,953,827.07	281,495,320.10	232,953,827.07	281,495,320.10	232,953,827.07	
	State Pool Total				281,495,320.10	232,953,827.07	281,495,320.10	232,953,827.07	281,495,320.10	232,953,827.07	
	Combined Port Total				359,657,859.78	299,945,949.61	359,798,753.99	300,050,499.11	359,631,853.41	299,934,013.85	

PRELIMINARY
2009 BOND
REFERENDUM

11/10/08



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Plano, Texas 75086-0358
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MEMORANDUM

Date: November 3, 2008

To: Honorable Mayor & City Council

From: Karen Rhodes-Whitley, Director of Budget & Research *KRW*

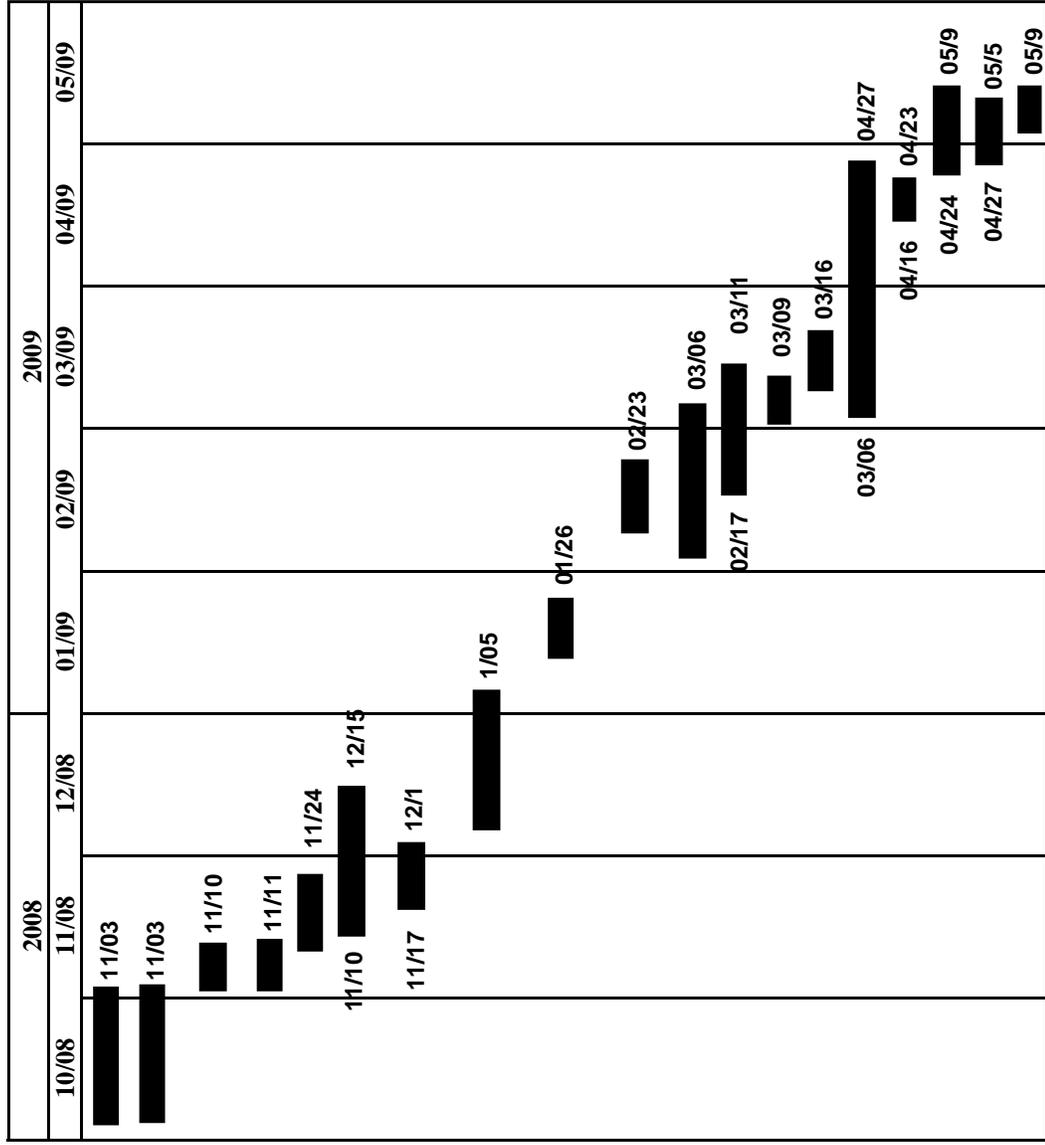
Subject: **PRELIMINARY DRAFT OF 2009 BOND REFERENDUM PROJECTS**

At the Monday, November 10, 2008 Council Worksession, we will begin discussing the General Obligation Bond Referendum scheduled for May 9, 2009. Staff has prepared an initial preliminary project list for your review. Also included is a brief description of each proposed project, preliminary operating cost impacts, the tax rate impact of issuing \$100 million to \$160 million of new authority and a timeline outlining key referendum dates.

The list of projects will be provided to City recognized Boards and Commissions on November 11, 2008 for review and comments. A public hearing is scheduled for November 24, 2008 to allow projects initiated by citizens to be reviewed and included in the process. Then, on January 26, 2009, the City Council is scheduled to decide which propositions will be placed before the voters.

Please let me know if you require further clarification. Staff members from each area will be available at the meeting to answer any questions you may have regarding the projects.

PROPOSED 2009 BOND REFERENDUM PRELIMINARY TIMELINE



Staff Prepares CIP Project List
Budget Prepares Financial Analysis of Funding
City Staff Presents Recommended Project Lists to Council
Recommended Projects Sent to Boards & Commissions
Public Hearing for Citizen Initiated Projects
City Council Continues Discussion of Project Lists
Planning & Zoning Committee Discussion of Projects List
Recommendations From Boards & Commission Due to Staff
Council Agrees on Propositions to be Submitted to the Voters
City Council Considers an Ordinance Calling the Bond Referendum
Pamphlet Developed
2009 Bond Video Developed
Pamphlet Distributed to Households
Speakers Bureau List of Participants and Assignments
Community & Civic Group Presentations
Publish Notices for Elections
2009 Bond Video Airst
Early Voting
Election

PRELIMINARY 2009 BOND REFERENDUM LIST

11/3/2008

Project	2009-10	2010-11	2011-12	2012-13	Total
<u>Public Safety Facilities</u>					
Engine/Fire Apparatus	1,300,000	1,568,000	-	-	2,868,000
O&M	1,646,952	3,293,904	-	-	4,940,856
Fiber Infrastructure Build-Out	-	5,000,000	-	-	5,000,000
O&M	-	750,000	-	-	750,000
Fire Station 2	-	1,500,000	-	-	1,500,000
O&M	-	14,036	-	-	14,036
Fire Station 6	-	-	1,500,000	-	1,500,000
O&M	-	2,086	6,290	-	8,376
Fire Station 7	1,500,000	-	-	-	1,500,000
Fire Station 13	1,000,000	-	-	-	1,000,000
O&M	1,782,692	14,604	-	-	1,797,296
Public Safety Communications Center	1,600,000	6,000,000	-	-	7,600,000
O&M	-	169,932	-	-	169,932
Technology Services Facility	1,700,000	6,300,000	-	-	8,000,000
O&M	-	25,035	195,550	-	220,585
Video Surveillance	3,000,000	-	-	-	3,000,000
O&M	75,000	-	-	-	75,000
Total Public Safety Authority Needed	10,100,000	20,368,000	1,500,000	-	31,968,000
Total O&M	3,504,644	4,269,597	201,840	-	7,976,081
<u>Library Facilities</u>					
Davis Library	-	-	503,600	-	503,600
Haggard Library	93,400	-	-	-	93,400
Harrington Library	-	505,000	-	-	505,000
Parr Library	-	-	-	503,600	503,600
Schimelpfenig Library	-	144,400	-	-	144,400
Total Library Authority Needed	93,400	649,400	503,600	503,600	1,750,000
<u>Other Facilities</u>					
Plano Centre Expansion	-	1,000,000	10,000,000	9,000,000	20,000,000
O&M	-	75,104	782,250	782,250	1,639,604
Total Other Facility Authority Needed	-	1,000,000	10,000,000	9,000,000	20,000,000
Total O&M	-	75,104	782,250	782,250	1,639,604
<u>Park Improvements</u>					
White Rock Community Park Development	500,000	4,500,000	-	-	5,000,000
O&M	-	-	217,000	-	217,000
Oak Point Park Development	-	500,000	4,500,000	-	5,000,000
O&M	-	-	-	335,496	335,496
Trail Connections	1,250,000	1,250,000	1,250,000	1,250,000	5,000,000
O&M	11,875	11,875	11,875	11,875	47,500

PRELIMINARY 2009 BOND REFERENDUM LIST

11/3/2008

Project	2009-10	2010-11	2011-12	2012-13	Total
<u>Park Improvements (Cont.)</u>					
Athletic Field Renovations	2,000,000	2,000,000	2,000,000	2,000,000	8,000,000
O&M	9,375	9,375	9,375	9,375	37,500
Park Improvements	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
O&M	57,300	57,300	57,300	57,300	229,200
Land Acquisitions	500,000	3,000,000	7,000,000	4,750,000	15,250,000
O&M	-	10,000	60,000	224,490	294,490
Athletic Field Improvements	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
O&M	11,450	11,450	11,450	11,450	45,800
Arbor Hills Nature Preserve	-	50,000	350,000	-	400,000
O&M	-	-	-	7,500	7,500
Pecan Hollow Golf Course (TBD)	-	1,500,000	1,500,000	-	3,000,000
Maintenance Facility Expansion/Renov.	-	100,000	900,000	-	1,000,000
O&M	-	4,172	28,465	-	32,637
Downtown Improvements	-	-	-	900,000	900,000
O&M	-	-	-	15,000	15,000
Total Park Authority Needed	6,250,000	14,900,000	19,500,000	10,900,000	51,550,000
Total O&M	90,000	104,172	395,465	672,486	1,262,123
<u>Recreation Center</u>					
Aquatic Center Renovation	500,000	3,000,000	-	-	3,500,000
Carpenter Park Recreation Center Expansion	6,000,000	-	-	-	6,000,000
O&M	-	583,153	-	-	583,153
Senior Center/Wellness Center Expansion	-	500,000	7,000,000	-	7,500,000
O&M	-	27,121	181,793	87,344	296,258
Oak Point Rec Center Expansion	-	-	600,000	6,000,000	6,600,000
O&M	-	-	-	162,586	162,586
Douglass Community Center	-	-	50,000	450,000	500,000
Total Rec Cntr Authority Needed	6,500,000	3,500,000	7,650,000	6,450,000	24,100,000
Total O&M	-	610,274	181,793	249,930	1,041,997
<u>Street Improvements</u>					
14th Street Reconstruction- K to Ridgewood	1,000,000	0	0	0	1,000,000
15th Street Reconstruction - G Ave to US 75	2,454,000	0	0	0	2,454,000
17th Street/R Avenue Reconstruction	800,000	0	0	0	800,000
Alley Reconstruction at Various Locations	200,000	200,000	200,000	200,000	800,000
Barrier Free Ramps at Various Location	100,000	100,000	100,000	100,000	400,000
Communications Construction Sp Cr to Tennyson	2,410,000	0	0	0	2,410,000
Computerized Signal System Improvements	250,000	250,000	250,000	250,000	1,000,000
Dallas North Estates 3 Street Reconstruction	151,000	1,260,000	0	0	1,411,000
East Side Entryway Features and Landscaping	110,000	0	0	0	110,000
Independence Pkay Corridor Intersection Imp	1,472,000	0	0	0	1,472,000
Intersection Improvements at Various Locations	1,500,000	1,500,000	1,500,000	1,500,000	6,000,000

PRELIMINARY 2009 BOND REFERENDUM LIST

11/3/2008

Project	2009-10	2010-11	2011-12	2012-13	Total
<u>Street Improvements (Cont.)</u>					
Intersection Improvements 2008	522,000	0	0	0	522,000
Landscaping Street Enhancements at Various Roads	131,000	110,000	560,000	110,000	911,000
Legacy Corridor Intersection Improvements	200,000	1,255,000	0	0	1,455,000
McDermott Rd widening- Coit to Ohio	1,000,000	0	0	0	1,000,000
Meadows Addition Street Reconstruction	1,633,000	0	0	0	1,633,000
New Concrete Alleys at various locations	100,000	100,000	100,000	100,000	400,000
Oversize Participation	300,000	200,000	100,000	100,000	700,000
P Avenue/18th /Belle View Street Reconstruction	290,000	0	0	0	290,000
Park Blvd Corridor Intersection Improvements	400,000	1,950,000	0	0	2,350,000
Park Blvd/US 75 Pedestrian Crossing	100,000	1,222,500	0	0	1,322,500
Park Streets - Adjacent to Parks	100,000	0	100,000	0	200,000
Parker Rd Corridor Intersection Improvements	1,500,000	0	0	0	1,500,000
Permanent Traffic Calming improvements	100,000	100,000	100,000	100,000	400,000
Preston Road Corridor Intersection Improvements	200,000	2,860,000	0	0	3,060,000
Preston/Legacy Intersection Imp.	500,000	0	0	0	500,000
Preston/Plano Parkway Intersection Imp	1,890,000	0	0	0	1,890,000
Preston/SH 190 Intersection Imp.	100,000	2,700,000	0	0	2,800,000
Railroad Corridors Studies	100,000	0	0	0	100,000
Razor Road construction- Ohio to SH 121	2,000,000	0	0	0	2,000,000
Redevelopment Street Improvements	1,000,000	1,000,000	1,000,000	0	3,000,000
Roadway Median Landscaping-Variou Locations	55,000	55,000	55,000	55,000	220,000
Screening Wall Reconstruction-Variou Locations	550,000	550,000	550,000	550,000	2,200,000
Shiloh Rd widening - 14th Street to Park Blvd.	150,000	2,840,000	0	0	2,990,000
Split Trail Reconstruction- Spring Creek to K	750,000	0	0	0	750,000
Spring Creek Pkwy at Coit Intersection Imp. (TIP)	1,655,000	0	0	0	1,655,000
Spring Creek Pkwy Corridor Intersection Imp	400,000	2,625,000	0	0	3,025,000
Spring Creek Pkwy Widening - Park to Parker	200,000	2,800,000	0	0	3,000,000
Street Reconstruction at Various Locations	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
Traffic Signalization at New Locations	500,000	500,000	500,000	500,000	2,000,000
West Plano Village Street Improvements	545,000	0	0	0	545,000
Westwood Reconst - 15th Street to Janwood	1,000,000	0	0	0	1,000,000
Windhaven Widening-City Limit to Spring Creek	3,600,000	0	0	0	3,600,000
18th Street Reconst - G to West of K Avenue	0	1,250,000	0	0	1,250,000
Brand Road widening- 544 to City Limits	0	100,000	700,000	0	800,000
Dallas North Estates Street Reconstruction	0	223,000	1,854,000	0	2,077,000
F Ave. and 14th St. Reconstruction	0	25,000	150,000	0	175,000
International Widening- Plano Pkwy to Midway	0	90,000	700,000	0	790,000
Los Rios Widening - Jupiter to Parker	0	120,000	1,880,000	0	2,000,000
18th Street Reconstruction- Jupiter to Dale Drive	0	0	82,000	682,000	764,000
Chaparral Bridge at Cottonwood Creek	0	0	1,000,000	0	1,000,000
Dallas North Estates 5- Street Reconstruction	0	0	173,000	1,437,000	1,610,000
Los Rios Widening - S City Limits to 14th Street	0	0	2,000,000	0	2,000,000
Mapleshade Construction- Bush Tpk to Silverglen	0	0	830,000	0	830,000
Marsh Widening - Park to Parker	0	0	1,700,000	0	1,700,000
Park Widening- Shiloh to East City Limit	0	0	112,000	1,688,000	1,800,000
Plano Park 1 - Street Reconstruction	0	0	120,000	995,000	1,115,000

PRELIMINARY 2009 BOND REFERENDUM LIST

11/3/2008

Project	2009-10	2010-11	2011-12	2012-13	Total
Dallas North Estates 2 - Street Reconstruction	0	0	0	91,000	91,000
Ridgeview Dr Construction - S.H. 121 to Coit	0	0	0	2,000,000	2,000,000
	<u>33,018,000</u>	<u>26,985,500</u>	<u>17,416,000</u>	<u>11,458,000</u>	<u>88,877,500</u>
<i>Revenue from Collin County</i>	<i>-6,963,000</i>	<i>-6,860,000</i>	<i>-4,425,000</i>	<i>-2,700,000 #</i>	<i>-20,948,000</i>
<i>Revenue from Denton County</i>	<i>0</i>	<i>0</i>	<i>-1,500,000</i>	<i>0 #</i>	<i>-1,500,000</i>
<i>Revenue from East Side TIF</i>	<i>0</i>	<i>-500,000</i>	<i>0</i>	<i>0 #</i>	<i>-500,000</i>
<i>Revenue from RTR Funds</i>	<i>-12,067,000</i>	<i>-10,830,000</i>	<i>0</i>	<i>0 #</i>	<i>-22,897,000</i>
<i>Revenue from TxDOT</i>	<i>-6,100,000</i>	<i>-2,178,000</i>	<i>0</i>	<i>0 #</i>	<i>-8,278,000</i>
	<u><i>-25,130,000</i></u>	<u><i>-20,368,000</i></u>	<u><i>-5,925,000</i></u>	<u><i>-2,700,000 0</i></u>	<u><i>-54,123,000</i></u>
Total Street Improvement Authority Needed	7,888,000	6,617,500	11,491,000	8,758,000	34,754,500
TOTAL PROJECTED AUTHORITY NEEDED	<u>30,831,400</u>	<u>47,034,900</u>	<u>50,644,600</u>	<u>35,611,600</u>	<u>164,122,500</u>
TOTAL PROJECTED O&M	<u>3,594,644</u>	<u>5,059,147</u>	<u>1,561,348</u>	<u>1,704,666</u>	<u>11,919,805</u>

<p>PRELIMINARY PROJECT DESCRIPTIONS 2009 BOND REFERENDUM</p>

MUNICIPAL FACILITIES PROJECTS

Engine/Fire Apparatus

This project includes one ladder truck and two engines as well as all the loose equipment and tools required to place these apparatus in service for emergency response.

Fiber Infrastructure Build-Out

Provide single-mode fiber to all City facilities. It will replace current SONET service from Verizon and increase bandwidth.

Fire Station 2

This project covers the addition of training and physical fitness areas to the front of the building. The current day room will be reconfigured to become a station officer's area.

Fire Station 6

This project covers kitchen remodel and expansion of the third bay north to add a training and physical fitness area.

Fire Station 7

This project covers reconfiguration of the day room, dormitory room, restrooms and the training and physical fitness areas.

Fire Station 13

Additional \$1 million needed for fire station #13 due to increased material costs for projected cost estimates.

Public Safety Communications Center

Purchase of land and construction of a new Public Safety Communications call-taking and dispatching center. The location of the facility is still to be determined.

Technology Services Facility

Purchase of land and construction of a new Technology Services facility. The location of the facility is still to be determined.

Video Surveillance

Centralize storage management and access for all video throughout the City. It will have a management suite and viewing at centralized locations and at distributed points.

Davis Library

This project covers interior painting, minor building modifications, and replacement of carpet, furniture, and wall coverings.

Haggard Library

This project includes replacement of furniture and four microform machines.

Harrington Library

This project covers a new roof and boiler, modification of the loading dock area, replacement of a workroom countertop, and refinishing furniture.

Parr Library

This project includes reconfiguring the public space and replacement of carpet and furniture.

Schimelpfenig Library

This project covers replacement of furniture, replacement of parking lot surface, and a new elevator control.

Plano Centre Expansion

Plano Centre was built in 1990 when Plano's population was 120,000. Expansion is needed to meet current needs. Expansion will include additional dual-purpose exhibit space, meeting rooms, banquet rooms, conference rooms, board rooms, committee meeting rooms, dedicated formal spaces for weddings and other high-profile events and associated improvements.

PARK IMPROVEMENT PROJECTS

White Rock Community Park Development

Funding is for development of a community park located on White Rock Creek south of the intersection of Spring Creek Parkway and Windhaven Parkway. Improvements will include trails, sidewalks, pavilion, playground, parking, and other related park facilities.

Oak Point Park Development

Funding is for continued development of the park to include pavilion, restrooms, trails, parking, camp facilities and signage.

Trail Connections

Funding is for recreational trail connections throughout the city linking existing trails with newly-developed areas and adjacent cities.

Athletic Field Improvements

Funding will provide for continued development of shade structures, restroom additions, fencing, and additional parking at athletic sites throughout the city.

Park Improvements

Funding is for improvements to parks throughout the city including neighborhood parks, linear parks and community parks. Improvements could include irrigation systems, playgrounds, shade structures, lighting, benches, picnic tables, sidewalks, trees, parking, and other related park facilities.

Land Acquisitions

Funding is for land acquisitions including additional funding for the south central community park site, additions to Harrington Park and other acquisitions.

Athletic Field Renovations

Funding is for projects previously identified in the Capital Reserve Fund and is for the renovation of aging athletic sites including irrigation systems, backstops, fences, restrooms, lighting, and parking lots.

Arbor Hills Nature Preserve

Funding is for additional parking.

Pecan Hollow Golf Course Renovation and Expansion

This additional funding is for general renovation of the 35 year old course including driving range modifications, irrigation system renovation, drainage improvements, cart path improvements, and modifications to fairway alignments on selected holes. Funds would be combined with existing bond authorization identified for replacement of the golf course greens.

Maintenance Facility Renovation/Expansion

Funding is for renovation and expansion of aging park maintenance facilities at Jack Carter Park and Schell Park.

Downtown Improvements

Funding is for improvements in the downtown area to include additional lighting and renovation of McCall Plaza. Improvements would also include additional water and electrical services to support special events.

RECREATION CENTER PROJECTS

Aquatic Center Renovations

Funding is for complete renovation of the existing 30 year old pool to include improved locker rooms, family changing rooms, deck improvements, and water amenities.

Carpenter Expansion/ Senior Center

Additional funding is for expansion and renovation of Carpenter Park Recreation Center. Funds would be combined with existing bond authorization to complete the planned improvements.

Senior Center/ Wellness Center Expansion

Funding is for expansion of the senior center to include a fitness room, dining room, classrooms and parking. The improvements would also include expansion of the Geriatric Wellness Center offices, exam rooms, meeting rooms, and related spaces.

Oak Point Recreation Center Expansion

Funding is for expansion of Oak Point Recreation Center to include expanded exercise facilities and additional classroom space.

Douglass Community Center

Funding is for exterior renovation and accessibility improvements.

STREET IMPROVEMENT PROJECTS

14th Street Reconstruction – K to Ridgewood

Reconstruction of 14th Street from Avenue K to Ridgewood Drive.

15th Street Reconstruction– G Ave to US 75

This project consists of reconstruction of 15th Street from G Avenue to I Avenue, including brick sidewalks, landscaping and placement of underground utilities.

17th Street/R Avenue Reconstruction

Complete reconstruction of the following streets: 17th Street between P Avenue and R Avenue & R Avenue between 17th Street and 18th Street.

Alley Reconstruction at Various Locations

Reconstruction of deteriorated concrete alleys. Reconstruction of deteriorated concrete alleys.

Barrier Free Ramps at Various Locations

Construct ramps in residential neighborhoods and major thoroughfares to meet ADA standards.

Communications Pkwy Construction - Spring Creek to Tennyson

Completion of the extension of Communications Parkway from Spring Creek to Tennyson as a six-lane divided thoroughfare.

Computerized Signal System Improvements

The system controls all signalized intersections via a traffic control center. All current and future signals will be connected to the control center. This project includes the installation of video cameras at critical intersections to monitor the traffic first hand. This will be an on-going project with upgrades and improvements made when appropriate. Also includes establishing wireless communication links between the Traffic Management Center and the existing and proposed camera locations.

Dallas North Estates 3 - Street Reconstruction

Complete reconstruction of existing street pavement and sidewalks on the following streets: Edgefield - Janwood to Springbrook; Linden - Edgefield to Ridgfield; & Meadowcrest - Springbrook to Ridgfield.

East Side Entryway Features and Landscaping

Construction of entryway features east of U.S.75 to create more aesthetically appearing roadways. Specific projects include: RT Corner Treatments (50% City matching); Parker Road Enhancements; & Entry Features (to be decided).

Independence Parkway Corridor Intersection Improvements

Construction of additional left turn and right turn lanes from 15th Street to Parker Road, including realigning the north and south bound lanes at 15th Street.

Intersection Improvements at Various Locations

This project includes the addition of left- and/or right-turn lanes at various intersections throughout the City.

Intersection Improvements – 2008

Intersection improvements at five (5) locations throughout the City, specifically: Preston Road at Spring Creek Parkway; Preston Road at Hedcoxe Road (schematic only); Spring Creek Parkway at Parker Road; Jupiter Road at Summit Drive; & Jupiter Road at Technology Drive.

Landscaping Street Enhancements on Various Roads

Construction of additional entryways, landscaping and other enhancements on various roadways throughout the City.

Legacy Drive Corridor Intersection Improvements

Construction of additional left and right turn lanes from Custer Road to K Ave.

McDermott Road Widening- Coit to Ohio

Widen McDermott Road to a six-lane divided thoroughfare from Coit Road to Ohio Drive.

Meadows Addition Street Improvements

Complete reconstruction of street, sidewalks and drive approaches in the Meadows #1 area. The project location includes: Rigsbee Drive - 14th Street to Janet Way; Meadows Drive - Ridsbee to Price; Ridgeway Drive - Rigsbee to Meadows; 15th Street - Rigsbee to Meadows; & Rice Drive - Meadows to Sherrye.

New Concrete Alleys at Various Locations

Construct concrete alleys to replace dirt alley locations.

Oversize Participation

This project maintains participation with developers for various oversize paving and drainage improvements. These are requirements per the Subdivision Ordinance.

P Avenue/18th Street/Belle View – Street Reconstruction

Complete reconstruction of existing concrete streets including sidewalks and residential drive approaches: 18th Street between P Avenue east to Red Bud Lane; P Avenue from 17th Street north to 18th Street; 17th Street - P Avenue to N Avenue; N Place - 18th Street to 17th Street; O Avenue - 17th Street to 18th Street; & Concord Circle - 17th Street to end.

Park Boulevard Corridor Intersection Improvements

Construction of additional left and right turn lanes from Coit Road to Jupiter Road.

Park Blvd/US 75 Pedestrian Crossing

Improve pedestrian access to the Parker Road DART station along Park Boulevard by widening the pedestrian crossing on the bridge over US 75 and widening sidewalks from Chisholm Trail to the station.

Park Streets – Adjacent to Parks

Construct various roadway sections adjacent to City parks, including neighborhood streets, thoroughfares and drainage facilities.

Parker Road Corridor Intersection Improvements

Construction of additional left and right turn lanes from Coit Road to Alma Drive.

Permanent Traffic Calming Improvements

This project will place permanent traffic calming devices as part of the Neighborhood Traffic Safety Program. Since these are new permanent improvements funding was proposed through bond funds rather than general operating funds.

Preston Road Corridor Intersection Improvements

Construction of additional left and right turn lanes from Parker Road to Headquarters Drive.

Preston/Legacy Intersection Improvements

Construction of at-grade median left turn intersection improvements at Preston Road and Legacy Drive.

Preston/Plano Parkway Intersection Improvements

This project is for construction of at-grade median left turn intersection improvements.

Preston/S.H. 190 Intersection Improvements

Addition of a southbound right-turn lane on Preston Road at Bush Tollroad. Evaluate widening the bridge over Bush to add left-turn lanes and an additional northbound lane on Preston, north of Bush.

Railroad Corridor Studies

In coordination with COG, DART and adjacent cities a corridor study of the Burlington Northern, Cotton Belt and the Red line extension will evaluate the options and details of extending passenger rail service.

Razor Road Construction- Ohio to SH 121

Complete six-lane divided thoroughfare from Ohio Drive to SH 121.

Redevelopment Street Improvements

As areas of the City begin redeveloping, it will be necessary for the City to make various street improvements to facilitate the development. These funds will be used to build new streets and reconstruct existing substandard streets. Funding in the re-estimate is associated with an agreement between the City and Lexington for redevelopment of Rice Field.

Roadway Median Landscaping at Various Locations

Landscaping of thoroughfare medians throughout the City.

Screening Wall Reconstruction at Various Locations

The complete reconstruction of concrete screening walls along major thoroughfares is this project function.

Shiloh Road Widening - 14th Street to Park Boulevard

Construction of the two eastern lanes to complete a four-lane divided thoroughfare.

Split Trail Reconstruction – Spring Creek to K

Reconstruction of existing asphalt roadway to a concrete collector roadway.

Spring Creek Pkwy at Coit Intersection Imp. (TIP)

Construction of at-grade median left turn intersection improvements at Spring Creek Parkway and Coit Road.

Spring Creek Pkwy Corridor Intersection improvements

Reconstruction of the existing improvements at Independence and Custer to a normalized intersection including double lefts and right turn lanes.

Spring Creek Pkwy Widening - Park to Parker

Construction of the eastern two lanes to complete a four-lane divided thoroughfare.

Street Reconstruction at Various Locations

Complete reconstruction of concrete streets at various locations throughout the city.

Traffic Signalization at New Locations

This project is responsible for the construction of new traffic signals.

West Plano Village – Street Improvements

Reimbursement for the public street improvements associated with the development.

Westwood Drive Reconstruction - 15th Street to Janwood

Complete reconstruction of street and sidewalks with storm drainage improvements.

Windhaven Pkwy Widening- City Limit to Spring Creek

Widen Windhaven Parkway to six lanes from the City limit to Spring Creek Parkway.

18th Street Reconstruction– G Ave to West of K Ave

Reconstruction of existing roadway with finished sidewalks and landscaped roadways.

Brand Road Widening - S of 544 to City Limits

Widen existing four lanes of Brand Road to a six-lane divided thoroughfare from south of F.M. 544 to the City limits.

Dallas North Estates - Street Reconstruction

Complete reconstruction of streets, sidewalks and drive approaches in the Dallas North subdivision. Specific locations include: Amherst Drive - Frenwood to Brentwood; Brentwood Drive - 15th Street to Janwood; Crestridge Drive - 15th Street to Janwood; Drexel Drive - Amherst to Janwood.

F Ave. and 14th St. Reconstruction

Replace asphalt pavement with reinforced concrete on F Avenue from 14th Street to the 13th/14th Street Connector and on 14th Street from E Avenue to F Avenue.

International Pkwy Widening- Plano Pkwy to Midway

Widen International to a six-lane divided thoroughfare from Plano Parkway to Midway.

Los Rios Blvd. Widening - Jupiter to Parker

Construction of the remaining half of a four-lane divided thoroughfare for Los Rios, north of Parker.

18th Street Reconstruction- Jupiter to Dale Drive

Complete reconstruction of the existing street, sidewalks and drive approaches in conjunction with storm drainage improvements.

Chaparral Bridge at Cottonwood Creek

Construction of the south two-lane bridge on Chaparral Road over Cottonwood Creek.

Dallas North Estates 5 – Street Reconstruction

Complete reconstruction of existing street pavement and sidewalks on the following streets: Ridgefield/Quill - Springbrook to Meadowcrest; Potomac - Springbrook to Ridgefield; Oakhill - Springbrook to Ridgefield; & Northridge - Springbrook to Ridgefield.

Los Rios Blvd. Widening – S. City Limits to 14th Street

Widen existing four lanes of Los Rios to a six-lane divided thoroughfare from south City limits to 14th Street.

Mapleshade Construction - Bush Tpk. to Silverglen

Construction of a four-lane divided thoroughfare, east of Silverglen, across UTD property to connect to the service road of the George Bush Turnpike.

Marsh Lane Widening- Park to Parker

Widen Marsh Lane to a six-lane divided thoroughfare between Park to Parker.

Park Blvd. Widening - Shiloh to East City Limit

Widen Park Boulevard from the existing four lanes to a six-lane divided thoroughfare from Shiloh to the east City limit.

Plano Park 1 – Street Reconstruction

Complete reconstruction of existing street pavement and sidewalks on the following: Japonica - Jasmine to P Avenue; Laurel Lane - Jasmine to P Avenue; Jasmine - Japonica to Hawthorne; & Mimosa - P Avenue to Willow Lane.

Dallas North Estates 2 - Street Reconstruction

Complete reconstruction of existing street pavement and sidewalks on the following streets: Fernwood - Westwood to Edgefield; Glenwick - Westwood to Edgefield; Aldridge - Westwood to Edgefield.

Ridgeview Drive Construction - S.H. 121 to Coit

This project is for the construction of a four-lane divided thoroughfare on Ridgeview Drive from S.H. 121 to Coit Road.

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR VARIANCE TAX RATE IMPACT
\$100 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 25,000,000		1,921,904	1,921,904	1,921,904	1,921,904
Bonds 25,000,000			1,921,904	1,921,904	1,921,904
Bonds 25,000,000				1,921,904	1,921,904
Bonds 25,000,000					<u>1,921,904</u>
	0	1,921,904	3,843,807	5,765,711	7,687,614
Debt Service					
Tax Rate Impact		0.73	1.41	2.06	2.69
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.08	3.26	2.62	3.28
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.10	18.05	18.03	18.05

*Projected Tax Rate	47.35	51.14	52.58	51.27	51.33
Total Tax Rate Impact		3.79	1.44	-1.31	0.06

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR VARIANCE TAX RATE IMPACT
\$110 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 27,500,000		2,114,094	2,114,094	2,114,094	2,114,094
Bonds 27,500,000			2,114,094	2,114,094	2,114,094
Bonds 27,500,000				2,114,094	2,114,094
Bonds 27,500,000					<u>2,114,094</u>
	0	2,114,094	4,228,188	6,342,282	8,456,376
Debt Service					
Tax Rate Impact		0.80	1.55	2.27	2.95
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.16	3.40	2.83	3.55
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.17	18.19	18.24	18.32

*Projected Tax Rate	47.35	51.21	52.72	51.47	51.60
Total Tax Rate Impact		3.86	1.51	-1.25	0.12

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR VARIANCE TAX RATE IMPACT
\$120 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 30,000,000		2,306,284	2,306,284	2,306,284	2,306,284
Bonds 30,000,000			2,306,284	2,306,284	2,306,284
Bonds 30,000,000				2,306,284	2,306,284
Bonds 30,000,000					<u>2,306,284</u>
	0	2,306,284	4,612,569	6,918,853	9,225,137
Debt Service					
Tax Rate Impact		0.87	1.69	2.47	3.22
Additional O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.23	3.54	3.03	3.82
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.25	18.33	18.44	18.59
*Projected Tax Rate	47.35	51.28	52.86	51.68	51.87
Total Tax Rate Impact		3.93	1.58	-1.18	0.18

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR VARIANCE TAX RATE IMPACT
\$130 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds	32,500,000	2,498,475	2,498,475	2,498,475	2,498,475
Bonds	32,500,000		2,498,475	2,498,475	2,498,475
Bonds	32,500,000			2,498,475	2,498,475
Bonds	32,500,000				<u>2,498,475</u>
	0	2,498,475	4,996,949	7,495,424	9,993,899
Debt Service					
Tax Rate Impact		0.94	1.83	2.68	3.49
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.30	3.68	3.24	4.09
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.32	18.47	18.65	18.86
*Projected Tax Rate					
	47.35	51.36	53.00	51.89	52.13
Total Tax Rate Impact					
		4.01	1.65	-1.12	0.25

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR VARIANCE TAX RATE IMPACT
\$140 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 35,000,000		2,690,665	2,690,665	2,690,665	2,690,665
Bonds 35,000,000			2,690,665	2,690,665	2,690,665
Bonds 35,000,000				2,690,665	2,690,665
Bonds 35,000,000					<u>2,690,665</u>
	0	2,690,665	5,381,330	8,071,995	10,762,660
Debt Service					
Tax Rate Impact		1.02	1.97	2.89	3.76
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.37	3.82	3.45	4.35
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.39	18.61	18.86	19.13
*Projected Tax Rate	47.35	51.43	53.14	52.09	52.40
Total Tax Rate Impact		4.08	1.72	-1.05	0.31

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR VARIANCE TAX RATE IMPACT
\$150 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 37,500,000		2,882,855	2,882,855	2,882,855	2,882,855
Bonds 37,500,000			2,882,855	2,882,855	2,882,855
Bonds 37,500,000				2,882,855	2,882,855
Bonds 37,500,000					<u>2,882,855</u>
	0	2,882,855	5,765,711	8,648,566	11,531,422
Debt Service					
Tax Rate Impact		1.09	2.11	3.09	4.03
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.45	3.97	3.65	4.62
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.46	18.75	19.06	19.40
*Projected Tax Rate	47.35	51.50	53.28	52.30	52.67
Total Tax Rate Impact		4.15	1.78	-0.98	0.37

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR VARIANCE TAX RATE IMPACT
\$160 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 40,000,000		3,075,046	3,075,046	3,075,046	3,075,046
Bonds 40,000,000			3,075,046	3,075,046	3,075,046
Bonds 40,000,000				3,075,046	3,075,046
Bonds 40,000,000					<u>3,075,046</u>
	0	3,075,046	6,150,092	9,225,138	12,300,184
Debt Service					
Tax Rate Impact		1.16	2.25	3.30	4.30
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.52	4.11	3.86	4.89
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.54	18.89	19.27	19.66
*Projected Tax Rate	47.35	51.57	53.43	52.51	52.94
Total Tax Rate Impact		4.22	1.85	-0.92	0.43

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR CUMULATIVE TAX RATE IMPACT
\$100 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 25,000,000		1,921,904	1,921,904	1,921,904	1,921,904
Bonds 25,000,000			1,921,904	1,921,904	1,921,904
Bonds 25,000,000				1,921,904	1,921,904
Bonds 25,000,000					<u>1,921,904</u>
	0	1,921,904	3,843,807	5,765,711	7,687,614
Debt Service					
Tax Rate Impact		0.73	1.41	2.06	2.69
Additional O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.08	3.26	2.62	3.28
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.10	18.05	18.03	18.05
*Projected Tax Rate	47.35	51.14	52.58	51.27	51.33
Total Tax Rate Impact		3.79	5.23	3.92	3.98

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR CUMULATIVE TAX RATE IMPACT
\$110 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 27,500,000		2,114,094	2,114,094	2,114,094	2,114,094
Bonds 27,500,000			2,114,094	2,114,094	2,114,094
Bonds 27,500,000				2,114,094	2,114,094
Bonds 27,500,000					<u>2,114,094</u>
	0	2,114,094	4,228,188	6,342,282	8,456,376
Debt Service					
Tax Rate Impact		0.80	1.55	2.27	2.95
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.16	3.40	2.83	3.55
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.17	18.19	18.24	18.32
*Projected Tax Rate	47.35	51.21	52.72	51.47	51.60
Tax Rate Impact		3.86	5.37	4.12	4.25

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	250,000,000	250,000,000
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR CUMULATIVE TAX RATE IMPACT
\$120 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds	30,000,000	2,306,284	2,306,284	2,306,284	2,306,284
Bonds	30,000,000		2,306,284	2,306,284	2,306,284
Bonds	30,000,000			2,306,284	2,306,284
Bonds	30,000,000				<u>2,306,284</u>
	0	2,306,284	4,612,569	6,918,853	9,225,137
Debt Service					
Tax Rate Impact		0.87	1.69	2.47	3.22
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.23	3.54	3.03	3.82
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.25	18.33	18.44	18.59
*Projected Tax Rate					
	47.35	51.28	52.86	51.68	51.87
Tax Rate Impact					
		3.93	5.51	4.33	4.52

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR CUMULATIVE TAX RATE IMPACT
\$130 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 32,500,000		2,498,475	2,498,475	2,498,475	2,498,475
Bonds 32,500,000			2,498,475	2,498,475	2,498,475
Bonds 32,500,000				2,498,475	2,498,475
Bonds 32,500,000					<u>2,498,475</u>
	0	2,498,475	4,996,949	7,495,424	9,993,899
Debt Service					
Tax Rate Impact		0.94	1.83	2.68	3.49
Additional O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.30	3.68	3.24	4.09
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.32	18.47	18.65	18.86
*Projected Tax Rate	47.35	51.36	53.00	51.89	52.13
Tax Rate Impact		4.01	5.65	4.54	4.78

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR CUMULATIVE TAX RATE IMPACT
\$140 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 35,000,000		2,690,665	2,690,665	2,690,665	2,690,665
Bonds 35,000,000			2,690,665	2,690,665	2,690,665
Bonds 35,000,000				2,690,665	2,690,665
Bonds 35,000,000					<u>2,690,665</u>
	0	2,690,665	5,381,330	8,071,995	10,762,660
Debt Service					
Tax Rate Impact		1.02	1.97	2.89	3.76
Additional O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.37	3.82	3.45	4.35
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.39	18.61	18.86	19.13
*Projected Tax Rate	47.35	51.43	53.14	52.09	52.40
Tax Rate Impact		4.08	5.79	4.74	5.05

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR CUMULATIVE TAX RATE IMPACT
\$150 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 37,500,000		2,882,855	2,882,855	2,882,855	2,882,855
Bonds 37,500,000			2,882,855	2,882,855	2,882,855
Bonds 37,500,000				2,882,855	2,882,855
Bonds 37,500,000					<u>2,882,855</u>
	0	2,882,855	5,765,711	8,648,566	11,531,422
Debt Service					
Tax Rate Impact		1.09	2.11	3.09	4.03
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.45	3.97	3.65	4.62
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.46	18.75	19.06	19.40
*Projected Tax Rate	47.35	51.50	53.28	52.30	52.67
Tax Rate Impact		4.15	5.93	4.95	5.32

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

PRELIMINARY COMMUNITY INVESTMENT PROGRAM
4 YEAR CUMULATIVE TAX RATE IMPACT
\$160 MILLION NEW AUTHORITY

	<u>08-09</u>	<u>09-10</u>	<u>10-11</u>	<u>11-12</u>	<u>12-13</u>
Bond Sale					
Bonds 40,000,000		3,075,046	3,075,046	3,075,046	3,075,046
Bonds 40,000,000			3,075,046	3,075,046	3,075,046
Bonds 40,000,000				3,075,046	3,075,046
Bonds 40,000,000					<u>3,075,046</u>
	0	3,075,046	6,150,092	9,225,138	12,300,184
Debt Service					
Tax Rate Impact		1.16	2.25	3.30	4.30
Additional					
O & M Costs		3,594,644	5,059,147	1,561,348	1,704,666
O & M Tax Rate Impact		1.36	1.85	0.56	0.60
New Issue					
Tax Rate Impact		2.52	4.11	3.86	4.89
(Debt and O & M)					
Existing Debt	40,310,939	39,553,458	37,937,920	36,643,644	35,995,886
2008-09 Issue	642,683	2,781,892	2,780,513	2,779,076	2,777,576
Remaining Authority***		780,188	2,879,363	3,395,773	3,395,773
Projected Tax Notes/COs		<u>253,460</u>	<u>1,827,658</u>	<u>1,827,658</u>	<u>1,827,658</u>
Total Remaining Debt	40,953,622	43,368,998	45,425,454	44,646,151	43,996,893
Existing Debt Rate	14.67	16.37	16.64	15.97	15.37
Tax Rate Impact		1.70	1.97	1.30	0.70
Debt Service					
Rate Required		17.54	18.89	19.27	19.66
*Projected Tax Rate	47.35	51.57	53.43	52.51	52.94
Tax Rate Impact		4.22	6.08	5.16	5.59

ASSESSED VALUE ASSUMPTION**

Existing	25,225,636,635	25,785,315,308	26,750,168,461	27,709,670,988	28,379,066,053
New	<u>559,678,673</u>	<u>700,000,000</u>	<u>550,000,000</u>	<u>250,000,000</u>	<u>250,000,000</u>
Total	25,785,315,308	26,485,315,308	27,300,168,461	27,959,670,988	28,629,066,053

*Assumes current O & M Tax Rate of 32.68 for support of existing General Fund programs. Additional O & M costs for these projects are included in each year.

**Assumes a flat existing value in 2009-10; 1% increase in 2010-11; and a 2% increase each year after that + new growth of \$700 million in 2009-10, \$550 million in 2010-11, \$250 in 2011-13.

*** Includes payments for the remaining portions Creative and Performing Art Facility Debt Starting in 2009-10

**PRELIMINARY COMMUNITY INVESTMENT PROGRAM
PROJECTED CAPITAL RESERVE IMPACT**

MUNICIPAL FACILITIES PROJECTS

	2009-10	2010-11	2011-12	2012-13	Future
<u>Public Safety Facilities</u>					
Fiber Infrastructure Build-Out	-	187,500	187,500	187,500	187,500
Fire Station 13	37,500	37,500	37,500	37,500	37,500
Fire Station 2	-	56,250	56,250	56,250	56,250
Fire Station 6	-	-	56,250	56,250	56,250
Fire Station 7	56,250	56,250	56,250	56,250	56,250
Public Safety Communications Center	60,000	285,000	285,000	285,000	285,000
Technology Services Facility	63,750	300,000	300,000	300,000	300,000
					-
<u>Library Facilities</u>					
Davis Library	-	-	18,885	18,885	18,885
Haggard Library	3,503	3,503	3,503	3,503	3,503
Harrington Library	-	18,938	18,938	18,938	18,938
Parr Library	-	-	-	18,885	18,885
Schimelpfenig Library	-	5,415	5,415	5,415	5,415
<u>Other Facilities</u>					
Plano Centre Expansion	-	37,500	412,500	750,000	750,000
TOTAL FACILITIES	221,003	987,855	1,437,990	1,794,375	1,794,375

PARK IMPROVEMENT PROJECTS

	2009-10	2010-11	2011-12	2012-13	Total
White Rock Community Park Development	12,500	125,000	125,000	125,000	125,000
Oak Point Park Development	-	12,500	162,500	162,500	162,500
Trail Connections	31,250	62,500	93,750	125,000	125,000
Athletic Field Renovations	50,000	100,000	150,000	200,000	200,000
Park Improvements	25,000	50,000	75,000	100,000	100,000
Land Acquisitions	12,500	87,500	262,500	381,250	381,250
Athletic Field Improvements	25,000	50,000	75,000	100,000	100,000
Arbor Hills Nature Preserve	-	1,250	10,000	10,000	10,000
Pecan Hollow Golf Course (TBD)	-	37,500	75,000	75,000	75,000
Maintenance Facility Expansion/Renov.	-	2,500	25,000	25,000	25,000
Downtown Improvements	-	-	-	22,500	22,500
TOTAL PARK IMPROVEMENTS	156,250	528,750	1,053,750	1,326,250	1,326,250

RECREATION CENTERS

	2009-10	2010-11	2011-12	2012-13	Total
Aquatic Center Renovation	18,750	131,250	131,250	131,250	131,250
Carpenter Park Recreation Center Expansion	225,000	225,000	225,000	225,000	225,000
Senior Center/Wellness Center Expansion	-	18,750	281,250	281,250	281,250
Oak Point Rec Center Expansion	-	-	22,500	247,500	247,500
Douglass Community Center	-	-	1,875	18,750	18,750
TOTAL RECREATION CENTERS	243,750	375,000	661,875	903,750	903,750

**PRELIMINARY COMMUNITY INVESTMENT PROGRAM
PROJECTED CAPITAL RESERVE IMPACT**

STREET IMPROVEMENTS

	2009-10	2010-11	2011-12	2012-13	Total
14th Street - K to Ridgewood	21,429	21,429	21,429	21,429	21,429
15th Street - G Ave to US 75	52,586	52,586	52,586	52,586	52,586
17th Street/R Avenue Reconstruction	17,143	17,143	17,143	17,143	17,143
Alley Reconstruction	4,286	8,571	12,857	17,143	17,143
Barrier Free Ramps	2,143	4,286	6,429	8,571	8,571
Communications - Spring Creek to Tennyson	51,643	51,643	51,643	51,643	51,643
Computerized Signal System	5,357	10,714	16,071	21,429	21,429
Dallas North Estates 3	3,236	30,236	30,236	30,236	30,236
East Side Entryway	2,357	2,357	2,357	2,357	2,357
Independence Corridor Intersection Imp	31,543	31,543	31,543	31,543	31,543
Intersection Improvements	32,143	64,286	96,429	128,571	128,571
Intersection Improvements 2008	11,186	11,186	11,186	11,186	11,186
Landscaping Street Enhancements	2,807	5,164	17,164	19,521	19,521
Legacy Corridor Intersection Imp	4,286	31,179	31,179	31,179	31,179
McDermott - Coit to Ohio	21,429	21,429	21,429	21,429	21,429
Meadows Addition Street Improvements	34,993	34,993	34,993	34,993	34,993
New Concrete Alleys	2,143	4,286	6,429	8,571	8,571
Oversize Participation	6,429	10,714	12,857	15,000	15,000
P Avenue/18th Street/Belle View	6,214	6,214	6,214	6,214	6,214
Park Blvd/US 75 Pedestrian Crossing	2,143	28,339	28,339	28,339	28,339
Park Streets	2,143	2,143	4,286	4,286	4,286
Parker Rd corridor intersection imp	32,143	32,143	32,143	32,143	32,143
Permanent Traffic Calming Devices	2,143	4,286	6,429	8,571	8,571
Preston Road corridor intersection imp	4,286	65,571	65,571	65,571	65,571
Preston/Legacy Intersection Imp.	10,714	10,714	10,714	10,714	10,714
Preston/Plano Parkway Intersection	40,500	40,500	40,500	40,500	40,500
Preston/SH 190 Intersection Imp.	2,143	60,000	60,000	60,000	60,000
Railroad Corridor Studies	2,143	2,143	2,143	2,143	2,143
Rasor - Ohio to SH 121	42,857	42,857	42,857	42,857	42,857
Redevelopment Street Improvements	21,429	42,857	64,286	64,286	64,286
Roadway Median Landscaping	1,179	2,357	3,536	4,714	4,714
Screening Wall Reconstruction	11,786	23,571	35,357	47,143	47,143
Shiloh - 14th Street to Park Boulevard	3,214	64,071	64,071	64,071	64,071
Split Trail - Spring Creek to K	16,071	16,071	16,071	16,071	16,071
Spring Creek at Coit Intersection Imp. (TIP)	35,464	35,464	35,464	35,464	35,464
Spring Creek corridor intersection imp	8,571	64,821	64,821	64,821	64,821
Spring Creek Pkwy - Park to Parker	4,286	64,286	64,286	64,286	64,286
Street Reconstruction	21,429	42,857	64,286	85,714	85,714
Traffic Signalization	10,714	21,429	32,143	42,857	42,857
West Plano Village	11,679	11,679	11,679	11,679	11,679
Westwood - 15th Street to Janwood	21,429	21,429	21,429	21,429	21,429
Windhaven - City Limit to Spring Creek	77,143	77,143	77,143	77,143	77,143
18th Street - G to West of K Avenue	-	26,786	26,786	26,786	26,786
Brand Road South - 544 to City Limits	-	2,143	2,143	2,143	2,143
Dallas North Estates	-	4,779	44,507	44,507	44,507
F Ave. and 14th St. Reconstruction	-	536	3,750	3,750	3,750
International - Plano Pkwy to Midway	-	1,929	16,929	16,929	16,929
Los Rios - Jupiter to Parker, Phase 2	-	2,571	42,857	42,857	42,857

PRELIMINARY COMMUNITY INVESTMENT PROGRAM PROJECTED CAPITAL RESERVE IMPACT
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STREET IMPROVEMENTS (Cont.)

	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>Total</u>
Chaparral Br/Cottonwood Cr	-	-	21,429	21,429	21,429
Dallas North Estates 5	-	-	3,707	34,500	34,500
Los Rios - S City Limits to 14th Street	-	-	42,857	42,857	42,857
Mapleshade - Bush Tpk to Silverglen	-	-	17,786	17,786	17,786
Marsh - Park to Parker	-	-	36,429	36,429	36,429
Park - Shiloh to East City Limit	-	-	2,400	38,571	38,571
Plano Park 1	-	-	2,571	23,893	23,893
Dallas North Estates 2	-	-	-	1,950	1,950
Ridgeview - S.H. 121 to Coit	-	-	-	42,857	42,857
TOTAL STREET IMPROVEMENTS	698,957	1,235,432	1,593,632	1,839,161	1,839,161
TOTAL CAPITAL RESERVE IMPACT	1,319,960	3,127,037	4,747,247	5,863,536	5,863,536

Discussion/Action Items for Future Council Agendas

2008

November 11 – Veterans Memorial Park Dedication, 9:30 a.m.

November 11 – 15 – NLC Congress of Cities, Orlando, FL

November 20 – District 2 Roundtable, Tom Muehlenbeck Center, 7 p.m.

November 24 – Council Core Businesses Worksession, 8 a.m. – 5 p.m.

Mobility Report

DART Report

Comprehensive Monthly Financial Report

November 27 & 28 – Thanksgiving Holidays

December 8

December 18 – Employee Holiday Luncheon, Plano Centre, 11 a – 1 p

December 22

Mobility Report

DART Report

Comprehensive Monthly Financial Report

December 25 & 26 – Christmas & Winter Holidays

2009

January 1 – New Year's Day

January 12

January 19 – MLK Holiday

January 26

Mobility Report

DART Report

Comprehensive Monthly Financial Report



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office		Initials	Date
Department Head	Tom Muehlenbeck		Executive Director	
Dept Signature:			City Manager	
Agenda Coordinator (include phone #):		Sharon Wright ext. 7107		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: Veterans Day				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i> 11/3/08	
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: Workplace Cares and City of Plano Kick Off of The Salvation Army Red Kettle Campaign				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
October 27, 2008**

COUNCIL MEMBERS

Pat Evans, Mayor
Jean Callison, Mayor Pro Tem
Harry LaRosiliere, Deputy Mayor Pro Tem
Pat Miner
Scott Johnson
Mabrie Jackson
Sally Magnuson
Lee Dunlap

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Evans called the meeting to order at 5:16 p.m., Monday, October 27, 2008, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Evans then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice, Section 551.071 and to discuss Personnel, Section 551.074 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 6:31 p.m. in the Council Chambers where the following matters were discussed:

**Consideration and Action Resulting from Executive Session Discussion:
Personnel Reappointments/Appointments to Boards and Commissions**

Planning and Zoning Commission

The Council deferred consideration of this board.

Plano Housing Authority

Upon a motion made by Mayor Pro Tem Callison and seconded by Council Member Johnson, the Council voted 8-0 to appoint Stella Mercedes Veja to a two-year term.

Personnel Reappointments/Appointments

Parks and Recreation Planning Board

Upon a motion made by Council Member Dunlap and seconded by Council Member Miner, the Council voted 8-0 to appoint David L. Downs to a two-year term.

Community Relations Commission

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Magnuson, the Council voted 8-0 to reappoint Sharon Marsh-Wyly and Robert G. Masengill and further to defer appointment of one vacancy and Chair.

Cultural Affairs Commission

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Mayor Pro Tem Callison, the Council voted 8-0 to reappoint Barbara Buehler, Marilyn Mahoney and A. Basit Siddiqui and further to defer appointment of one vacancy and Chair.

Self Sufficiency Committee

Upon a motion made by Council Member Dunlap and seconded by Council Member Jackson, the Council voted 8-0 to appoint Shelby Howard Williams III to a one year interim term.

Senior Citizens Advisory Board

Upon a motion made by Council Member Johnson and seconded by Mayor Pro Tem Callison, the Council voted 8-0 to appoint Rose Baker and Gerald Gotcher to two-year terms and to reappoint Dee Taylor as Chair. Upon a motion made by Mayor Pro Tem Callison and seconded by Council Member Johnson, the Council voted 8-0 to reappoint Tracey S. Dry, William E. Gibson and Dolvin Mack.

Tax Increment Financing Reinvestment Zone No. 1 Board

Upon a motion made by Council Member Johnson and seconded by Council Member Miner, the Council appointed Keith Alan Dagen.

Public Arts Committee

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Magnuson, the Council voted 8-0 to reappoint Robert B. Drotman, Jacie Moore and Margaret Robinette and to defer appointment of one interim vacancy and Chair.

Mobility Report

Transportation Engineering Manager Neal spoke to adjustments made to the signal system related to day-light savings time, work with DART to establish new routes in the Shops at Legacy, flex service in the northeastern portion of the City, and responded to Council Member Dunlap that project assessment is working to determine the best alternative considering stake holders and constraints regarding the intersection of S.H. 190 and the Dallas North Tollway.

Council items for discussion/action on future agendas

Mayor Evans requested consideration of a resolution on November 10, 2008, to support *Raise Your Hand Texas*, a bi-partisan group dedicated to strengthening and improving Texas public schools and support schools by seeking additional state resources. She advised that the Plano Independent School District and the Council of PTA's has requested support.

Mayor Evans requested consideration of a resolution on November 10, 2008 to support the *Picken's Plan* for energy and spoke to the support expressed by other cities and mayors. City Manager Muehlenbeck advised the Council that the plan supports alternative energy including natural gas and wind turbines.

Consent and Regular Agenda

City Secretary Zucco advised that Staff has requested Consent Agenda Item "C," Bid No. 2008-207-C for RFP for Stop Loss Insurance to United HealthCare be pulled and held.

Nothing further was discussed. Mayor Evans adjourned the Preliminary Meeting at 6:43 p.m.

Pat Evans, Mayor

ATTEST

Diane Zucco, City Secretary

PLANO CITY COUNCIL
October 27, 2008

COUNCIL MEMBERS

Pat Evans, Mayor
Jean Callison, Mayor Pro Tem
Harry LaRosiliere, Deputy Mayor Pro Tem
Pat Miner
Scott Johnson
Mabrie Jackson
Sally Magnuson
Lee Dunlap

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, October 27, 2008 at 7:07 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Council Member Jackson.

The Pledge of Allegiance was led Brownie Troop 2206 of Andrews Elementary.

PROCLAMATIONS & SPECIAL RECOGNITION

Mayor Evans presented proclamations recognizing National Adoption Month – 2008; Animal Shelter Appreciation Week; and Plano Arbor Day – 2008. A presentation was made to the City recognizing re-certification by the National Weather Service as a StormReady Community and Mayor Evans presented Special Recognition of *CPR Saves Lives*.

OATHS OF OFFICE

Mayor Evans administered oaths of office to incoming board and commission members.

CERTIFICATES OF APPRECIATION

Mayor Evans recognized the efforts of board and commission members and presented them with Certificates of Appreciation.

COMMENTS OF PUBLIC INTEREST

Brad Wells, citizen of the City, stated concern regarding distribution of the Dallas Morning News *Briefing* to homes without permission from homeowners and cited the number of papers being left on lawns and in the street. He spoke in opposition to the need for homeowners to stop the service themselves and City Manager Muehlenbeck requested information be left for follow up. City Attorney Wetherbee spoke to the City's involvement in a similar lawsuit with the associated expense of time/resources and dealing with issues of what is considered speech.

Timothy Soh, representing badminton enthusiasts, spoke to the large number of players and the need for courts requesting Council consideration of additional venues. City Manager Muehlenbeck advised that this item will be included in discussions on November 24, 2008.

CONSENT AGENDA

City Secretary Zucco advised that Staff requested Consent Agenda Item "C" be pulled and held.

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Mayor Pro Tem Callison, the Council voted 8-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

October 10, 2008

October 13, 2008

Approval of Expenditures

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

Bid No. 2008-220-C for Full Encirclement Repair Clamps, Flange Coupling Adapters, Service Saddles and Steel Couplings to H D Supply Waterworks and Municipal Water Works Supply LP in the total estimated amount of \$57,993. This will establish an annual fixed price contract with three optional renewals. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. 2008-207-C for RFP for Stop Loss Insurance to United HealthCare in the estimated annual amount of \$950,450. The term of this policy is for one year with City optional renewals. [Consent Agenda Item (C)] (See Exhibit "B") (Item pulled and held)

Bid No. 2008-216-B for the construction of the Cottonwood Creek Greenbelt improvements to 2L Construction, LLC in the amount of \$236,283. The base bid is for upgrading an existing playground for 5 to 12 year old users to meet current Consumer Product Safety Commission standards. [Consent Agenda Item (D)] (See Exhibit "C")

Bid No. 2008-217-B for Springbrook Drive – Janwood Drive to Quill Drive to RKM Utility Services, Inc., in the amount of \$1,943,288. This project consists of the reconstruction of Springbrook Drive from Janwood Drive to Quill Drive along with Tanglewood Drive from Springbrook Drive to its end. Also included is a water line replacement on Springbrook Drive and water and sewer line replacement on Tanglewood Drive. Other work includes installation of a park trail, sidewalk, storm drainage and creek bank protection in the Springbrook Drive area and installation of storm drainage and creek bank protection to eliminate a problem in an adjacent neighborhood across Pittman Creek to the west of Springbrook Drive. [Consent Agenda Item (E)] (See Exhibit “D”)

Purchase from an Existing Contract

To authorize the purchase of maintenance support for network infrastructure switches in the amount of \$215,039 from InterNetwork Experts through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-239) [Consent Agenda Item (F)]

Adoption of Resolutions

Resolution No. 2008-10-13(R): To approve the terms and conditions of the Funding Agreements between the City of Plano, Texas, and various arts organizations, which all render services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with these organizations for provision of support of the arts; and providing an effective date. [Consent Agenda Item (G)]

Resolution No. 2008-10-14(R): To approve the terms and conditions of Funding Agreements for in-kind City services between the City of Plano and various special event organizers; authorizing the City Manager to execute such agreements with these organizations and providing an effective date. [Consent Agenda Item (H)]

Resolution No. 2008-10-15(R): To approve the terms and conditions of Funding Agreements between the City of Plano, Texas, and various special event organizers; authorizing the City Manager to execute such agreements with these organizations and providing an effective date. [Consent Agenda Item (I)]

Resolution No. 2008-10-16(R): To find that Oncor Electric Company’s requested increases to its electric transmission and distribution rates and charges within the City should be denied; finding that the City’s reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel, and providing an effective date. [Consent Agenda Item (J)]

Resolution No. 2008-10-17(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Murphy, Texas for the City of Murphy’s use of the Trunked Radio System owned by the Cities of Allen, Frisco, and Plano; authorizing execution of the Agreement by the City Manager and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2008-10-18(R): To repeal Resolution No. 2008-9-25(R) and create a Fire Department Fee Schedule for Fire Inspections, Fire Plan Reviews, and Hazardous Occupancies Permits; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (L)]

Adoption of Ordinances

Ordinance No. 2008-10-19: To repeal Ordinance No. 2008-9-31; establishing the number of certain classifications within the Police and Fire Departments for Fiscal Year 2008-09; establishing the authorized number and effective dates of such positions for each classification effective October 1, 2008; establishing a new salary plan for the Police and Fire Departments effective October 27, 2008; and providing a repealer clause, a severability clause and an effective date. [Consent Agenda Item (M)]

Ordinance No. 2008-10-20: To amend Section 18-6(l) of Chapter 18 Solid Waste of the Code of Ordinances of the City of Plano regarding who may remove, collect or transfer solid waste materials that have been placed in or adjacent to a residential solid waste container; providing a repealer clause, a savings clause, a severability clause, and providing an effective date. [Consent Agenda Item (N)]

END OF CONSENT

Resolution No 2008-10-21(R): To approve the financing by the North Central Texas Health Facilities Development Corporation of health facilities located within the City of Plano, Texas for Children's Medical Center of Dallas. [Regular Agenda Item (1)]

Director of Finance Tacke spoke regarding the proposal to issue bonds providing funds to finance/refinance the construction and equipping of the Children's Medical Center facility. She spoke to the requirement to obtain approval for financing of a facility outside of Dallas and advised that no payment or obligation will be imposed on the City of Plano in connection with this item.

Upon a motion made by Council Member Magnuson and seconded by Council Member Miner, the Council voted 8-0 to approve the financing by the North Central Texas Health Facilities Development Corporation of health facilities located within the City of Plano, Texas for Children's Medical Center of Dallas; and further to adopt Resolution No 2008-10-21(R)

Public Hearing and adoption of Ordinance No. 2008-10-22 to authorize the City of Plano to participate in the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code ("Act"); providing possible tax incentives, designating a liaison for communication with the interested parties; nominating Connecticut General Life Insurance Company to the Office of the Governor, Economic Development and Tourism ("OOGEDT") through the Economic Development Bank ("Bank") as an Enterprise Project ("Project"); and providing an effective date. [Regular Agenda Item (2)]

Ordinance No. 2008-10-22 (cont'd)

Director of Finance Tacke advised that Cigna has requested designation as an enterprise project; making them eligible to apply for state sales and use taxes refunds on purchases of all taxable items used at the qualified business site. She advised that the project level is related to capital investment and jobs created, incentives are included, and nomination for participation is done through the municipality. Ms. Tacke spoke to the acceptance process and advised that 35% of new employees will meet economically disadvantaged requirements.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Johnson and seconded by Council Member Miner, the Council voted 8-0 to authorize the City of Plano to participate in the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code ("Act"); providing possible tax incentives, designating a liaison for communication with the interested parties; nominating Connecticut General Life Insurance Company to the Office of the Governor, Economic Development and Tourism ("OOGEDT") through the Economic Development Bank ("Bank") as an Enterprise Project ("Project"); and providing an effective date; and further to adopt Public Hearing and adoption of Ordinance No. 2008-10-22.

Resolution No. 2008-10-23(R): To accept and approve the "Future Dimensions Report" as a guide for the development of future policies related to major challenges facing the City of Plano, Texas, including: flattening revenues and ongoing economic viability, changing demographics, challenges associated with being a first-tier suburb and regional growth; and providing an effective date. [Regular Agenda Item (3)]

Senior Planner Perry recognized the Transition and Revitalization Commission and spoke to the purpose of the study to understand the challenges facing the City of Plano, create a vision for and stimulate discussion about Plano's future; and recommend possible courses of action. She spoke to the major challenges facing the City identified by the group which include a flattening of revenues and economic viability; changing demographics; first-tier suburb, and regional growth.

Ms. Perry spoke to flattening revenue and economic viability and to not compromising the quality of life in the City as it attracts residents and maintains sustainability. She spoke to the changing demographics and provision of services. Ms. Perry spoke to the issues of first-tier suburbs including consideration of traffic congestion, aging infrastructure, limited new development opportunities, and competition from neighboring cities. She spoke to benefits including close-in neighborhoods, lite rail service, major employment centers and educational opportunities. Ms. Perry spoke to regional growth and challenges related to energy, water, infrastructure, housing and transportation and to the choices made influencing the direction of the City's growth and performance.

Resolution No. 2008-10-23(R) (cont'd)

Transition and Revitalization Commission Chair Joyce Beach spoke to discussions held and consideration of ways to reinvent the City including transportation options (cross-town buses, collaboration, possible use of a roadway lane for walking/bicycles); additional community centers; and sustainable economic conditions. She spoke to “smart” growth to include density nodes, density bonuses, supporting infill, adding community spaces and accepting higher density and mixed-use development in selected locations. Ms. Beach spoke to reviewing existing regulations and maintaining flexibility when considering proposals; facilitation and support of collaborative efforts with the school district and other educational providers; and identifying and monitoring critical issues facing the community. She spoke to considering the needs of today’s and tomorrow’s citizens and the desire for evening activities, planning for a rainy day, maintaining Plano standards and open communication with citizens.

Ms. Beach spoke to community centers as neighborhood areas for services including storefront libraries and places to gather. Ms. Perry spoke to density bonuses offering developers the opportunity to build more density in return for providing an environment desired by the City. The Council thanked the Commission and Staff for their efforts.

Upon a motion made by Council Member Dunlap and seconded by Council Member Miner, the Council voted 8-0 to accept and approve the “Future Dimensions Report” as a guide for the development of future policies related to major challenges facing the City of Plano, Texas, including: flattening revenues and ongoing economic viability, changing demographics, challenges associated with being a first-tier suburb and regional growth; and providing an effective date; and further to adopt Resolution No. 2008-10-23(R).

Public Hearing and adoption of Ordinance No. 2008-10-24 as requested in Zoning Case 2008-65 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 119.9± acres located at the northeast corner of State Highway 190 and Renner Road in the City of Plano, Collin County, Texas, from Research/Technology Center to Planned Development-207-Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicants: Briar Oaks Properties, Ltd., Greenbriar Properties, Ltd., John G. Brittingham Charitable Remainder Unitrust No. 2, Wynnwood Resources, Ltd., & Patrick E. Hillary, Jr. [Regular Agenda Item (4)]

Director of Planning Jarrell advised that the proposed base zoning would permit uses not currently allowed in the Research/Technology (RT) district and spoke to discussions of the need for more retail/restaurant to serve the area’s employment center. She advised that the planned development request would add multifamily residences (1200 units) and a regional theater. Ms. Jarrell spoke to the intensity planned for the property including restaurant/retail uses in a suburban style orientation to S.H. 190; a central core with a mix of office, theater, hotel, and conference center with parking on surface lots; and the northern and eastern portions developing as multifamily with an urban scale and streetscape. She spoke to the current Comprehensive which does not provide for multifamily, retail or freestanding development; new residential developments that may occur outside of the traditional patterns; and mixed-use combining opportunities to live, work, and play.

Ordinance No. 2008-10-24 (cont'd)

Ms. Jarrell spoke to the request's compliance with the *Urban Centers Study's* recommendations for size, access, transportation, and phasing. She advised that while the proposal is not urban mixed-use in its strictest sense, it does create opportunities for residential, shopping and entertainment in an integrated setting and will provide amenities to the RT district and further stated that the Planning and Zoning Commission recommended approval as an R zoning district and standards as amended by the 190 Tollway/Plano Parkway Overlay district, subject to the following:

General Standards

1. The zoning exhibit shall be adopted as part of the ordinance.
2. Maximum lot coverage: 50%. If structured parking is provided, the maximum lot coverage may be increased to 70%.
3. Maximum floor to area ratio: 1.75:1.
4. Maximum height: For buildings with multifamily residential use, the maximum height shall be 5 stories, 75 feet. The maximum height for all other buildings shall be 20 stories.
5. Minimum side yard: None, except as required by building or fire codes.
6. Minimum rear yard: None, except as required by building or fire codes.
7. Parking Regulations:
 - a. The minimum required parking within the district shall be as follows:
 - Multifamily – One Bedroom or Less: One parking space per unit. Two Bedrooms: One and one-half parking spaces per unit. Three Bedrooms or More: Two spaces per unit.
 - Freestanding Restaurant – One space per 100 square feet of floor area.
 - Hotel – Per Section 3.1100 (Off-Street Parking and Loading.)
 - Theater - Per Section 3.1100 (Off-Street Parking and Loading.)
 - All Other Nonresidential Uses – One space per 300 square feet of floor area.
 - b. On-street parking may count toward required parking and shall be permitted on both sides of interior public and quasi-public streets and fire lanes, except where prohibited for vehicular, fire, or pedestrian safety. On-street parking may be parallel, angle, or ninety-degree to the street. Where on-street parking is provided, islands shall be placed as a break to delineate travel lanes. An island break of a minimum six feet in width shall be placed no less than every 150 feet of continuous on-street parking.

Ordinance No. 2008-10-24 (cont'd)

- c. No off-street loading spaces are required. Off-street loading for the loading and unloading of merchandise and goods must not occur in public streets or fire lanes, but may occur in parking areas or private drive aisles. Designated off-street loading spaces for nonresidential uses, if provided, may not be located adjacent to or across a street or alley from buildings containing residential uses unless the loading dock is screened by solid metal gates, masonry screening walls, overhead doors, buildings, or any combination of these.
- d. Except for freestanding restaurants, no parking is required for outdoor patio and sidewalk dining areas or other public seating areas and open space.

Design Standards

- 8. Street Pattern: The maximum block length shall be 500 feet. Public streets, quasi-public streets, and/or fire lanes may be used to obtain this required block length.
- 9. Streetscape:
 - a. Along Wynnwood Drive, Wynhurst Drive, Wyngate Boulevard, Wynview Drive, and required named quasi-public streets, sidewalks with a minimum width of six feet shall be placed no more than six feet from back of curb. Street trees shall be provided at a rate of one tree per fifty linear feet of street.
 - b. Outdoor patio and sidewalk dining, as well as other public seating areas, are permitted within public rights-of-way provided accessible pathways are maintained.
- 10. Building Design:
 - a. Nonresidential, multi-use buildings, except for parking garages, shall have a minimum of 40% of the ground floor comprised of window area. Buildings fronting State Highway 190 frontage road, Renner Road and Shiloh Road are exempt from this requirement. For the purposes of this standard, ground floor is defined as that portion of a building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.
 - b. Canopies, balconies, stoops, bay windows, awnings, and other building projections may encroach up to five feet into the public right-of-way provided accessible pathways are maintained.
- 11. Landscaping and Open Space:
 - a. Except as stated in standard 10.b. below, landscaping shall be provided per Section 3.1200 (Landscaping Requirements) and Section 4.700 (190 Tollway/Plano Parkway Overlay District) except as follows:

Ordinance No. 2008-10-24 (cont'd)

- i. No landscape edge is required along Wynnwood Drive, Wynhurst Drive, Wyngate Boulevard, Wynview Drive, and required named quasi-public streets.
 - ii. Landscape edge width may be reduced to 10 feet along Shiloh Road and along Renner Road between Wyngate Boulevard and Shiloh Road.
- b. A minimum five-foot landscape edge shall be provided between all surface parking lots and public and quasi-public streets. Street trees shall be provided at a rate of one tree per fifty linear feet of street.
 - c. A minimum of two acres of open space shall be provided and shall be open to the public at all times. Open space shall have a minimum dimension of 80 feet.

12. Screening:

- a. The rear and service sides of nonresidential buildings oriented toward residential use or open space shall be screened as provided in Section 3.1000 (Screening, Fence, and Wall Regulations.)
- b. Refuse and recycling containers shall not be located within 30 feet of a public or quasi-public street, unless internal to the building, and shall be screened from view from streets and open space in accordance with Section 3.1000 (Screening, Fence, and Wall Regulations.)

13. Fencing: For residential use only, fencing is allowed in the front yard setback up to eight feet in height. Fencing must be a minimum of 50% open.

14. Signage:

- a. For buildings fronting State Highway 190 frontage road, Renner Road, and Shiloh Road, signage must comply with Section 3.1600 (Sign Regulations) and Section 4.700 (190 Tollway/Plano Parkway Overlay District).
- b. Signage for all other buildings must comply "Area A" standards within Subsection 3.1605 (Downtown Sign District.) Additionally, freestanding, single tenant buildings, may have monument signs per Section 4.700 (190 Tollway/Plano Parkway Overlay District.)

Multifamily Residential Development Standards

15. The maximum number of multifamily residential dwelling units shall be 1,200 units.

16. The minimum density for multifamily residential use is 35 dwelling units per acre.

Ordinance No. 2008-10-24 (cont'd)

17. Multifamily development shall be exempt from the supplemental regulations of Subsection 3.104 (Multifamily Residence.)

Standards Specific to Tracts 1 & 5-10

18. Uses:

- a. Multifamily use is an additional permitted use.
- b. Car wash use is prohibited.

19. Building Design:

- a. Buildings fronting to Renner Road or Shiloh Road:
 - i. The minimum front yard setback shall be 10 feet.
 - ii. Buildings shall be constructed such that a minimum of 60% of the facade falls within 30 feet of the right-of-way line unless restricted by easements. Where easements are present, a minimum of 60% of each facade must be built to the easement line. The 30 feet distance may be increased to a maximum of 85 feet if parking or drive aisles are located between the building face and the street.
- b. Buildings fronting to Wynnwood Drive, Wynthurst Drive, Wyngate Boulevard, or Wynview Drive:
 - i. There is no minimum front yard setback.
 - ii. Buildings shall be constructed such that a minimum of 60% of the facade falls within 15 feet of the right-of-way line unless restricted by easements. Where easements are present, a minimum of 60% of each facade must be built to the easement line.
- c. Buildings fronting required named quasi-public streets:
 - i. Front yard setbacks are measured from the street easement line.
 - ii. There is no minimum front yard setback.
 - iii. Buildings shall be constructed such that a minimum of 60% of the facade falls within 15 feet of the street easement line.

Ordinance No. 2008-10-24 (cont'd)

Standards Specific to Tract 2

20. Uses: Car wash use is prohibited.

21. Building Design:

a. Buildings fronting to Renner Road or Shiloh Road:

- i. The minimum front yard setback shall be 30 feet.
- ii. There is no maximum front yard setback.

b. Buildings fronting to Wyngate Boulevard or Wynview Drive:

- i. There is no minimum front yard setback.
- ii. Buildings shall be constructed such that a minimum of 60% of the facade falls within 15 feet of the right-of-way line unless restricted by easements. Where easements are present, a minimum of 60% of each facade must be built to the easement line.

Standards Specific to Tracts 3 & 4

22. Uses:

- a. Regional theater use and multifamily use are additional permitted uses.
- b. Car wash use is prohibited.

23. Street Pattern: Tract 4 shall be bisected by a named quasi-public street and shall comply with the streetscape requirements in standard 9 above.

24. Building Design:

a. Buildings fronting to Wynnwood Drive, Wynhurst Drive, Wyngate Boulevard, or Wynview Drive:

- i. There is no minimum front yard setback.
- ii. Buildings shall be constructed such that a minimum of 50% of the façade falls within 30 feet of the right-of-way line unless restricted by easements. Where easements are present, a minimum of 50% of each facade must be built to the easement line. The 30 feet distance may be increased to a maximum of 100 feet if parking or drive aisles are located between the building face and the street.

Ordinance No. 2008-10-24 (cont'd)

- b. Buildings fronting required named quasi-public streets:
- i. Front yard setbacks are measured from the street easement line.
 - ii. There is no minimum front yard setback.
 - iii. The maximum front yard setback shall be 15 feet unless restricted by easements. If easements are present, the facade must be built to the easement line.

Ms. Jarrell responded to Council Member Dunlap, advising that Staff routinely provides information to the Plano Independent School District (PISD) and her conversation with Associate Superintendent Matkin who indicated that any children in this area would attend PISD and that all schools have capacity with the exception of Foreman Elementary. She further spoke to Foreman Elementary currently feeding into Armstrong Middle School. Ms. Jarrell advised that along S.H. 190, pad sites would be permitted with the exception of car washes and that zoning along Shiloh Road would allow retail or multifamily development. She spoke to the current zoning allowing retail with the requirement that there be office/office-showroom developed first to gain the rights to free-standing retail/restaurant and the additional limitation of 10%. Development Review Manager Elgin spoke to the proposed reduction in landscape edges along Renner Road and Shiloh Road with a 30-foot frontage in place along S.H. 190.

Mayor Evans opened the Public Hearing. David Hicks, of David Hicks Company, representing the applicant, spoke to business centers in the area and the history/development of Turnpike Commons. He spoke to the challenges in attracting corporate offices and the lack of amenities, shortage of modern housing, and plans for a 120-acre development with a mix of complementary uses (office, medical office, restaurant, retail, conference facility, hotel, and entertainment). Mr. Hicks responded to Deputy Mayor Pro Tem LaRosiliere that he would envision an "Angelica" or "Magnolia" type of theater and that the first steps in development would be the southeastern area with 350 units designed with inline retail on the ground floor, plans for a small grocery store and fine tuning the plan.

Randy Roland, City of Richardson Zoning Board Vice Chair, spoke to the vision of their city, high density not serving the best interests of Plano, traffic along Renner and Shiloh Roads, the request not being a transit-oriented development, restaurants offering enhancement and requested consideration to not increase density in the area. Larry Moore, Woods of Springcreek II Homeowners Association President, spoke to concerns and the impact on his neighborhood including a narrowing of the buffer along roadways, increased density and requested the Council either delay a decision to permit Richardson input or deny the request. Tamara Brinkley, Plano resident and UTD Student, spoke to urban development as the "way of the future," its benefits for all generations, rezoning allowing for a mixed-use or urban style development and the location being convenient with roadways and infrastructure in place. She spoke to verification of school capacity, an increase in the job/tax base and providing amenities to those who live and work in the area. Richard Pohly of Chase Mark Capital, spoke in support of the request, work on the master plan and the benefits of urban development, attention to internal traffic flow and plans to compliment retail on the first floors with services for residents and office personnel.

Ordinance No. 2008-10-24 (cont'd)

Matthew Newton of Magnolia Lodging spoke in support and to the proposal benefiting the entire area by providing amenities. He responded to Council Member Dunlap that corporate and commercial developments benefit from the additional atmosphere provided by dwelling units. Danny Muzyka of North Dallas Community Bible Fellowship, spoke in support of the request and cited the critical challenges for the future, the need for this development at Plano's eastern door and the proactive leadership of the City. Bill Boyd of Wynwood Resources, spoke in support of the request and to the need for meal service in the area for employees and clients. No one else spoke either for or against the request. The Public Hearing was closed.

Senior Traffic Engineer Green responded to Mayor Pro Tem Callison, advising that while congestion is considerable in the area, it is comparable to any six-lane thoroughfare in the City during rush hour. Ms. Jarrell responded to Council Member Dunlap, stating that the landscape setback along Legacy Drive at the Shops at Legacy is the same as proposed for Shiloh Road, sanitary sewer and water capacity is adequate for the additional residential units and that the site is approximately 30 acres smaller than Phases I and II of the Shops at Legacy. She responded to Mayor Pro Tem Callison regarding the similarity in green space between the two projects. Deputy Mayor Pro Tem LaRosiliere spoke to the proposal as a great project for the City offering a gathering place for the community and its citizens.

Upon a motion made by Deputy Mayor Pro Tem LaRosiliere and seconded by Council Member Miner, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 119.9± acres located at the northeast corner of State Highway 190 and Renner Road in the City of Plano, Collin County, Texas, from Research/Technology Center to Planned Development-207-Retail as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-65; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2008-10-24.

Discussion and Direction to consider calling a Public Hearing to amend the Private Club Regulations in the Zoning Ordinance. [Regular Agenda Item (5)]

Director of Planning Jarrell spoke to the Council's request to bring an item forward for consideration. She spoke to the election held in 2005, wherein citizens voted to approve the sale of mixed beverages in restaurants by a food and beverage certificate holder who is prohibited from deriving more than 50% of their gross revenue from the sale of alcoholic beverages and those establishments in urban centers oriented to dinner and late evening service who find the limitations difficult to meet. Ms. Jarrell advised that the City cannot alter state law, but may offer an alternative licensing option by amending the Zoning Ordinance to permit private clubs as a use by right within selected zoning districts (Business Government/Downtown and Central Business-1/Legacy Town Center) without applying regulations in place for those with a specific use permit. She advised that Council may consider the options by requesting Staff call a Public Hearing to amend the Zoning Ordinance and refer the matter to the Planning and Zoning Commission.

Mayor Evans made a motion to forward the item to the Planning and Zoning Commission, directing a Public Hearing be called to amend the Private Club Regulations in the Zoning Ordinance to permit private clubs by right within the Business Government and Central Business-1 districts. Council Member Dunlap seconded the motion and the Council voted 8-0. The motion carried.

Resolution No. 2008-10-25(R): To authorize the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an Electric Supply Agreement for deliveries of electricity and necessary, related services effective January 1, 2009; authorizing CAPP to act as an agent on behalf of the City to enter into a contract for electricity; approving CAPP contracting with FPL Energy and Direct Energy and authorizing the Chairman of CAPP to execute an Electric Supply Agreement for deliveries of electricity effective January 1, 2009; committing to budget for energy purchases and to honor the City's commitments to purchase power through CAPP for its electrical needs beginning January 1, 2009 through December 31, 2013; and providing an effective date. [Regular Agenda Item (6)]

Executive Director Hogan spoke regarding the briefing received on October 13, 2008 regarding pricing options for electrical energy needs for Plano facilities received from CAPP. He advised of Staff's recommendation to secure a five-year agreement from CAPP and Florida Power and Light (FP&L) and not to execute the long-term (24-year) agreement. Mr. Hogan advised that the City has a good track record with FP&L, spoke to savings since aggregation and the cost being undetermined until the contract is signed. He responded to City Manager Muehlenbeck, advising that the City will receive pricing option advantages included in the longer agreement for the "wrap" portion of the contract. Council Member Dunlap spoke to Staff's review of the options.

Upon a motion made by Council Member Dunlap and seconded by Council Member Miner, the Council voted 8-0 to authorize the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an Electric Supply Agreement for deliveries of electricity and necessary, related services effective January 1, 2009; authorizing CAPP to act as an agent on behalf of the City to enter into a contract for electricity; approving CAPP contracting with FPL Energy and Direct Energy and authorizing the Chairman of CAPP to execute an Electric Supply Agreement for deliveries of electricity effective January 1, 2009; committing to budget for energy purchases and to honor the City's commitments to purchase power through CAPP for its electrical needs beginning January 1, 2009 through December 31, 2013; and providing an effective date; and further to adopt Resolution No. 2008-10-25(R).

There being no further discussion, Mayor Evans adjourned the meeting at 9:21 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary

a-17



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Council Meeting Date: 10/27/08		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Purchasing		Initials	Date
Department Head	Mke Ryan	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	10/15/08
Agenda Coordinator (include phone #):		Becky Johansen #4396		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
Award/Rejection of Bid/Proposal for Bid No. 2008-220-C for Full Encirclement Repair Clamps, Flange Coupling Adapters, Service Saddles & Steel Couplings.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s): WAREHOUSE				
COMMENTS: This item approves price quotes. Expenditures will be made in the Municipal Warehouse within approved budget appropriations. The estimated annual amount is \$57,993.25.				
STRATEGIC PLAN GOAL: Funding of Inventory stock items relates to the City's goal of "Premier City in Which to Live."				
SUMMARY OF ITEM				
Staff recommends bid of H D Supply Waterworks for items 1, 2, 22, 25 and 29 in the estimated annual amount of \$33,156.63 and bid of Municipal Water Works Supply LP for items 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 28, 30, 31 and 32 in the estimated annual amount of \$24,836.62 be accepted as the lowest responsive, responsible bids, conditioned upon timely execution of any necessary contract documents. This will establish an annual fixed price contract with three optional renewals in the total estimated annual amount of \$57,993.25. This contract will be for the purchase of Full Encirclement Repair Clamps, Flange Coupling Adapters, Service Saddles and Steel Couplings.				
List of Supporting Documents: Bid Recap		Other Departments, Boards, Commissions or Agencies		

[Handwritten mark]



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 10/27/08		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Purchasing		Initials	Date	
Department Head	Mike Ryan	Executive Director			
Dept Signature:	<i>Mike Ryan</i>	City Manager	<i>[Signature]</i>	<i>10/17/08</i>	
Agenda Coordinator (include phone #):		Sharron Mason, Ext. 7247			
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Award/Rejection of Bid/Proposal for Bid No. 2008-207-C for RFP for Stop Loss Insurance to United HealthCare in the estimated amount of \$950,450.00.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget			950,450		950,450
Encumbered/Expended Amount					
This Item			-950,450		-950,450
BALANCE					
FUND(s): Health Claims Funds					
COMMENTS: Funds are included in the 2008-09 Health Claims Fund for stop loss coverage. This policy, in the estimated annual amount of \$950,450, will establish a rate for stop loss services. Approval of this policy will provide a \$1 per employee per month reduction to the Administrative Service Agreement fee as long as the coverage is in place, which equates to a \$25,536 annual saving making the effective rate of this policy \$924,914.					
STRATEGIC PLAN GOAL: Stop loss insurance for the City's self-funded health plan relates to the City's goal of Major Business Center.					
SUMMARY OF ITEM					
ANNUAL CONTRACT WITH RENEWALS					
It is the recommendation of the Evaluation Selection Committee to award the Stop Loss Insurance Policy to United HealthCare based on the proposal submitted covering services and costs. The estimated annual amount of the contract is \$950,450.. This policy, in the estimated annual amount of \$950,450, will establish a rate for stop lost services. This will equate to an effective rate of \$924, 914. The term of this policy is for one (1) year with City optional renewals.					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Memorandum and Proposal Recap					



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 10/27/08		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Parks and Recreation		Initials	Date	
Department Head	Don Wendell		Executive Director	<i>[Signature]</i> 10-20-08	
Dept Signature:	<i>[Signature] for D.W.</i>		City Manager	<i>[Signature]</i> 10/20/08	
Agenda Coordinator (include phone #):		Susan Berger (7255)			
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT					
<input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Award/rejection of Bid/Proposal, conditional acceptance of lowest responsible Bid/Proposal, and designation of alternate lowest responsible Bid/Proposal for the construction of the Cottonwood Creek Greenbelt improvements (Bid No. 2008-216-B) to 2L Construction, LLC in the amount of \$236,283.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS	
Budget	278,115	1,598,885	0	1,877,000	
Encumbered/Expended Amount	-278,115	-358,946	0	-637,061	
This Item	0	-236,283	0	-236,283	
BALANCE	0	1,003,656	0	1,003,656	
FUND(S): PARK IMPROVEMENT CIP					
COMMENTS: Funds are included in the 2008-09 Park Improvement CIP. This item, in the amount of \$236,283, will leave a current year balance of \$1,003,656 for the Neighborhood Park Improvements project.					
STRATEGIC PLAN GOAL: Neighborhood park improvements relate to the City's Goal of Premier City in Which to Live.					
SUMMARY OF ITEM					
Staff recommends that the bid received from 2L Construction, LLC in the amount of \$236,283 be accepted as the lowest responsible bid conditioned upon timely execution of any necessary contract documents.					
The base bid is for upgrading an existing playground for 5 to 12 year old users to meet current Consumer Product Safety Commission standards, adding a shade structure to the playground, building a new playground with a shade structure for 2 to 5 year old users, constructing a pavilion, and renovating the playground drainage system. The low bid of \$236,283 exceeds the consultant's estimate of \$212,854 but is within the available project funding of \$250,000. Staff does not believe that re-bidding the project would result in lower bids.					
In the event 2L Construction, LLC fails to execute contract documents, staff recommends that the project be awarded to the second lowest bidder, JDC Construction in the amount of \$240,980.					



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 10/27/08		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Engineering		Initials	Date	
Department Head	Upchurch		Executive Director	<i>[Signature]</i>	
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	
Agenda Coordinator (include phone #):		Irene Peques (7198)	Project No. 5740		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT					
<input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					

CAPTION

(Award/Rejection) of (Bid/Proposal) for Bid No. 2008-217-B for Springbrook Drive – Janwood Drive to Quill Drive to RKM Utility Services, Inc., in the amount of \$1,943,288 for the Base Bid.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	20,863	1,989,137	0	2,010,000
Encumbered/Expended Amount	-20,863	-44,722	0	-65,585
This Item	0	-1,943,288	0	-1,943,288
BALANCE	0	1,127	0	1,127

FUND(S): STREET IMPROVEMENT CIP & WATER CIP

COMMENTS: Funds are included in the 2008-09 Street Improvement and Water CIP. This item, in the amount of \$1,943,288, will leave a current year balance of \$1,127 for the Springbrook – Janwood to Quill project.

STRATEGIC PLAN GOAL: Street and water line construction relates to the City's Goals of Safe, Efficient Travel and Livable and Sustainable Community.

SUMMARY OF ITEM

Staff recommends the base bid (dry kiln cement) of RKM Utility Services, Inc., in the amount of \$1,943,288.00 be accepted as lowest responsible bid conditioned upon timely execution of any necessary contract documents.

The Alternate Bid No. 1 (for other type cement) was for \$1,943,288.00. Alternate No. 2 (low nitrous oxide dry kiln cement) is greater than 5% over the base bid price at 2,030,971.00 (10.7% over the dry kiln cement content cost). In keeping with the City's Green Purchasing Policy, staff recommends the award be based upon the dry kiln cement purchase.

The second vendor being recommended is McMahon Contracting, LP in the amount of \$2,032,827.79.

Engineers' estimate was \$2,100,000.

The project consists of the reconstruction of Springbrook Drive from Janwood Drive to Quill Drive along with Tanglewood Drive from Springbrook Drive to its end. Also included is a water line replacement on Springbrook Drive and water and sewer line replacement on Tanglewood Drive. Other work includes installation of a park trail, sidewalk, storm drainage and creek bank protection in the Springbrook Drive area and installation of storm drainage and creek bank protection to eliminate a problem in an adjacent neighborhood across Pittman Creek to the west of Springbrook Drive.

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing	Initials	Date	
Department Head	Mike Ryan	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>11/3/08</i>
Agenda Coordinator (include phone #): Becky Johansen (4396)				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
Award/Rejection of Bid/Proposal for Bid No. 2009-1-C for Tire Re-Capping Service awarded to Southern Tire Mart in the estimated annual amount of \$76,745.00.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(s): WAREHOUSE FUNDS				
COMMENTS: This item approves price quotes. Expenditures will be made in the Municipal Warehouse within approved budget appropriations. The estimated annual amount is \$76,745.00.				
STRATEGIC PLAN GOAL: Funding of Inventory stock items relates to the City's goal of "Premier City in Which to Live."				
SUMMARY OF ITEM				
Staff recommends bid of Southern Tire Mart in the estimated annual amount \$76,745.00 be accepted as the lowest responsive, responsible bid, conditioned upon timely execution of any necessary contract documents. This will establish an annual fixed price contract with three optional renewals in the total estimated annual amount of \$76,745.00. This contract will be for the purchase of tire re-capping services.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Bid Recap				

CITY OF PLANO

BID NO. 2009-1-C TIRE RE-CAPPING SERVICE

BID RECAP

Bid opening Date/Time: October 24, 2008 @ 4:00pm

Number of Vendors Notified: 208

Vendors Submitting "No Bids": 0

Number of Bids Submitted: 2 (two) electronic bids and 2 (two) paper bids

COMPANY NAME

A to Z Tire Battery Inc
Wingfoot Commercial Tire
systems LLC
Southern Tire Mart
Bill Williams Tire Center

Becky Johansen

Becky Johansen, Purchasing System Specialist

October 27, 2008

Date



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Purchasing		Initials	Date	
Department Head	Mike Ryan		Executive Director		
Dept Signature:	<i>[Signature]</i>		City Manager <i>[Signature]</i> 11/3/08		
Agenda Coordinator (include phone #): Becky Johansen (4396)					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT					
<input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					

CAPTION

Award/Rejection of Bid/Proposal for Bid No. 2008-215-C for Janitorial and Laundry Supplies be awarded to Eagle Brush and Chemical, Inc.; Empire Paper Co.; Complete Supply, Inc.; Pyramid School Products and Eco-Worx, Inc. in the total estimated annual amount of \$57,781.65.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(s): WAREHOUSE FUNDS

COMMENTS: This item approves price quotes. Expenditures will be made in the Municipal Warehouse within approved budget appropriations. The estimated annual amount is \$57,782.00.

STRATEGIC PLAN GOAL: Funding of Inventory stock items relates to the City's goal of "Premier City in Which to Live."

SUMMARY OF ITEM

Staff recommends bid of Eagle Brush and Chemical Inc. for items 2, 5, 9, 11, 13, 20, 24, 35, and 36 in the estimated annual amount of \$6,783.69; bid of Empire Paper Co. for items 3, 8, 12, 14, 23, 30, 31, 32 and 34 in the estimated annual amount of \$23,515.11; bid of Complete Supply Inc. for items 6, 15, 22, 26, 33 and 37 in the estimated annual amount of \$19,090.25; bid of Pyramid School Products for items 4, 7, 10, 17, 18, 19, 25, 27, 28 and 29 in the estimated annual amount of \$1,982.60; bid of Eco-Worx Inc for items 16 and 21 in the estimated annual amount of \$6,410.00 be accepted as the lowest responsive, responsible bids, conditioned upon timely execution of any necessary contract documents. This will establish an annual fixed price contract with three optional renewals in the total estimated annual amount of \$57,781.65. This contract will be for the purchase of Janitorial and Laundry Supplies.

List of Supporting Documents:

Other Departments, Boards, Commissions or Agencies

CITY OF PLANO

BID NO. 2008-215-C Janitorial & Laundry Supplies BID RECAP

Bid Opening Date/Time: September 29, 2008 @ 4:00pm

Number of Vendors Notified: 767

Vendors Submitting "No Bids": 1

Number of Bids Submitted: 14

Pyramid School Products
Quill Corporation
Ecolab Inc
Mico Industrial Corp
Eagle Brush & Chemical
Empire Paper Co
Chemsearch a division of NCH Corp
Reinert Paper & Chemical
Office Max
Zep Manufacturing
SupplySystems
Complete Supply Inc
Eco-Worx Inc
Genesis II Inc

Bids Evaluated Non-Responsive to Specification: 1

Recommended Vendor(s):

Becky Johansen

Becky Johansen, Buyer

October 1, 2008

Date



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing	Initials	Date	
Department Head	Mike Ryan	Executive Director		
Dept Signature:		City Manager		11/10/08
Agenda Coordinator (include phone #): Sharron Mason, Ext. 7247				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
Award/Rejection of Bid/Proposal for Bid No. 2008-207-C for RFP for Stop Loss Insurance to United HealthCare in the estimated amount of \$950,450.00.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
FISCAL YEAR:				
Budget		950,450		950,450
Encumbered/Expended Amount				
This Item		-950,450		-950,450
BALANCE				
FUND(S): Health Claims Funds				
<p>COMMENTS: Funds are included in the 2008-09 Health Claims Fund for stop loss coverage. This policy, in the estimated annual amount of \$950,450, will establish a rate for stop loss services. Approval of this policy will provide a \$1 per employee per month reduction to the Administrative Service Agreement fee as long as the coverage is in place, which equates to a \$25,536 annual saving making the effective rate of this policy \$924,914.</p> <p>STRATEGIC PLAN GOAL: Stop loss insurance for the City's self-funded health plan relates to the City's goal of Major Business Center.</p>				
SUMMARY OF ITEM				
ANNUAL CONTRACT WITH RENEWALS				
<p>It is the recommendation of the Evaluation Selection Committee to award the Stop Loss Insurance Policy to United HealthCare based on the proposal submitted covering services and costs. The estimated annual amount of the contract is \$950,450. This policy, in the estimated annual amount of \$950,450, will establish a rate for stop loss services. This will equate to an effective rate of \$924, 914. The term of this policy is for one (1) year with five (5) City optional one (1) renewals.</p>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Memorandum and Proposal Recap				

Memorandum

To: Purchasing Department
From: Sydney Covey, Compensation & Benefits Manager
Date: 10/29/2008
Re: Stop Loss Insurance, Solicitation 2008-207-C

It is the recommendation of the selection Committee to award the Stop Loss Insurance Policy, 2008-207-C, to UnitedHealthcare based on the proposal submitted covering services and costs. The committee made this decision based on the input and guidance of the Health Plan Consultant, Hay Group. A thorough review of the proposals was performed by the Consultant and a spreadsheet developed which outlined the pros and cons of the proposals. The Consultant pointed out that conditional pricing was received in three of the proposals and would require that the City provide protected health information and/or additional information regarding diagnosis, prognosis, and anticipated additional expenses. The Consultant advised that even though UHC did not have access to the additional information requested by the other three proposers, the proposal presented by UnitedHealthcare met all the City's requirements and was not contingent upon receiving any additional data.

The estimated annual amount of the Policy is \$950,450. The rate quoted by UHC is a composite rate (Single and Family coverage) of \$37.22 per employee per month. Because UHC is our current medical claims administrator they are providing these additional points of service:

- Automatic reimbursement to the City for claims exceeding the individual stop loss limit; no additional information or filings are required from the City to receive reimbursement. This will reduce the time it takes to process a reimbursement and reduces the level of oversight required of staff.
- UHC automatically identifies claims exceeding the stop loss limit so there is no risk of incurring penalties or encountering delays due to late or incomplete reporting.
- Reduction in medical plan Administrative Services Agreement fee of \$1.00 per employee per month for as long as the coverage is in place. This equates to a savings of \$25,536 annually. Therefore, the annual cost of Stop Loss Insurance becomes \$924,914 for the first year.
- UHC can provide one consolidated reporting package that includes stop loss and medical plan data.
- Stop Loss premiums appear on the same bill as other UnitedHealthcare services on the same composite basis, per employee per month, providing for easier administration and reconciliation of payments.

- The insurance comes with guarantees that during the life of the policy there will not be any large loss claimants excluded from coverage and that the coverage is not subject to any pre-existing conditions or provisions.

The other three proposers asked for information we do not have access to and provided quotes contingent upon receiving this information. They also were non responsive on at least one other item. Therefore, these three proposals were not scored. The UnitedHealthcare proposal addressed all the issues within the scope of the RFP and provided a firm quote not contingent upon the City providing any additional information.

The Risk Pool Trustees met on October 7, 2008, and voted to accept this proposal and have authorized an increase in the lifetime maximum from \$1,000,000 to \$2,000,000 due to the increases in medical costs as well as the overall cost of this coverage to the City presented by UHC is less than our current policy with the \$1,000,000 limit.

Based on the overall quality of the UHC proposal, cost and additional service benefits to the City, the Committee was in agreement that UHC presented the best proposal and the contract should be awarded accordingly.



Request for Proposal No. 2008-207-C

RFP for STOP LOSS INSURANCE

RECAP

Opening Date/Time: Thursday, August 28, 2008 at 11:00 am (CDT)

Responses Received:

HM Insurance Group
ING
Humana
United HealthCare

Recommended Vendor:

United HealthCare the estimated annual amount of the Policy of \$950,450.00.

I certify that the above includes all firms contacted to bid and that replies are exactly as stated.

Sharron Mason

Sharron Mason, Sr. Buyer

October 9, 2008

Date

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Public Works Administration / David Falls		Initials	Date	
Department Head			Executive Director	<i>[Signature]</i>	10-29-08
Dept Signature:			City Manager	<i>[Signature]</i>	10/29/08
Agenda Coordinator (include phone #): Margie Stephens (X4104)					

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

Award, Rejection of Bids/Proposals, Bid No. 2008- 226 - B, 2008-2009 Arterial Concrete Pavement Rehabilitation Project – Parker Road – Preston Road to Dallas North Toll Road to Santos Construction, Inc. in the amount of \$437,665.00.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	2,506,580	4,314,150	2,300,000	9,120,730
Encumbered/Expended Amount	-2,506,580	-1,310,287	0	-3,816,867
This Item	0	-437,665	0	-437,665
BALANCE	0	2,566,198	2,300,000	4,866,198

FUND(s): CAPITAL RESERVE

COMMENTS: Funds are included in the 2008-09 Capital Reserve. This item, in the amount of \$437,665 will leave a current year balance of \$2,566,198 for the Arterial Concrete Repair project.

STRATEGIC PLAN GOAL: Arterial concrete repair relates to the City's Goals of Safe, Efficient Travel and Premier City in which to Live.

SUMMARY OF ITEM

Staff recommends the bid of Parker Road – Preston to Dallas North Toll Road to Santos Construction Inc., in the amount of \$437,665.00, for alternate No. 2 (Cement with NOx <1.7#NOx/Ton of Clinker) which is within 5% of the base bid, be accepted as the lowest responsible bid for the project conditioned upon timely execution of all necessary documents.

This project involves the replacement of arterial street paving, curb and gutter, sidewalk repair and barrier free ramp construction, on Parker Road between Preston Road and Dallas North Toll Road.

The secondary vendor being recommended is Smith Contracting in the amount of \$455,986.36.

Engineer's estimate for this project is \$400,000.00.

List of Supporting Documents: Bid Tabulation Location Map	Other Departments, Boards, Commissions or Agencies
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**CITY OF PLANO
CORRECTED BID TABULATION**

2008-226-B

**2008-09 ARTERIAL CONCRETE PAVEMENT REHAB PARKER ROAD – PRESTON TO DNT
PROJECT NO. 5942**

October 10, 2008 @ 3:00 PM

BIDDER:	Bid Bond	Bid	Alternate 1	Alternate 2
Santos Construction, Inc.	YES	\$432,136.50	\$426,608.00	\$437,665.00
Smith Contracting, Inc.	YES	\$442,888.19	\$442,888.19	\$455,986.30
Jerusalem Corporation	YES	\$448,339.00	\$427,856.05	\$448,339.00
Hencie International, Inc.	YES	\$468,733.00	\$443,532.00	No bid
Jim Bowman Construction Company, LTD	YES	\$493,213.50	\$493,213.50	\$507,153.34
McMahon Contracting, LP	YES	\$541,129.15	\$529,145.10	\$541,129.15
F & F Concrete, LLC	YES	\$581,194.00	\$547,404.08	\$614,684.08
Silver Creek Construction, Inc.	YES	\$884,194.00	\$884,194.00	\$896,864.95

I certify that the above includes all firms contacted to bid and that replies are exactly as stated.

Nancy Corwin

Nancy Corwin
Buyer
Purchasing Division

October 10, 2008

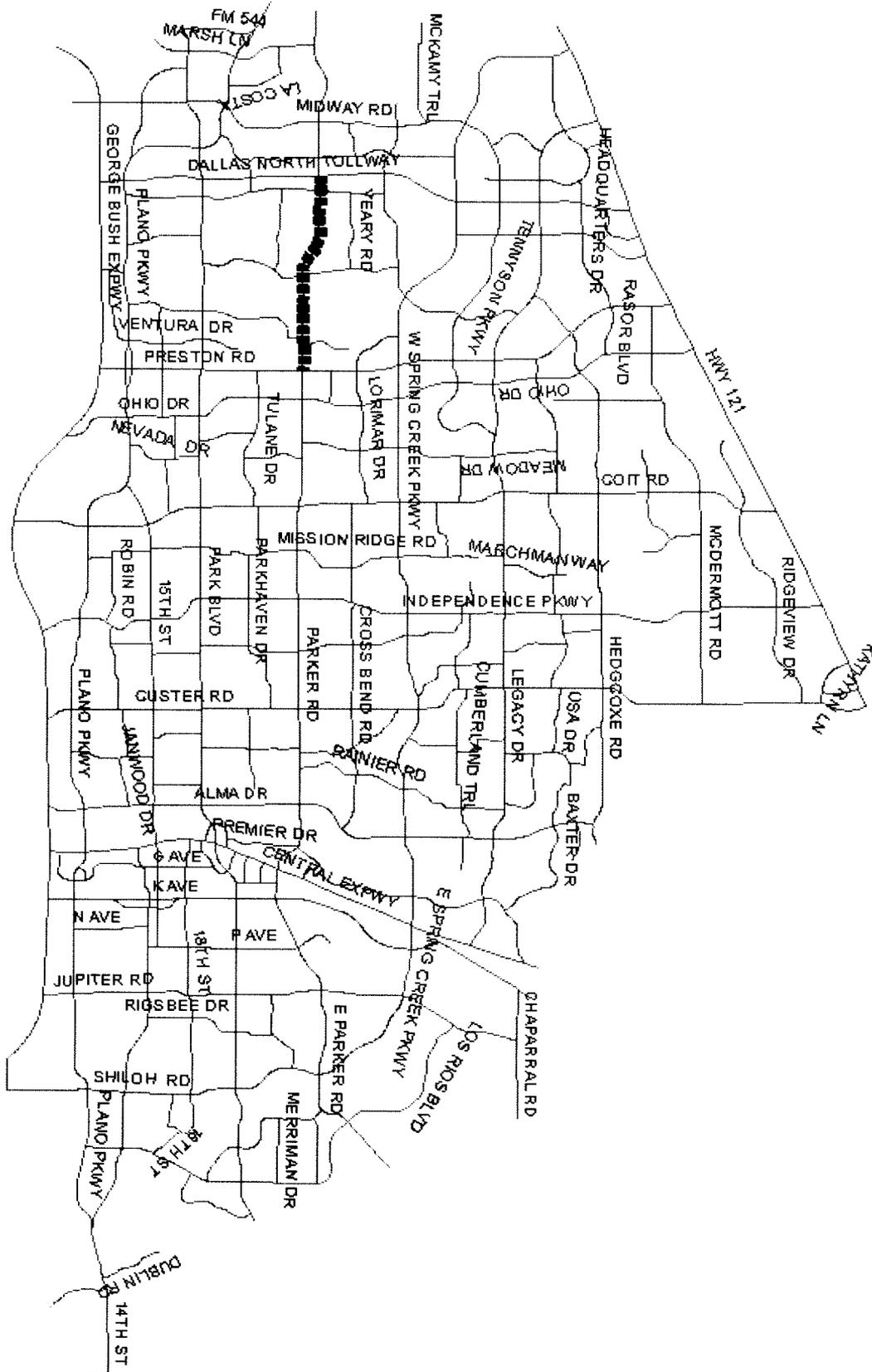
Date

“BID TABULATION STATEMENT”

ALL BIDS SUBMITTED FOR THE DESIGNATED PROJECT ARE REFLECTED ON THIS BID TAB SHEET. HOWEVER, THE LISTING OF A BID ON THIS SHEET SHOULD NOT BE CONSTRUED AS A COMMENT ON THE RESPONSIVENESS OF SUCH BID OR AS ANY INDICATION THAT THE CITY ACCEPTS SUCH BID AS RESPONSIVE. THE CITY WILL MAKE A DETERMINATION AS TO THE RESPONSIVENESS OF BIDS SUBMITTED BASED UPON COMPLIANCE WITH ALL APPLICABLE LAWS, CITY OF PLANO PURCHASING GUIDELINES, AND PROJECT DOCUMENTS, INCLUDING BUT NOT LIMITED TO THE PROJECT SPECIFICATIONS AND CONTRACT DOCUMENTS. THE CITY WILL NOTIFY THE SUCCESSFUL BIDDER UPON AWARD OF THE CONTRACT AND, ACCORDING TO LAW, ALL BIDS RECEIVED WILL BE AVAILABLE FOR INSPECTION AT THAT TIME.

PURCHASING DIVISION
CITY OF PLANO TEXAS

LOCATION MAP





**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/2008		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Public Works Administration / David Falls		Executive Director	<i>[Signature]</i>	Date
Department Head			City Manager	<i>[Signature]</i>	11-04-08
Dept Signature:				<i>[Signature]</i>	11/4/08
Agenda Coordinator (include phone #): Margie Stephens (4104)					

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

Award, Rejection of Bids/Proposals, Bid No. 2008- 227 - B, 2008-2009 Arterial Concrete Pavement Rehabilitation Project – Legacy Drive – Preston Road to SH 121 to Smith Contracting, Inc. in the amount of \$293,484.65.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	2,506,580	4,314,150	2,300,000	9,120,730
Encumbered/Expended Amount	-2,506,580	-1,061,363	0	-3,567,943
This Item	0	-293,485	0	-293,485
BALANCE	0	2,959,302	2,300,000	5,259,302

FUND(S): CAPITAL RESERVE

COMMENTS: Funds are included in the 2008-09 Capital Reserve. This item, in the amount of \$293,485, will leave a current year balance of \$2,959,302 for the Arterial Concrete Repair project.

STRATEGIC PLAN GOAL: Arterial concrete repair relates to the City's Goals of Safe, Efficient Travel and Premier City in which to Live.

SUMMARY OF ITEM

Staff recommends the bid of Legacy Drive – Preston to SH121 to Smith Contracting, Inc., in the amount of \$293,484.65, for alternate No. 2 (Dry Kiln Cement with NOx <1.7#NOx/Ton of Clinker) which is not within 5% of the base bid, be accepted as the lowest responsible bid for the project conditioned upon timely execution of all necessary documents.

This project involves the repair of arterial street paving, and curb/gutter, on Legacy Drive between Preston Road and SH 121.

The secondary vendor being recommended is Jim Bowman Construction Company, L.P. in the amount of \$311,315.50.

Engineer's estimate for this project is \$350,000.00.

List of Supporting Documents: Bid Tabulation Location Map	Other Departments, Boards, Commissions or Agencies
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CITY OF PLANO CORRECTED BID TABULATION

2008-227-B

2008-09 ARTERIAL CONCRETE PAVEMENT REHAB LEGACY DRIVE – PRESTON RD. TO SH 121
PROJECT NO. 5943

October 10, 2008 @ 3:30 PM

BIDDER:	Bid Bond	Bid	Alternate 1	Alternate 2
Smith Contracting, Inc.	YES	\$283,274.25	\$283,274.25	\$293,484.65
Jim Bowman Construction Company, LTD	YES	\$229,710.00	\$299,710.00	\$311,315.50
Hencie International, Inc.	YES	\$301,669.00	\$285,494.00	No bid
Santos Construction, Inc.	YES	\$328,125.00	\$322,931.50	\$333,318.50
Advanced Paving Co	YES	\$329,324.40	\$326,384.60	\$338,030.15
F & F Concrete, LLC	YES	\$336,926.00	\$314,091.00	\$359,761.00
Jerusalem Corporation	YES	\$340,147.00	\$327,317.00	\$340,147.00
Phillip May Corporation	YES	\$347,333.00	\$383,806.50	\$359,267.00
McMahon Contracting, LP	YES	\$369,514.75	\$357,947.50	\$369,514.75
Silver Creek Construction, Inc.	YES	\$511,760.25	\$511,760.25	\$521,780.25

I certify that the above includes all firms contacted to bid and that replies are exactly as stated.

Nancy Corwin

Nancy Corwin

Buyer

Purchasing Division

October 10, 2008

Date

“BID TABULATION STATEMENT”

ALL BIDS SUBMITTED FOR THE DESIGNATED PROJECT ARE REFLECTED ON THIS BID TAB SHEET. HOWEVER, THE LISTING OF A BID ON THIS SHEET SHOULD NOT BE CONSTRUED AS A COMMENT ON THE RESPONSIVENESS OF SUCH BID OR AS ANY INDICATION THAT THE CITY ACCEPTS SUCH BID AS RESPONSIVE. THE CITY WILL MAKE A DETERMINATION AS TO THE RESPONSIVENESS OF BIDS SUBMITTED BASED UPON COMPLIANCE WITH ALL APPLICABLE LAWS, CITY OF PLANO PURCHASING GUIDELINES, AND PROJECT DOCUMENTS, INCLUDING BUT NOT LIMITED TO THE PROJECT SPECIFICATIONS AND CONTRACT DOCUMENTS. THE CITY WILL NOTIFY THE SUCCESSFUL BIDDER UPON AWARD OF THE CONTRACT AND, ACCORDING TO LAW, ALL BIDS RECEIVED WILL BE AVAILABLE FOR INSPECTION AT THAT TIME.

PURCHASING DIVISION
CITY OF PLANO TEXAS



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Engineering		Initials	Date	
Department Head	Alan L. Upchurch		Executive Director	<i>[Signature]</i> 10-31-08	
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i> 11/10/08	
Agenda Coordinator (include phone #):		Irene Pegues (7198)	Project No. 5631		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT					
<input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					

CAPTION

(Award/Rejection) of (Bid/Proposal) for Bid No. 2008-233-B for Screening Wall Replacement Cloisters to Tracon Ventures, LTD in the amount of \$768,335 for the Base Bid.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	17,198	784,802	0	802,000
Encumbered/Expended Amount	-17,198	-16,177	0	-33,375
This Item	0	-768,335	0	-768,335
BALANCE	0	290	0	290

FUND(s): STREET IMPROVEMENT CIP

COMMENTS: Funds are included in the 2008-09 Street Improvement CIP. This item in the amount of \$768,335, will leave a current year balance of \$290 for the Screening Wall – Cloisters project.

STRATEGIC PLAN GOAL: Screening wall reconstruction relates to the City's Goals of Premier City in which to Live and Safe, Efficient Travel.

SUMMARY OF ITEM

Staff recommends the Base Bid (dry kiln cement) of Tracon Ventures, LTD, in the amount of \$768,335.25, be accepted as lowest responsible bid conditioned upon timely execution of any necessary contract documents.

The Alternate Bid No. 1 (for other type cement) was for \$762,746.34. Alternate No. 2 (low nitrous oxide dry kiln cement) is greater than 5% over the base bid price at \$782,280.69 (15.0% over the dry kiln cement content cost). In keeping with the City's Green Purchasing Policy, staff recommends the award be based upon the dry kiln cement purchase.

The second vendor being recommended is Ratliff Hardscape, LTD, in the amount of \$1,038,601.05.

Engineer's estimate was \$540,000.

The project consists of the removal and replacement of screening walls at four (4) locations:

1. 15th Street (south side) – Highedge Drive to Wilson Drive
2. 15th Street (north side) – Mill Valley Drive to Stratford Drive



CITY OF PLANO COUNCIL AGENDA ITEM

3. Coit Road (west side) – 150' north of Whistler Drive to 450' north of Whistler Drive
4. West Park Boulevard (north side) – Willowbrook Way to 1100' west

List of Supporting Documents:

Bid Summary

Location Map

Other Departments, Boards, Commissions or Agencies

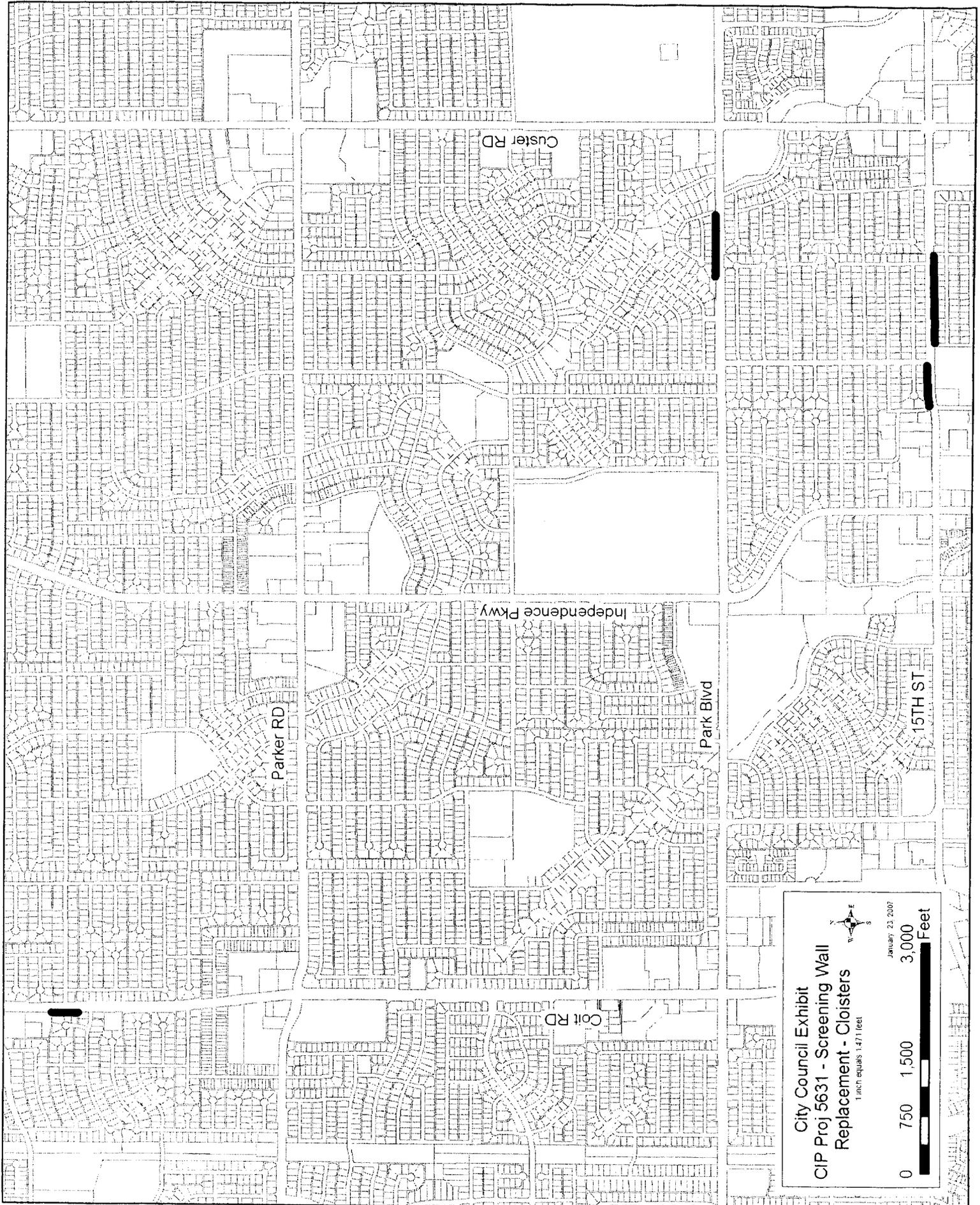
N/A

BID SUMMARY

**SCREENING WALL REPLACEMENT CLOISTERS
PROJECT NO. 5631
BID NO. 2008-233-B**

BID RANK	BIDDER	BASE BID	ALTERNATE 1	ALTE RNATE 2
1	Tracon Ventures, LTD	\$ 768,335.25	\$ 762,746.34	\$ 782,280.69
2	Ratliff Hardscape, LTD	\$1,038,601.05	\$1,038,601.05	\$1,038,601.05
3	Reeves Construction Services, Inc.	\$1,268,534.28	No Bid	\$1,268,534.28

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/2008		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Library Administration		Initials	Date	
Department Head	Joyce Baumbach		Executive Director	<i>JTB</i>	10-31-08
Dept Signature:	<i>Joyce Baumbach</i>		City Manager	<i>AM</i>	11/10/08
Agenda Coordinator (include phone #): Mary Ann Dunnavant (Ext. 4208)					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER: Purchase from State Contract					
CAPTION					
Purchase from an existing contract/agreement to authorize the purchase of a Gemtrac™ storage system to store 30,000 rolls of microforms for Genealogy, Local History, Texana, and Archives located at Haggard Library, utilizing a TXMAS contract (#TXMAS-6-36010) through a local representative, Southwest Solutions Group, to cover the cost for this system amounting to \$84,603.87 and authorizing the City Manager of his designee to execute all necessary documents.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	85,000	0	85,000
Encumbered/Expended Amount		0	0	0	0
This Item		0	-84,604	0	-84,604
BALANCE		0	396	0	396
FUND(S): GENERAL FUND					
COMMENTS: Funds are included in the FY 2008-09 adopted budget for a Gemtrac™ storage system to store 30,000 rolls of microforms for Genealogy, Local History, Texana, and Archives. The remaining balance of funds will be used for the purchase of other library fixtures.					
STRATEGIC PLAN GOAL: Providing a Gemtrac™ storage system relates to the City's Goal of "Service Excellence."					
SUMMARY OF ITEM					
The State of Texas Co-Op Purchasing Program, of which the City of Plano is a member, secures competitive bids. Because of the City of Plano's participation, the purchase from Southwest Solutions Group in the amount of \$84,603.87 satisfies the law relating to this bid. Therefore, PPLS staff recommends purchase of the Gemtrac™ storage system from Southwest Solutions Group through #TXMAS-6-36010.					
List of Supporting Documents: 1. Proposal from Southwest Solutions Group dated 10-23-08 2. PLALIB-1 Drawing from Southwest Solutions Group			Other Departments, Boards, Commissions or Agencies		



SOUTHWEST SOLUTIONS GROUP
business organization systems

October 23, 2008

David Hardin
Genealogy Librarian Supervisor
Library
City of Plano
2501 Coit Road
Plano, TX 75075

Dear David:

Please accept my sincere thanks for giving Southwest Solutions Group the opportunity to serve you and your staff with your microfilm storage management requirements. Our staff will always do everything possible to merit the confidence you have shown in giving us this business opportunity.

Enclosed is the proposal for the new Gemtrak Storage systems in compliance with the Texas State Contract #TXMAS-6-36010. This proposal is being offered for your acceptance and is guaranteed for a period of 60 days.

We look forward to working with you and your staff throughout the successful incorporation of your new storage system. There will be many logistical considerations involved in this entire change and we understand them in a way that will minimize the time, trouble, and personnel involved.

If you have any questions or concerns, please feel free to call upon me at 972-250-1970. We appreciate the opportunity to serve you.

Sincerely,

Ray Streight
Partners in Storage Solutions



h-2

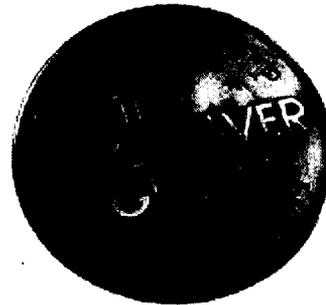
I. INSTALLATION/SERVICE

Once the site is prepared, our factory-trained local service technicians will work during normal working hours to complete the setup and installation of your new system. Our service representatives will maintain the equipment throughout the warranty and provide future service including parts if necessary.

II. CONFIDENCE COMPONENT

Southwest Solutions Group has multiple filing/storage installations locally that will verify the completeness, professionalism, and product quality of our systems. A few of these installations include:

Austin, City of
Bell County Government
Bexar County Government
Cameron, City of
Dallas, City of
Dallas County Government
Fort Hood
Harris County
Houston, City of
Lackland Air Force Base
Robertson County
San Antonio, City of
Giddings ISD
Round Rock ISD
Social Security Administration
Southern Methodist University
Tarrant County Government
Texas A & M University
TNRCC (new name TCEQ)
Texas Dept of Public Safety
Texas Tech University
Texas Dept of Transportation
Texas Wesleyan University
United States District Courts



THE
SPACESAVER
GROUP
HAS INSTALLED
OVER 50,000
UNITS IN
NORTH
AMERICA

...and over 6,000 other installations across Texas!

III. SCOPE OF WORK

By Southwest Solutions Group

- Expedite manufacturing to meet delivery schedules.
- All charges associated and incurred for manufacturing, freight, local delivery, installation, cleanup, staff training, and warranty.
- Complete turnkey installation services by factory certified technicians and training of staff.
- All delivery and installation to take place during normal business hours (8:00 a.m. to 5:00 p.m. / Monday - Friday) unless otherwise noted on the Proposal Page. If work is required outside of these hours, overtime rates will apply.
- Provide up to 2 weeks free storage at local warehouse. If additional storage time is needed due to delays in construction of new site additional warehouse storage charges will be accrued at the rate of \$2.75 per hundred pound weight per month.
- Personal coordinator to insure prompt installation of new equipment as well as coordinating manufacturing to meet delivery schedules.

By City of Plano

- Approve proposal page with signature and forward it to us with initial payment.
- Provide purchase order number when appropriate.
- Provide color selection of equipment.
- Provide a cleared work area where new system is to be constructed. If area is not precleared prior to installer's arrival, add \$34.00 per hour, per installer for area to be cleared or for stand by time while area is cleared by others.
- Transfer contents of existing system into new system unless option chosen to have movement of material handled by Southwest Solutions Group's moving teams.
- Pay all appropriate state and local sales tax as necessary.
- Provide verification through facility management or other certified engineer of floor's weight carrying capacity to properly hold equipment (floor load).
- If room dimensions differ from those provided in proposal, it is the responsibility of the client to inform Southwest Solutions Group at least 4 weeks prior to shipping time to delay shipment from factory.
- If construction delays occur, it is the responsibility of the client to inform Southwest Solutions Group at least 4 weeks prior to shipping time to delay shipment from factory.

By: Ray Streight

Approved by: _____

Date: _____

IV. PROPOSAL PAGE

City of Plano
David Hardin
2501 Coit Road

Plano, TX 75075

Date: October 23, 2008
Proposal #: PLALIB-1.pro
Terms: Per TXMAS Contract
F.O.B. Destination – Per TXMAS
Delivery: 6-8 weeks ARO, subject to change

Gemtrak Storage System Solution

To provide your facility with the storage/filing efficiencies you desire, we are recommending the incorporation of a Gemtrac System, which consists of the following:

Per Drawing PLALIB-1 :

- One Gemtrac unit 120" wide x 30 ¼" deep x 90" high
- Six Gemtrac units combined in one block 120" wide x 15'-3" deep x 90" high
- Each unit will be provided with 12 drawers and 21 shelves per drawer



Your Gemtrak unit is ISO-9001 certified which ensures the highest quality standards available

V. INVESTMENT DETAILS

Your investment includes all necessary design services, engineering, manufacturing, packaging, freight, inside delivery, unpackaging, installation by factory certified technicians, cleanup of area, removal of all debris, warranty, and everything necessary for a successful and complete installation.

Texas State Contract #TXMAS-6-36010

Total Not To Exceed Investment

\$ 84,603.87

Note: Above estimate is guaranteed for a period of sixty (60) days from the date of this proposal. Pricing will be subject to change after that period. The above estimate does not include applicable local or state sales tax.

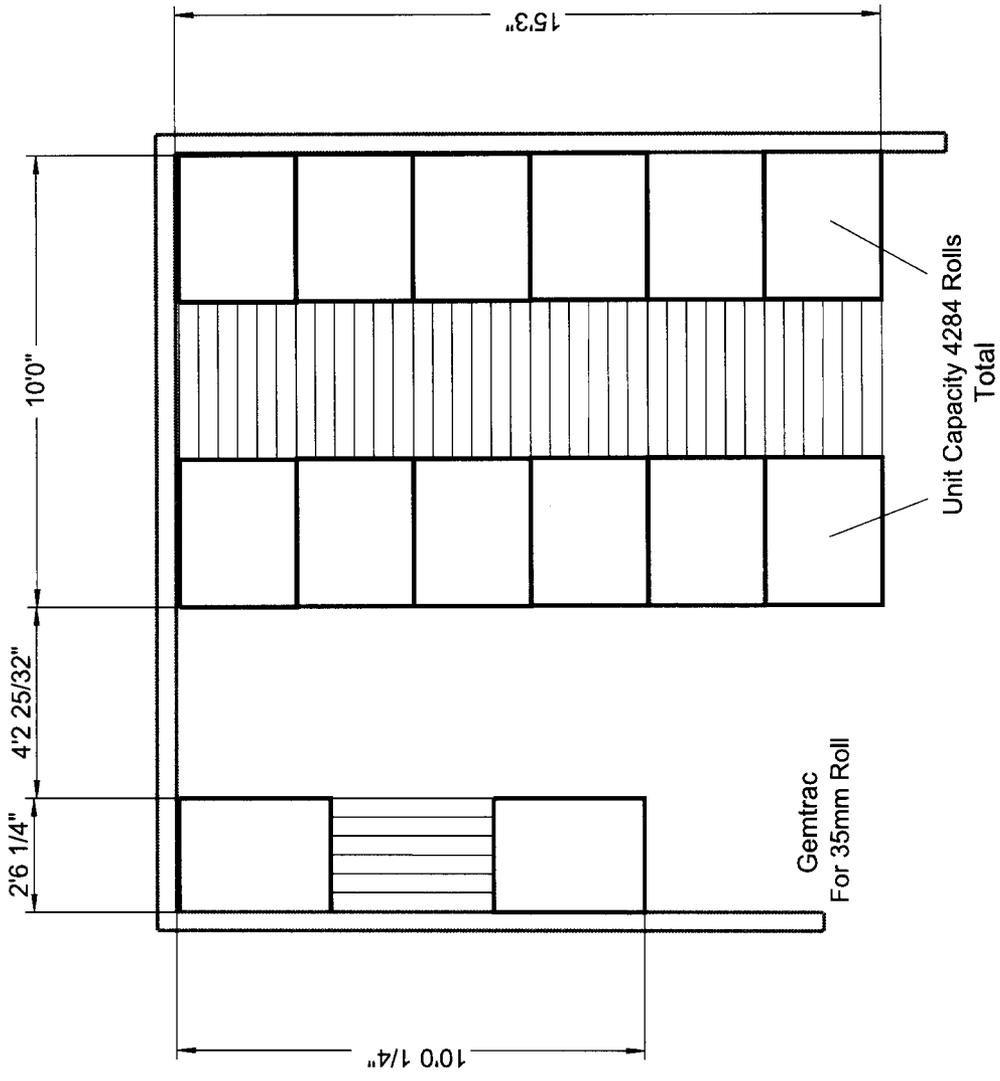
By: Ray Streight

Approved by: _____

Date: _____

4355 Excel Parkway, Suite 300 Addison, Texas 75001
Phone (972) 250-1970 Fax (972) 250-2229
www.southwestsolutions.com

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<p>SOUTHWEST SOLUTIONS GROUP <small>Business Organization Systems</small> Texas • Oklahoma • Kansas Arkansas • Mississippi • Tennessee Toll Free 1.800.433.1883 www.southwestsolutions.com</p>		Scale: 1/4" = 1' Printed Date: 04/25/2008 Drawing Number: PLALIB-1 Salesperson: Ray Straight	Sheet: 1 of 1 Drawn By: H Schnitzzius	Equipment Weight: 0 LBS Media Weight: 0.00 LBS Total Weight: 0 LBS Total Capacity: 0 LFI	Plano Public Library Genealogy Plano, TX
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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>MS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Technology Services		<i>INT</i>	Date
Department Head	David Stephens	Executive Director	<i>MS</i>	11-03-08
Dept Signature:	<i>David Stephens</i>	City Manager	<i>MS</i>	11/3/08
Agenda Coordinator (include phone #): Amy Powell ext. 7342				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER EXISTING CONTRACT				
CAPTION				
Approval of the purchase of a Premier Support Service contract in the amount of \$65,010.00 from Microsoft Corporation through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager or his designee to execute all necessary documents. (DIR-SDD-821)				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	2,599,143	
Encumbered/Expended Amount		0	-136,330	0
This Item		0	-65,010	
BALANCE		0	2,397,803	2,397,803
FUND(S):				
COMMENTS: Funds are included in the 2008-09 Technology Services adopted budget for the purpose of software support service and maintenance agreements. The remaining balance will be used for other maintenance agreements.				
STRATEGIC PLAN GOAL: Software support and service agreements relate to the City's Goal of "Service Excellence".				
SUMMARY OF ITEM				
Technology Services recommends Council approve an agreement with Microsoft Corporation through the Department of Information Resources, State of Texas (DIR) in an amount of \$ 65,010.00 for a premier support service contract to provide the City with critical Microsoft support. The City is authorized to purchase from the State Contract List pursuant to Section 271 Subchapter D of the Local Government Code, and by doing so satisfies any State Law requiring the local governments to seek competitive bids for the items. Contract # DIR-SDD-821.				
List of Supporting Documents: Staff Memo, Quote		Other Departments, Boards, Commissions or Agencies		

Interoffice Memo

Date: 10/22/08
To: David Stephens, Director Technology Services
Cc:
From: Chester M. Helt, Infrastructure Manager
RE: Microsoft Premier Support Contract

We propose renewing the Microsoft Premier Support contract with Microsoft Corp. through the Department of Information Resources with the State of Texas. Our contract is renewed for a total of \$ 65,010.00 and the DIR contract number is DIR-SDD-821. This support contract provides the City with critical Microsoft support. It includes a total of 80 hours of support assistance hours and a total of 120 hours of support for problem resolution support. The agenda item should have Microsoft's name on it with a referral to the DIR contract number.

*Microsoft Premier Support Services Description Schedule:
Fee and Named Contacts*

City of Plano, TX

***Pricing based on the Texas DIR contract DIR-SDD-821**

(Microsoft Affiliate to complete)
Premier Support Services Description Number
 (Microsoft Affiliate to complete)
Schedule Number

001216337

This Schedule is made pursuant to the Microsoft Premier Support Services Description identified above (the “**Services Description**”). The terms of the Services Description and applicable Exhibits are incorporated herein by this reference and by providing payment for the Services under this Schedule You agree to be bound by these terms. Any terms not otherwise defined herein will assume the meanings set forth in the Agreement and the Services Description.

Term
This Schedule will commence on <u>10/28/2008</u> (the “Commencement Date”) and will expire on <u>10/27/2009</u> (the “Expiration Date”).

- 1. PREMIER SUPPORT SERVICES AND FEES.** The quantities listed in the table below represent the amount of Services that You have pre-purchased for use during the term of this Schedule and applicable fees.

Description of Services – Main Contract	
• Support Account Management, Included	
• Up to 120 Hours for Problem Resolution Support, Included	
• Up to 80 Hours for Support Assistance, Included	
• Access to Premier Online Services, Included	
Total:	\$65,010

2. MICROSOFT CONTACT

Microsoft Contact: Contact for questions and notices about this Schedule and the Services Description:

Microsoft Contact Name:
Address: Microsoft Corporation (Attn: Robert Van Meter) _____ 7000 N. SH 161 LC-1/3761 _____ Irving, TX 75039 _____
Phone: 469-775-7048
Email: robvme@microsoft.com
Facsimile: 425-708-0154

3. Customer Named Contacts

CSM Name:	Named Contact Name:
Address: _____ _____	Address: _____ _____
Phone: ()	Phone: ()
Email:	Email:
Facsimile: ()	Facsimile: ()

Named Contact Name:	Named Contact Name:
Address: _____ _____	Address: _____ _____
Phone: ()	Phone: ()
Email:	Email:
Facsimile: ()	Facsimile: ()



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Engineering		Initials	Date	
Department Head	Alan L. Upchurch		Executive Director	<i>RA</i> 10-29-08	
Dept Signature:	<i>Alan L. Upchurch</i>		City Manager	<i>JMU</i> 10/29/08	
Agenda Coordinator (include phone.#):		Pegues (7198)	(Project No. 5923)		

ACTION REQUESTED:

<input type="checkbox"/> ORDINANCE	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> CHANGE ORDER	<input type="checkbox"/> AGREEMENT
<input type="checkbox"/> APPROVAL OF BID	<input checked="" type="checkbox"/> AWARD OF CONTRACT	<input type="checkbox"/> OTHER	

CAPTION

Approval of contract to approve the terms and conditions of an engineering services contract by and between the City and Hayden Consultants, Inc., in the amount of \$129,836 for the 17th Street and R Avenue Reconstruction project and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	130,000	800,000	930,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-129,836	0	-129,836
BALANCE	0	164	800,000	800,164

FUND(S): STREET IMPROVEMENT CIP

COMMENTS: Funds are included in the 2008-09 Street Improvement CIP. This item, in the amount of \$129,836, will leave a current year balance of \$164 for the 17th Street/R Ave Reconstruction project.

STRATEGIC PLAN GOAL: Engineering design services for street construction relates to the City's goal of Safe, Efficient Travel.

SUMMARY OF ITEM

This agreement with Hayden Consultants, Inc., is for engineering design for the 17th Street and R Avenue Reconstruction project. The contract fee is for \$129,836.00 and is detailed as follows:

Survey	\$9,500.00
Preliminary design	\$58,750.00
Pre-final design	\$42,425.00
Final design	\$8,750.00
Bid phase services	\$3,400.00
Construction administration	\$5,500.00
Reimbursables	\$1,511.00

TOTAL \$129,836.00

Funding is available from the Street Improvement Community Investment Program. Staff feels the fee is



**CITY OF PLANO
COUNCIL AGENDA ITEM**

reasonable for this project estimated to cost \$1,450,000.00.

List of Supporting Documents:
Engineering Services Agreement
Location Map

Other Departments, Boards, Commissions or Agencies
N/A

17TH STREET AND R AVENUE RECONSTRUCTION

PROJECT NO. 5923

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **HAYDEN CONSULTANTS, INC.**, a **TEXAS** Corporation, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **17TH STREET AND R AVENUE RECONSTRUCTION** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

WHEREAS, the Engineer desires to render such engineering services for the City upon the terms and conditions provided herein.

NOW, THEREFORE, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. Employment of the Engineer

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.

II. Scope of Services

The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City.

III. Schedule of Work

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the

reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

IV. Compensation and Method of Payment

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

V. Information to be Provided by the City

The City agrees to furnish, prior to commencement of work, all that information requested by Engineer and available in City's files.

VI. Insurance

Engineer agrees to meet all insurance requirements, and to require all consultants who perform work for Engineer to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

VII. Indemnity

Engineer shall release, defend, indemnify and hold City and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by Engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of Engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Engineer is legally responsible (hereinafter "Claims"). Engineer is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to approve defense counsel to be retained by Engineer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. 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 Engineer's obligation to defend City or as a waiver of Engineer's obligation to indemnify City pursuant to this Agreement. Engineer shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification

under this Agreement. If Engineer fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City.

VIII. Independent Contractor

Engineer covenants and agrees that Engineer is an independent contractor and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

IX. Assignment and Subletting

The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

X. Audits and Records/Prohibited Interest

The Engineer agrees that at any time during normal business hours and as often as City may deem necessary, Engineer shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

XI. Contract Termination

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

XII. Engineer's Opinion of Probable Construction Costs

The parties recognize and agree that any and all opinions of probable construction costs prepared by Engineer in connection with the Project represent the best judgment of Engineer as a design professional familiar with the construction industry, but that the Engineer does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Engineer.

XIII. Ownership of Documents

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

XIV. Complete Contract

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XV. Mailing of Notices

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano
Engineering Department
P.O. Box 860358
Plano, TX 75086-0358

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

Hayden Consultants, Inc.
5646 Milton, Suite 515
Dallas, TX 75206
Attn: James Allen

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract 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.

C. Venue/Governing Law:

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas.

D. Successors and Assigns:

City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

E. Severability:

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

F. Effective Date:

This Agreement shall be effective from and after execution by both parties hereto.

SIGNED on the date indicated below.

HAYDEN CONSULTANTS, INC.
A Texas Corporation

DATE: _____

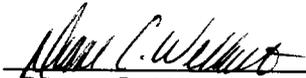
BY: _____
Rachel R. Hayden, P.E.
PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:



Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2008, by **RACHEL R. HAYDEN, P.E., PRESIDENT**, of **HAYDEN CONSULTANTS, INC.**, a 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 _____, 2008, by **THOMAS H. MUEHLENBECK, CITY MANAGER**, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

**EXHIBIT A
SCOPE OF SERVICES**

**17TH STREET AND AVENUE R RECONSTRUCTION
PROJECT NUMBER 5923
CIP NUMBER(S)**

PROJECT DESCRIPTION:

The design and preparation of construction plans for the replacement of the existing pavement, drive approaches, sidewalks, water mains and appurtenances and sanitary sewer along the following streets within the City of Plano:

- 17th Street – from Avenue P to Avenue R
- Avenue R – from 17th Street to 18th Street

Design will include possible storm sewer improvements, erosion control plans and ADA improvements

BASIC SERVICES:

A. Design Standards

1. This project shall be designed in accordance with the following:

Geodetic Monumentation Manual

Manual for Right-of-Way Management

Storm Drainage Design Manual

Stream Bank Stabilization Manual

Erosion & Sediment Control Manual

Thorough Fare Standards Rules & Regulations

Manual for the Design of Water & Sanitary Sewer Lines

Standard Construction Details

Barrier Free Ramp Details

NCTCOG Standard Specifications for Public Works Construction

Special Provisions to Standard Specifications for Public Works Construction

Sample Plan Set

2. All plans submitted to the City shall be signed and sealed in accordance with state law.

B. Research and Data Collection –

1. Meet with City of Plano engineering staff and obtain design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project area.
2. Meet with the City of Plano project manager and conduct an on-site review and walk through.

C. Design Survey –

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, buildings, fence lines, trees 4-inches in diameter and larger, edges of pavements and all other visible surface features to the project control baseline. Existing utility structures shall be located and referenced by utility name (i.e. T.U. Elec., GTE Telephone, Lone Star Gas, Etc.).
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), and other improvements as needed within the project areas for the design.
5. Provide roadway cross sections at a fifty-foot (50') interval relative to the project baseline. Cross sections are for project design review and quantity takeoffs and may not be a part of the final construction plan set.
6. Perform field surveying to establish ground control for the aerial photography of the project area.
7. Perform aerial flight for photography of project area.
8. When underground utilities are exposed, tie to project control baseline.
9. Identify the street address of all adjacent properties to the proposed construction and show on drawings.

D. Preliminary Design –

1. Prepare preliminary construction plans. Prepare the following sheets at the engineering scale indicated:
 - Cover sheet.
 - Project layout control sheet(s). Scale 1"= 100'.
 - Quantity sheet.
 - Typical sections and detail sheets.

- Construction phasing and temporary traffic control sheets, including temporary traffic signals. Scale 1"= 100'.
- Paving plan & profile sheets for street improvements. Scale 1"= 20'.
- Drainage area maps for street improvements. Scale 1"= 100'.
- Storm drain improvement plan & profile sheets. Scale 1"= 20'.
- SWPPP sheets meeting EPA and City of Plano requirements. Scale 1"= 40'.

Information required can be combined on sheets if the information can be clearly shown and is approved by the City of Plano project manager.

1. On rehabilitation projects, verify that the existing streetlights meet our coverage requirements.
2. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities.
3. Prepare outline of any special technical specifications needed for the project (if any).
4. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
5. Submit four sets of preliminary plans, outline of special technical specifications and preliminary statement of probable construction cost to the City for review.
 - Engineering
 - Public Works
 - Inspectors
 - Transportation
 - Parks
 - Other
6. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.
7. Distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.

E. Final Design –

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Show location of street light bases, pull boxes and conduit on paving plans based on City design.
4. Finalize construction plans for proposed improvements.
5. Finalize special technical specifications and special conditions (if any).

6. Incorporate standard details into the construction plans and prepare additional details as required.
7. Take off final construction quantities and prepare final construction cost estimates.
8. Submit two sets of pre-final plans, special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
9. Incorporate City final comments into the plans and bid documents.
10. Submit three sets of final blue line prints, three bound copies of the bid documents and one unbound original bid document set to the City of Plano.
11. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities.

F. Bid Phase Services –

1. Assist the City staff in advertising for bids.
2. Furnish plans and specifications for bidding. Cost for these to be recouped by non-refundable deposit from contractors. Maintain a list of plan holders.
3. Furnish plans and bid documents for up to four plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
4. Assist City staff in conducting a pre-bid conference, if required.
5. Prepare and distribute addenda to bid documents as necessary.
6. Assist City staff as required in bid opening. Submit list of plan holders to the City, 48-hours prior to the bid letting.
7. Submit a CD-ROM disk of the bid set plans in a PDF format.
8. Provide bid tabulation to the City of Plano within four working days of the bid letting.
9. Evaluate the low and second low bidders. Prepare letter of recommendation to the City of Plano for awarding a contract to the lowest responsible bidder within four working days of the bid letting.
10. Assist City staff in a pre-construction conference.
11. Furnish thirteen sets of final construction plans and three sets of the contract documents manual to the City for construction.

G. Construction Administration –

1. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one blackline set to the City and a CD-ROM disk containing scanned images of the 24" x 36" final "as constructed" blackline drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum

resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

Services not Included in this Contract

1. The Engineer will not provide any design for relocation of utilities for the project.
2. The Engineer will not perform construction staking.
3. Easements will not be prepared.
4. The Engineer will not provide any site visits during the course of construction.
5. No geotechnical investigation will be performed

City of Plano Alley Project; Project No 5923; CIP No #####						
	17th Street	Avenue R				
	Quantity	Quantity	Total	Unit	\$/Unit	Total Cost
DEMO						
Removal and disposal of existing roadway	6800	2600	9400	SY	\$5.75	\$54,050
Removal and disposal of existing driveway	550	50	600	SY	\$5.75	\$3,450
Removal and disposal of existing sidewalk	9200	6600	15800	SF	\$2.50	\$39,500
Removal and disposal of existing curb	3000	1650	4650	LF	\$2.50	\$11,625
Excavation	2500	1000	3500	CY	\$10.00	\$35,000
Fill	250	100	350	CY	\$15.00	\$5,250
PAVING						
Lime	135	55	190	TON	\$100.00	\$19,000
6" Lime Stabilized Subgrade	7150	2800	9950	SY	\$2.00	\$19,900
6" Reinforced Conc Pavement (Roadway)	6800	2600	9400	SY	\$52.00	\$488,800
5" Reinforced Conc Pavement (Driveway)	550	50	600	SY	\$38.00	\$22,800
6" Concrete Curb	3000	1650	4650	LF	\$10.00	\$46,500
4' Wide Sidewalk, 4" thick	12560	6600	19160	SF	\$5.00	\$95,800
Barrier Free Ramp	6	2	8	EA	\$850.00	\$6,800
Traffic Handling			9	MO	\$2,000.00	\$18,000
STORM SEWER						
10' Curb Inlets	4	2	6	EA	\$3,000.00	\$18,000
24" RCP Storm Sewer	800	450	1250	LF	\$72.00	\$90,000
WATER/WASTEWATER						
8" Water	1700	850	2550	LF	\$44.00	\$112,200
6" Gate Valve	4	1	5	EA	\$1,000.00	\$5,000
8" Gate Valve	6	3	9	EA	\$1,250.00	\$11,250
Fire Hydrant	4	1	5	EA	\$500.00	\$2,500
Adjust Water Lateral	23	38	61	EA	\$200.00	\$12,200
8" Wastewater	300	910	1210	LF	\$44.00	\$53,240
4' Dia. Manhole	1		1	EA	\$2,500.00	\$2,500
Adjust Wastewater Lateral	23	38	61	EA	\$150.00	\$9,150
SW3P						
Organic Filter Tube	500	250	750	LF	\$5.00	\$3,750
Inlet Protection	4	2	6	EA	\$1,000.00	\$6,000
LANDSCAPE						
Seeding/Sodding	2200	1100	3300	SY	\$5.00	\$16,500
SUBTOTAL						\$1,208,765
CONTINGENCY						20%
TOTAL ESTIMATED CONSTRUCTION COST:						\$1,450,518

EXHIBIT B

SCHEDULE OF WORK

**17th STREET AND AVENUE R ROADWAY RECONSTRUCTION
17TH STREET FROM AVENUE P TO AVENUE R
AVENUE R FROM 17TH STREET TO 18TH STREET**

PROJECT NUMBER: 5923

CIP NUMBER:

Activity	Duration (Calendar Days)
Notice to Proceed	<i>City</i>
Investigation and Preliminary Design	
Site Investigation, Gather Plans, Topographic Survey	4 weeks
Develop existing base plans	1 week
Preliminary Construction Plans	4 weeks
- Cover, Quantity, Legend and General Notes	
- Dimensional Control Sheet	
- Demolition Sheets	
- Horizontal/Vertical Roadway Alignment Design	
- Horizontal/Vertical Water/Wastewater Design	
- Drainage Area Map	
- Horizontal/Vertical Storm Sewer Design	
- SWPPP Design	
- Cross Section Sheets	
Preliminary QA/QC	1 week
Preliminary Design Submittal	1 day
City Preliminary Review	2 weeks
Prefinal Design	
Incorporate Preliminary Review Comments, Preliminary Utility Coordination	2 week
Pre-Final construction plans, Utility Coordination	2 week
- Typical sections	
- Miscellaneous Detail Sheets	
Pre-Final Opinion of Probable Construction Costs, Pre-Final Technical Specifications, Prefinal QA/QC	1 week

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	Pre-Final Design Submittal	1 day
	City Pre-Final Review (and review with HOA/ Home Owner)	2 weeks
	Final Design	
	Incorporate Pre-Final Review Comments	1 week
	Final Construction Plans, Final Opinion of Probable Construction Costs, Final QA/QC	2 week
	Final Design Submittal	1 day
	City Final Review	1 week
	Distribute Final Plans to Utilities	1 week
	Bidding and Negotiations	City
	Advertise Bids	City
	Recommendation	1 week
	Council Award	City
	Execute Contract, Preconstruction Conference, Notice to Proceed	1 week
	Construction Administration	City
	Submittal Review/FRI Responses	City
	Site Visits	City
	Final Walkthrough and Punch List	City
	Create Record Drawings	1 week

EXHIBIT C

PAYMENT SCHEDULE

**17TH STREET AND AVENUE R ROADWAY RECONSTRUCTION
17TH STREET FROM AVENUE P TO AVENUE R
AVENUE R FROM 17TH STREET TO 18TH STREET**

PROJECT NUMBER: 5923

CIP NUMBER:

(All fees "Not to Exceed" without prior approval)

WORK STAGE SUBMITTAL OR COMPLETION	FEE AMOUNT
BASIC SERVICES	
A. Investigation and Preliminary Design	\$ 58,750.00
B. Pre-Final Design	\$ 42,425.00
C. Final Design	\$ 8,750.00
D. Bid Phase Services	\$ 3,400.00
E. Construction Administration	\$ 5,500.00
BASIC SERVICES SUBTOTAL	\$ 118,825.00
SUBCONSULTANT SERVICES	
F. Design Survey	\$ 9,500.00
SUBCONSULTANT SERVICES SUBTOTAL	\$ 9,500.00
REIMBURSIBLE EXPENSES(Include TDLR Review & Inspection)	\$ 1511.00
TOTAL FEE	\$ 129,836.00

EXHIBIT "D"

ENGINEERING

INSURANCE

INSURANCE: (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

1. General Insurance Requirements:

- 1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

NOTE: The words "endeavor to" and "but failure to mail such notice shall impose no obligation to liability of any kind upon the company, its agents or representatives" are to be eliminated from the cancellation provision of standard ACORD certificates of insurance.

- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
 - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. Engineer's Insurance - "Occurrence" Basis:

- 2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
 - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
 - i. General aggregate limit is to apply per project;
 - ii. Premises/Operations;
 - iii. Actions of Independent Contractors;
 - iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;
 - v. Personal Injury Liability including coverage for offenses related to employment;
 - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.
 - 2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

2.2 Professional Errors and Omissions

The Engineer shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	<u>\$500,000</u> combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input checked="" type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim and aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____ BI & PD each occurrence

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EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **HAYDEN CONSULTANTS, INC.**, (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.

HAYDEN CONSULTANTS, INC.
Name of Consultant

By: _____
Signature

RACHEL R. HAYDEN, P.E.
Print Name

PRESIDENT
Title

Date

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2008.

Notary Public, State of Texas

j-24



17th Street and
Avenue R
Reconstruction
1 inch equals 532 feet

910
455
0
Feet



September 2006

Williams H.S.
17th St.
Ave. R
18th St.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering	Initials	Date	
Department Head	Alan L. Upchurch	Executive Director	10.31.08	
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	
Agenda Coordinator (include phone #):		Irene Pegues (7198)	Project No.5629	
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input checked="" type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
To Tiseo Paving Company, increasing the contract by \$80,229, for the Parkwood Boulevard Widening Park Boulevard to Spring Creek Parkway, Change Order No. 1. (Original Bid No. 2007-208-B)				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years
Budget		3,020,844	1,399,156	0
Encumbered/Expended Amount		-3,020,844	-1,228,936	0
This Item		0	-80,229	0
BALANCE		0	89,991	0
FUND(S): STREET IMPROVEMENT CIP & WATER CIP				
COMMENTS: Funds are included in the 2008-09 Street Improvement CIP & Water CIP. This item, in the amount of \$80,229, will leave a current year balance of \$89,991 for the Parkwood – Park to Spring Creek and Parkwood – Windhaven to Spring Creek projects.				
STRATEGIC PLAN GOAL: Street and water line construction relates to the City's Goals of Safe, Efficient Travel and Livable and Sustainable Community.				
SUMMARY OF ITEM				
This change order is for revising the scope of work to include the construction of two right turn lanes on Spring Creek Parkway and other items necessary to construct the project.				
Staff recommends approval of Change Order No. 1. The contract total will be \$4,226,219.61, which includes change orders of 1.94% of the original contract amount of \$4,145,990.86.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Change Order No. 1		N/A		
Location Map				

CHANGE ORDER NO. 1

**PARKWOOD BOULEVARD WIDENING
PARK BOULEVARD TO SPRING CREEK
PROJECT NO. 5629
PURCHASE ORDER NO. 103382
CIP NO. 31449 & 68183
BID NO. 2007-208-B**

A. INTENT OF CHANGE ORDER

The intent of this change order is to modify the provisions of the contract entered into by the **CITY OF PLANO, TEXAS**, and **TISEO PAVING COMPANY**, for the **PARKWOOD BOULEVARD WIDENING PARK BOULEVARD TO SPRING CREEK PROJECT**, dated **OCTOBER 22, 2007**.

B. DESCRIPTION OF CHANGE

The change order is for additional right turn lanes on Spring Creek Parkway and other work necessary to complete the project.

CONTINUED ON NEXT PAGE

C. EFFECT OF CHANGE

This change order will have the following effect on the cost of this project:

ITEM NO.	ITEM DESCRIPTION	ORIGINAL QUANTITY	REVISED QUANTITY	UNIT	UNIT PRICE	AMOUNT OF CHANGE
2	ROW Preparation	49	52.7	STA	\$360.00	\$1,332.00
3	Unclassified Street Excavation	21,052	21,309	CY	\$5.75	\$1,477.75
4	Concrete sawcut	18726	19466	LF	\$3.50	\$2,590.00
5	Remove&recycle concrete	6131	6296	SY	\$5.40	\$891.00
6	Remove&recycle sidewalk	1530	1700	SF	\$0.40	\$68.00
7A	Adjust MTMWD manhole	0	1	EA	\$3,560.00	\$3,560.00
16	10 inch concrete	3210	4019	SY	\$37.00	\$29,933.00
18	8 inch concrete	39799	40059	SY	\$23.85	\$6,201.00
24	Median nose	43	47	EA	\$750.00	\$3,000.00
25	Landscape ramp	23	25	EA	\$300.00	\$600.00
26	Street header	2026	2088	LF	\$10.00	\$620.00
27	Longitudinal joint	16752	17452	LF	\$5.00	\$3,500.00
29	Street light foundation	27	30	EA	\$952.00	\$2,856.00
31	10-foot recessed inlet	9	10	EA	\$2,450.00	\$2,450.00
31A	20-foot recessed inlet	0	1	EA	\$6,200.00	\$6,200.00
34	Remove&salvage fire hydrant	9	10	EA	\$975.00	\$975.00
52	Fire hydrant	25	26	EA	\$2,675.00	\$2,675.00
63A	21" RCP	0	20	LF	\$47.50	\$950.00
85	Ditch excavation	21608	22657.18	CY	\$3.05	\$3,200.00
53B	20" blind flange tee	1	0	EA	\$6,100.00	-\$6,100.00
53E	8" blind flange tee	0	1	EA	\$3,050.00	\$3,050.00
54A	Blow off to 54" RCP	0	1	EA	\$3,565.00	\$3,565.00
54B	Blow off to 24" RCP	0	1	EA	\$3,170.00	\$3,170.00
56A	Sanitary sewer drop connection	0	1	EA	\$3,050.00	\$3,050.00
109	Ground box - Ty II	1	2	EA	\$415.00	\$415.00
	TOTAL:					\$80,228.75

Original Contract Amount	<u>\$ 4,145,990.86</u>
Contract Amount (Including Previous Change Orders)	<u>\$ 4,145,990.86</u>
Amount, Change Order No. 1	<u>\$ 80,228.75</u>
Revised Contract Amount	<u>\$ 4,226,219.61</u>
Total Percent Increase Including Previous Change Orders	<u>1.94%</u>

D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order will add **30** day(s) to this project:

Original Contract Time	<u>200 working days</u>
Amount (Including Previous Change Orders)	<u>200 working days</u>
Amount, Change Order No. 1	<u>30 working days</u>
Revised Contract Time	<u>230 working days</u>
Total Percent Increase Including Previous Change Orders	<u>15.00%</u>

E. AGREEMENT

By the signatures below, duly authorized agents of the **CITY OF PLANO, TEXAS**, and **TISEO PAVING COMPANY**, do hereby agree to append this Change Order No. 1 to the original contract between themselves, dated OCTOBER 22, 2007.

OWNER: CITY OF PLANO

**CONTRACTOR: TISEO PAVING
COMPANY**

By: _____
(signature)

By: _____
(signature)

Print
Name: THOMAS H. MUEHLENBECK

Print
Name: ROBERT CAUDILL

Print
Title: CITY MANAGER

Print
Title: VICE PRESIDENT

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Diane C. Wetherbee, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2008, by **ROBERT CAUDILL, VICE PRESIDENT** of **TISEO PAVING COMPANY**, a Texas corporation, on behalf of said corporation.

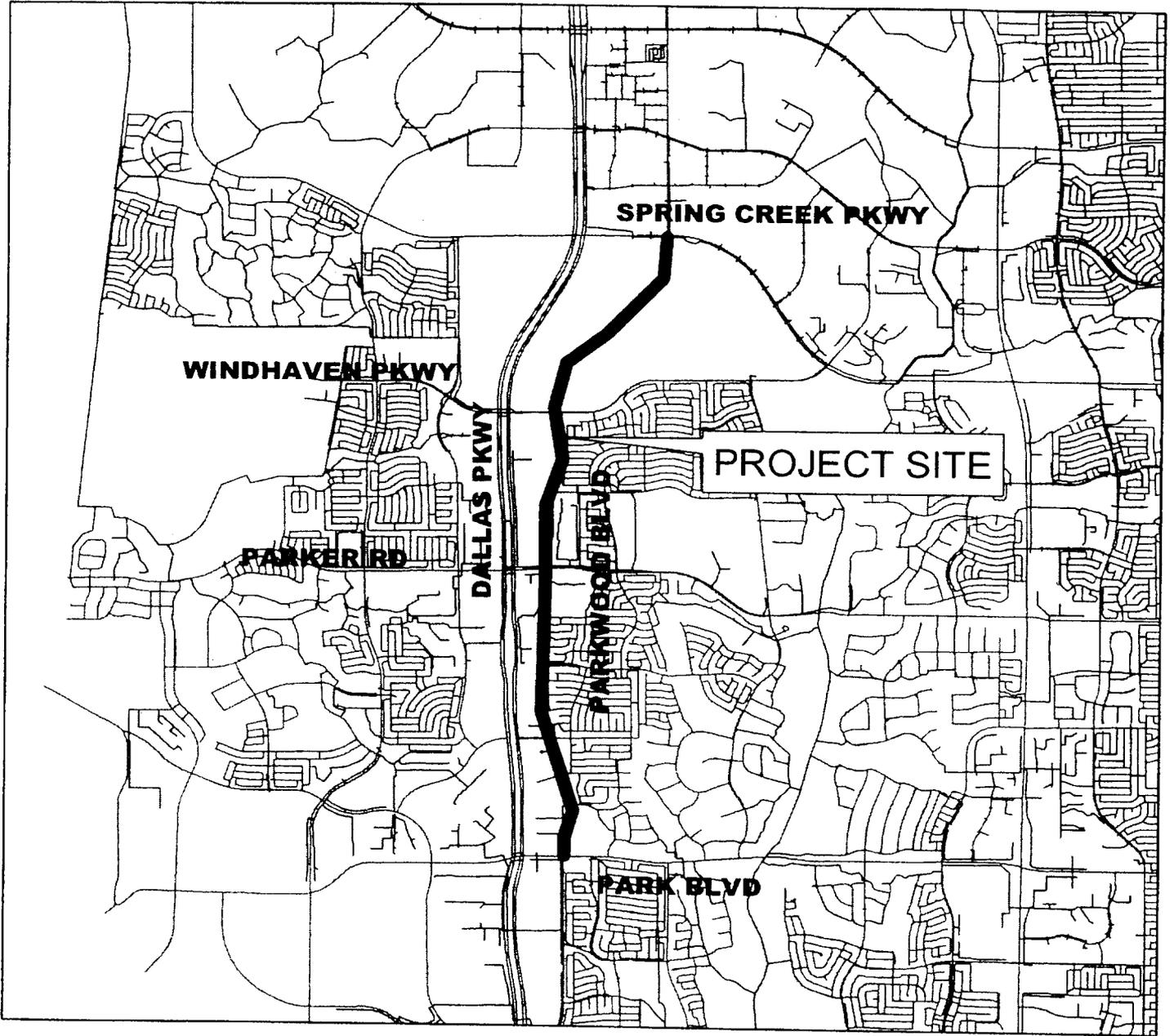
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

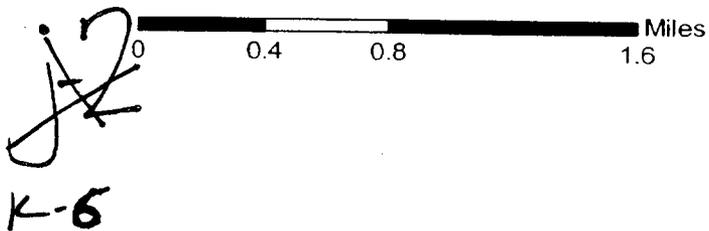
This instrument was acknowledged before me on the _____ day of _____, 2008, by **THOMAS H. MUEHLENBECK, CITY MANAGER** of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

**PARKWOOD BLVD.
WIDENING - PARK TO SPRING CREEK
PROJECT NO. 5629**



**CITY OF PLANO
ENGINEERING DEPARTMENT**





**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Council Meeting Date:	11/10/08	Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Engineering		<i>initials</i>	Date	
Department Head	Alan L. Upchurch	Executive Director	<i>initials</i>	11.03.08	
Dept Signature:	<i>Alan Upchurch</i>	City Manager	<i>initials</i>	11/13/08	
Agenda Coordinator (include phone #):		Irene Pegues (7198)	Project No. 5814		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input checked="" type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
To Birkhoff, Hendricks and Conway, LLP, increasing the professional services contract by \$114,600 for the Mapleshade Lift Station and Sewer Line Project.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		165,624	3,534,376	500,000	4,200,000
Encumbered/Expended Amount		-165,624	-9,621	0	-175,245
This Item		0	-114,600	0	-114,600
BALANCE		0	3,410,155	500,000	3,910,155
FUND(S): SEWER CIP					
COMMENTS: Funds are included in the 2008-09 Sewer CIP. This item, in the amount of \$114,600, will leave a current year balance of \$3,410,155 for the Mapleshade Station & Gravity Line project.					
STRATEGIC PLAN GOAL: Additional engineering design services for lift station and sewer line improvements relate to the City's Goals of Livable and Sustainable Community.					
SUMMARY OF ITEM					
Additional design services are required for additional engineering for a new lift station location and additional sewer lines. The contract name is being changed to reflect the new lift station location.					
The original contract amount was \$197,600.00. The Engineering Department is seeking City Council approval of this first modification because the amount of the modification exceeds \$25,000.00. The revised contract amount is \$312,200.00.					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Contract Modification		N/A			
Location Map					

**CONTRACT MODIFICATION
MAPLESHADE LIFT STATION AND SEWER LINE
PROJECT NO. 5814**

**PURCHASE ORDER NO. 103273
CIP NO. 34-48896**

This shall serve as the First Modification to the Contract between the City of Plano, Texas (hereinafter "City"), and Birkhoff, Hendricks & Conway, L.L.P. (hereinafter "Consultant"), dated June 4, 2007, for Professional Engineering Services for the referenced project (hereinafter "Project").

Services:

This Modification amends the scope of services as originally set forth in the contract as follows:

1. Deletes the replacement of the two packaged lift stations.
2. Adds the preparation plans, specifications and Proposal and Bid Schedule for the new Mapleshade Lift Station, which will combine the Ohio North, Ohio South and Highlands Lifts Stations and handle the projected wastewater flows south of Plano Parkway and within the natural drainage basin. The capacity of the lift station shall be 7.50 million gallons per day. Station will include emergency generation.
3. Delete the gravity line between Ohio and Highlands Lift Station and add a gravity line from Ohio Lift Station to the Mapleshade Lift Station and add a gravity line from the Highlands Lift Station to the Mapleshade Lift Station. The gravity mains shall be 18 and 21 inches in diameter and have an overall length of approximately 6,054 linear feet.
4. Include the design for the Mapleshade Force Main from the Mapleshade Lift Station to the White Rock Force Main. The force main shall be 18 inches in diameter and have a length of approximately 1,975 linear feet.
5. The project will be bid in two parts the Lift Station including Force Main and Gravity Main to Mapleshade Drive and the second project will be the remainder of the Force Main and the remaining portion of the Gravity mains from the Highlands and Ohio lift stations.
6. Changes the name of the project from Highlands Lift Station and Sewer Line to Mapleshade Lift Station and Sewer Line.

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MODIFICATION NO. 1
Mapleshade Lift Station and Sewer Line - Project No. 5814
Page 2 of 3

Compensation:

For services provided pursuant to this Modification, City shall pay Consultant \$114,600. In the event of any conflict or inconsistency between the provisions set forth in this Modification and the Contract, this Modification shall govern and control. For and in consideration of the covenants, duties and obligations herein contained, the parties do mutually agree that except as provided above, all other terms and conditions of the Contract shall remain unchanged and in full force and effect.

Original Contract Amount	\$ 197,600.00
Contract Amount (Including Previous Modifications)	\$ 197,600.00
Amount, Modification No. 1	\$ 114,600.00
Revised Contract Amount	<u>\$ 312,200.00</u>
Total Percent Increase Including Previous Modifications	58.0%

CITY OF PLANO	BIRKHOFF, HENDRICKS & CONWAY, L.L.P.
_____ <i>OWNER</i>	_____ <i>CONSULTANT</i>
By: _____ (signature)	By: _____ (signature)
Print Name: Thomas H. Muehlenbeck	Print Name: John W. Birkhoff, P.E.
Print Title: City Manager	Print Title: Managing Partner
Date: _____	Date: _____

APPROVED AS TO FORM:

By: *Diane C. Wetherbee*
Diane C. Wetherbee, City Attorney

MODIFICATION NO. 1
Mapleshade Lift Station and Sewer Line - Project No. 5814
Page 3 of 3

ACKNOWLEDGMENTS

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on the _____ day of _____, 2008, by **John W. Birkhoff, P.E., Managing Partner, of Birkhoff, Hendricks & Conway, L.L.P.**, a Texas limited liability partnership, on behalf of said limited liability partnership.

Notary Public, State of Texas

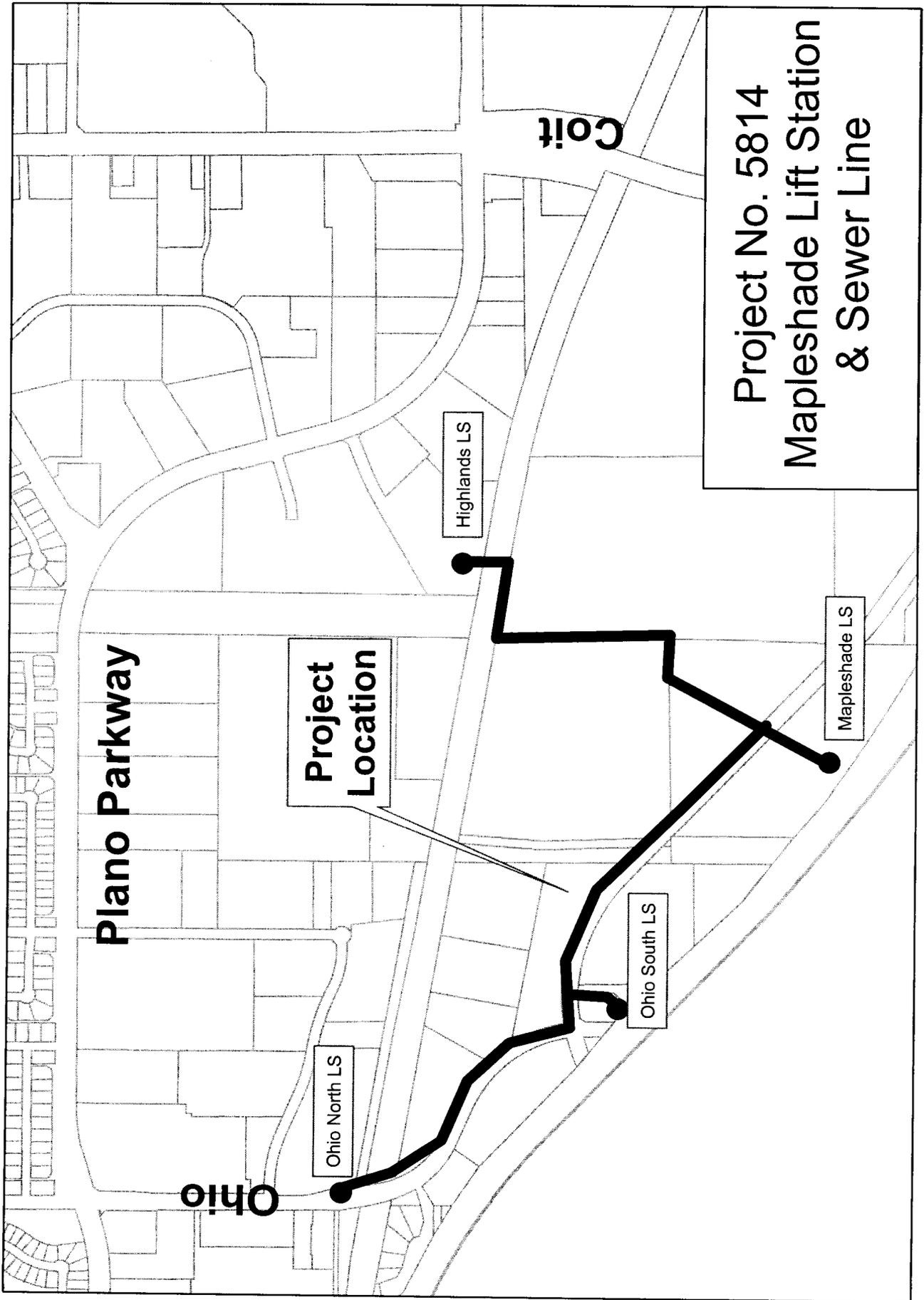
STATE OF TEXAS

COUNTY OF COLLIN

This instrument was acknowledged before me on the _____ day of _____, 2008, by **Thomas H. Muehlenbeck, City Manager of the City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said Municipal Corporation.

Notary Public, State of Texas

l-4



Project No. 5814
Mapleshade Lift Station
& Sewer Line



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal <i>(initials)</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering		<i>(initials)</i>	Date
Department Head	Alan L. Upchurch	Executive Director		11.03.08
Dept Signature:	<i>(Signature)</i>	City Manager		11.3.08
Agenda Coordinator (include phone #): Irene Pegues (7198)				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
Approving the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for the Widening of Alma Drive from Spicewood Drive to Rowlett Creek; authorizing its execution by the City Manager, or in his absence an Executive Director; and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	400,000	0
BALANCE		0	400,000	0
FUND(S): STREET IMPROVEMENTS				
COMMENTS: This item allows the City to enter into an interlocal agreement with Collin County for the Alma – Spicewood to Rowlett Creek project. If this request is approved, Collin County will remit to the City \$400,000 for widening of Alma – Spicewood to Rowlett Creek.				
STRATEGIC PLAN GOAL: Interlocal agreements for street improvements relate to the City's Goal of Safe, Efficient Travel.				
SUMMARY OF ITEM				
This Agreement provides for Collin County to reimburse the City of Plano for one half the cost of widening Alma Drive from Spicewood Drive to Rowlett Creek, up to \$400,000. Half the funds will be provided when the Notice to Proceed is issued and the remaining half when the project is half completed. These funds are from the 2003 Collin County Bond Program.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Interlocal Agreement		N/A		
Location Map				

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY, TEXAS, PROVIDING FOR THE WIDENING OF ALMA DRIVE FROM SPICEWOOD DRIVE TO ROWLETT CREEK; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Plano, Texas, and Collin County, Texas, providing terms and conditions for the Widening of Alma Drive from Spicewood Drive to Rowlett Creek, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

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

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

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

Section II. The City Manager, or in his absence an Executive Director, 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 the _____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING THE WIDENING OF ALMA DRIVE
FROM SPICEWOOD DRIVE TO ROWLETT CREEK**

2003 Collin County Bond Project #03-64 BOND PROJECT

WHEREAS, the County of Collin, Texas ("County"), and the City of Plano, Texas ("City"), desire to enter into an agreement concerning the Widening of Alma Drive from Spicewood Drive to Rowlett Creek (the "Project"), in Plano, Collin County, Texas; and

WHEREAS, the 2003 Collin County Bond Program includes the Widening of Alma Drive from Spicewood Drive to Rowlett Creek, Project #03-64, with County allocation of \$400,000.00; and

WHEREAS, the Interlocal Cooperation Act (Texas Government Code Chapter 791) authorizes any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, the City and County have determined that the improvements may be constructed most economically by implementing this agreement.

NOW, THEREFORE, this agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

WITNESSETH:

ARTICLE I.

The City shall arrange to construct the Widening of Alma Drive to a six-lane divided thoroughfare from Spicewood Drive to Rowlett Creek. The project will widen Alma Drive to a six-lane divided thoroughfare, a total distance of approximately 4,000 feet. The improvements shall also include construction of underground storm sewers as part of the road improvements. All improvements shall be designed to meet or exceed the current Collin County design standards and shall be constructed in accordance with the plans and specifications approved by the City.

ARTICLE II.

The City shall prepare plans and specifications for the improvements, accept bids and award a contract to construct the improvements and administer the construction

m-4

contract. In all such activities, the City shall comply with all state statutory requirements. The City shall provide the County with a copy of the executed construction contract(s) for the Project.

ARTICLE III.

The City will acquire no real property in the vicinity of the improvements for use as right-of-way.

ARTICLE IV.

The City estimates the total actual cost of the project to be \$950,000. The County agrees to fund one half of the total cost to construct the improvements in an amount not to exceed \$400,000. The County shall remit 50 percent of this amount, \$200,000, to the City within thirty (30) days after the City issues a Notice to Proceed to the lowest responsible bidder and the City requests payment. The County will remit the remaining 50 percent within thirty (30) days after receipt of notice from the City that the Project is 50 percent complete. Following completion of the Project, the City shall provide a final accounting of expenditures for the Project. If the actual cost to construct the Project is less than the estimated amount set forth herein, the City shall remit the County 50 percent of the difference between the estimated cost and the actual cost. The Commissioners' Court may revise this payment schedule based on the progress of the Project. The "total cost of the Project" shall include land acquisition, engineering, construction, inspection, testing, street lighting, and construction administration costs including contingencies.

ARTICLE V.

If the total cost to construct the Project exceeds the amount estimated in Article IV above, the County and City shall share the excess costs equally; however, the County's participation in the Project shall not exceed \$400,000.

ARTICLE VI.

The City shall prepare for the County an itemized statement specifying Project costs that have been incurred to date and submit detailed Project cost and progress reports every thirty (30) days until Project completion.

ARTICLE VII.

The City and County agree that the party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying party.

ARTICLE VIII.

INDEMNIFICATION. To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees)

from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this agreement.

ARTICLE IX.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this agreement. The parties agree that this agreement is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

ARTICLE X.

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 by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the agreement shall be enforced as if the invalid provision had never been included.

ARTICLE XI.

ENTIRE AGREEMENT. This agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.

ARTICLE XII.

SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this agreement without the written consent of the other party.

ARTICLE XIII.

IMMUNITY. It is expressly understood and agreed that, in the execution of this agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this agreement shall not create any rights in parties not signatories hereto.

ARTICLE XIV.

TERM. This agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project. This agreement shall automatically renew annually during this period.

APPROVED AS TO FORM:

COUNTY OF COLLIN, TEXAS

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

By: _____
Name: Keith Self
Title: County Judge
Date: _____

Executed on this _____ date of _____, 2008, by the County of Collin, pursuant to Commissioners' Court Order No. _____

ATTEST:

CITY OF PLANO, TEXAS

By: _____
Name: Diane Zucco
Title: City Secretary
Date: _____

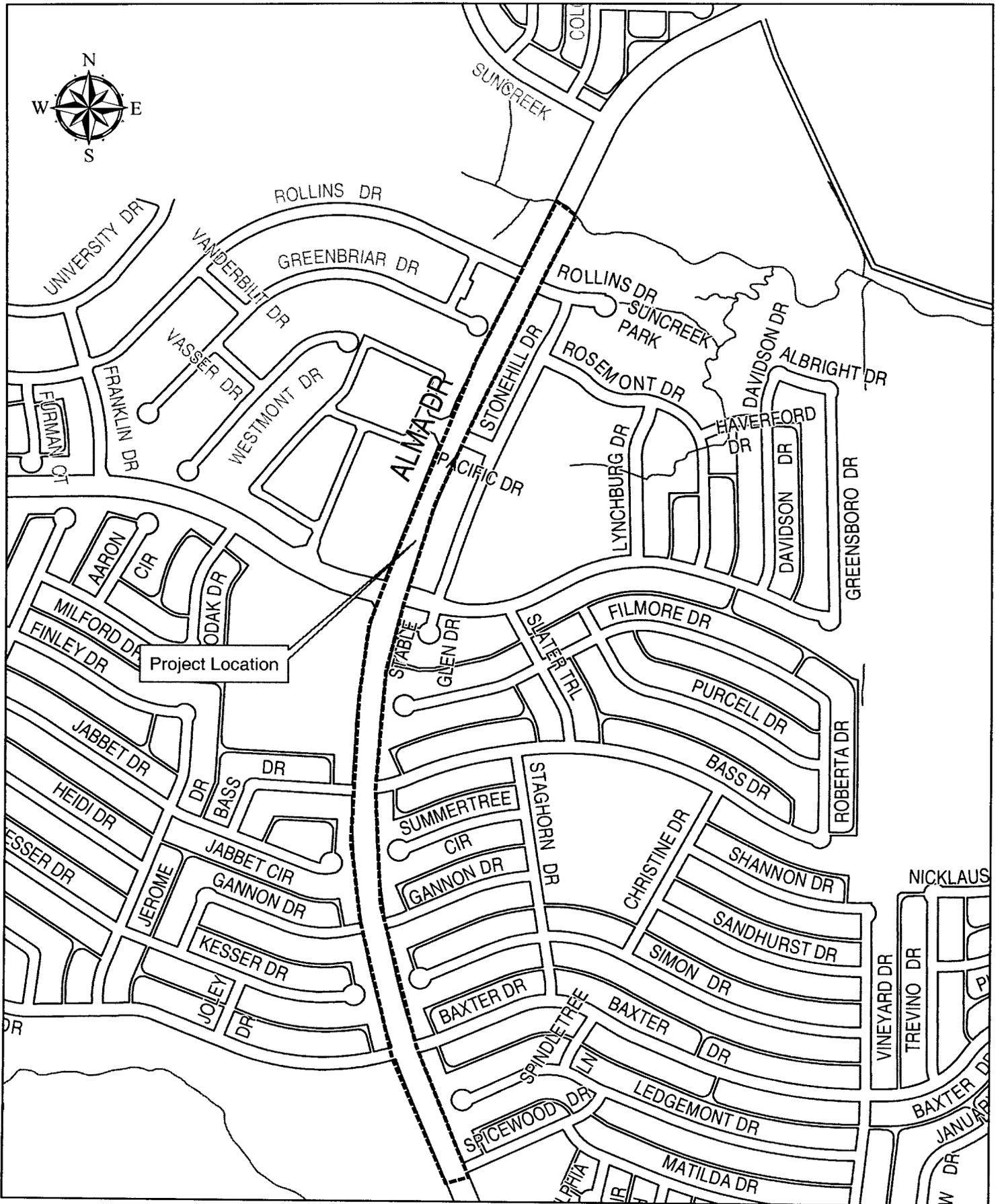
By: _____
Name: Thomas H. Muehlenbeck
Title: City Manager
Date: _____

Executed on behalf of the City of Plano pursuant to City Council Resolution No. _____

APPROVED AS TO FORM:

By: _____
Name: Diane Wetherbee
Title: City Attorney
Date: _____

ALMA DRIVE WIDENING



m-8

LOCATION MAP



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Council Meeting Date:	11/10/08	Reviewed by Legal <i>vs</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Engineering		<i>Initials</i>	Date	
Department Head	Alan L. Upchurch	Executive Director	<i>[Signature]</i>	11-03-08	
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	11/3/08	
Agenda Coordinator (include phone #):		Irene Pegues (7198)			
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Approving the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for the Intersection Improvements at Plano Parkway and Jupiter Road; authorizing its execution by the City Manager, or in his absence an Executive Director; and providing an effective date.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	425,000	0	425,000
BALANCE		0	425,000	0	425,000
FUND(S): STREET IMPROVEMENTS					
COMMENTS: This item allows the City to enter into an interlocal agreement with Collin County for the Jupiter/Plano Parkway Intersection Improvements project. If this request is approved, Collin County will remit to the City \$425,000 for intersection improvements at Jupiter/Plano Parkway Intersection Improvements.					
STRATEGIC PLAN GOAL: Interlocal agreements for street improvements relate to the City's Goal of Safe, Efficient Travel.					
SUMMARY OF ITEM					
This Agreement provides for Collin County to reimburse the City of Plano for one half the cost of intersection improvements at Plano Parkway and Jupiter Road, up to \$425,000. Half the funds will be provided when the Notice to Proceed is issued and the remaining half when the project is half completed. These funds are from the 2007 Collin County Bond Program.					
List of Supporting Documents: Interlocal Agreement Location Map		Other Departments, Boards, Commissions or Agencies N/A			

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY, TEXAS, PROVIDING FOR THE INTERSECTION IMPROVEMENTS AT PLANO PARKWAY AND JUPITER ROAD; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Plano, Texas, and Collin County, Texas, providing terms and conditions for the Intersection Improvements at Plano Parkway and Jupiter Road, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

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

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

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

Section II. The City Manager, or in his absence an Executive Director, 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.

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

DULY PASSED AND APPROVED the _____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING INTERSECTION IMPROVEMENTS AT
PLANO PARKWAY AND JUPITER ROAD**

**2007 Collin County Bond Program Project # 07-058 Plano #19 Project
2008 Partial Funding**

WHEREAS, the County of Collin, Texas ("County"), and the City of Plano, Texas ("City"), desire to enter into an agreement concerning Intersection Improvements at Plano Parkway and Jupiter Road (the "Project"), in Plano, Collin County, Texas; and

WHEREAS, the 2007 Collin County Bond Program includes Intersection Improvements at Various Locations, Plano #10 Project, with total County allocation of \$10,500,000.00; and

WHEREAS, the Interlocal Cooperation Act (Texas Government Code Chapter 791) authorizes any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, the City and County have determined that the improvements may be constructed most economically by implementing this agreement.

NOW, THEREFORE, this agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

WITNESSETH:

ARTICLE I.

The City shall arrange to construct intersection improvements at Plano Parkway and Jupiter Road. The project will include a second left-turn lane for east to south bound Plano Parkway, a right-turn lane for north to east bound Jupiter Road and a right-turn lane for west to south bound Plano Parkway. The improvements shall also include construction of underground storm sewers as part of the road improvements. All improvements shall be designed to meet or exceed the current Collin County design standards and shall be constructed in accordance with the plans and specifications approved by the City.

ARTICLE II.

The City shall prepare plans and specifications for the improvements, accept bids and award a contract to construct the improvements and administer the construction contract. In all such activities, the City shall comply with all state statutory requirements.

n-4

The City shall provide the County with a copy of the executed construction contract(s) for the Project.

ARTICLE III.

The City will acquire approximately 0.1 acre of real property in the vicinity of the improvements for use as right-of-way.

ARTICLE IV.

The City estimates the total actual cost of the project to be \$950,000. The County agrees to fund up to one half the cost to construct the improvements in an amount not to exceed \$425,000. The County shall remit 50 percent of this amount, \$212,500, to the City within thirty (30) days after the City issues a Notice to Proceed to the lowest responsible bidder and the City requests payment. The County will remit the remaining 50 percent within thirty (30) days after receipt of notice from the City that the Project is 50 percent complete. Following completion of the Project, the City shall provide a final accounting of expenditures for the Project. If the actual cost to construct the Project is less than the estimated amount set forth herein, the City shall remit the County 50 percent of the difference between the estimated cost and the actual cost. The Commissioners' Court may revise this payment schedule based on the progress of the Project. The "total cost of the Project" shall include land acquisition, engineering, construction, inspection, testing, street lighting, and construction administration costs including contingencies.

ARTICLE V.

If the total cost to construct the Project exceeds the amount estimated in Article IV above, the County and City shall share the excess costs equally; however, the County's 2008 funding for the Plano Parkway at Jupiter intersection project participation shall not exceed \$425,000.

ARTICLE VI.

The 2008 Funding for the Plano Parkway at Jupiter Road intersection project will not exceed \$425,000.

ARTICLE VII.

The City shall prepare for the County an itemized statement specifying Project costs that have been incurred to date and submit detailed Project cost and progress reports every thirty (30) days until Project completion.

ARTICLE VIII.

The City and County agree that the party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying party.

ARTICLE IX.

INDEMNIFICATION. To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this agreement.

ARTICLE X.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this agreement. The parties agree that this agreement is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

ARTICLE XI.

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 by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the agreement shall be enforced as if the invalid provision had never been included.

ARTICLE XII.

ENTIRE AGREEMENT. This agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.

ARTICLE XIII.

SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this agreement without the written consent of the other party.

ARTICLE XIV.

IMMUNITY. It is expressly understood and agreed that, in the execution of this agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this agreement shall not create any rights in parties not signatories hereto.

ARTICLE XV.

TERM. This agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project. This agreement shall automatically renew annually during this period.

APPROVED AS TO FORM:

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

COUNTY OF COLLIN, TEXAS

By: _____
Name: Keith Self
Title: County Judge
Date: _____

Executed on this _____ date of _____, 2008, by the County of Collin, pursuant to Commissioners' Court Order No. _____

ATTEST:

By: _____
Name: Diane Zucco
Title: City Secretary
Date: _____

CITY OF PLANO, TEXAS

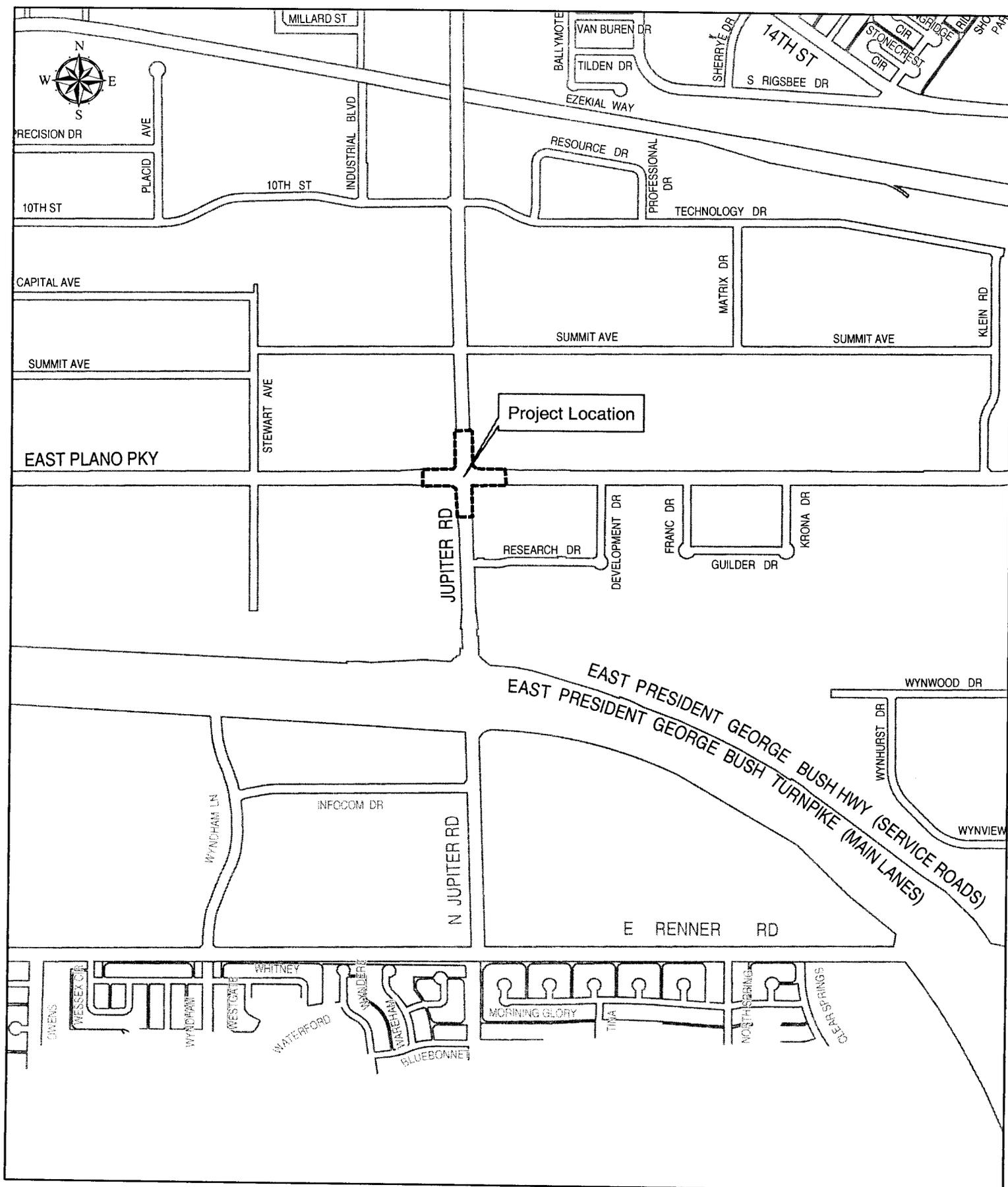
By: _____
Name: Thomas H. Muehlenbeck
Title: City Manager
Date: _____

Executed on behalf of the City of Plano pursuant to City Council Resolution No. _____

APPROVED AS TO FORM:

By: _____
Name: Diane Wetherbee
Title: City Attorney
Date: _____

INTERSECTION IMPROVEMENTS





**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering		Initials	Date	
Department Head	Alan L. Upchurch		Executive Director	11/03/08	
Dept Signature:	<i>Alan L. Upchurch</i>		City Manager	11/3/08	
Agenda Coordinator (include phone #): Irene Pegues (7198)					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Approving the terms and conditions of a Second Amendment to Development Agreement with Lexington Park LP for Plano-Rice Field Redevelopment project; authorizing its execution by the City Manager or, in his absence, an Executive Director; and providing an effective date.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR:	2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		274,000	1,474,000	2,000,000	3,748,000
Encumbered/Expended Amount		-274,000	-113,874	0	-387,874
This Item		0	-115,293	0	-115,293
BALANCE		0	1,244,833	2,000,000	3,244,833
FUND(S): STREET IMPROVEMENT CIP, WATER CIP & SEWER CIP					
COMMENTS: Funds are included in the 2008-09 Street Improvement CIP, Water CIP & Sewer CIP. This item, in the amount of \$115,293, will leave a current year balance of \$1,244,833 for the Redevelopment Street Improvements, Rice Field Water and Redevelopment Capacity Improvements projects.					
STRATEGIC PLAN GOAL: Redevelopment Capacity Improvements relate to the City's Goals of Safe, Efficient Travel and premier City in which to Live.					
SUMMARY OF ITEM					
The Development Agreement between the City and Lexington provided for the City to reimburse Lexington for certain infrastructure improvements. Some of the costs of those improvements have increased, and Lexington has requested the contract be amended to reflect those cost increases. Those items include removing the overhead utilities along the south side of 18th Street, which were \$140,069 more than budgeted. The addition of a water line to replace an old deteriorating water line in G Avenue added \$35,986, and the offsite sanitary sewer costs increased \$21,857. The total increases were \$197,912. The agreement provided for Lexington to install offsite drainage improvements at an estimated cost of \$438,000. The actual cost of the improvements was \$317,380. All of these cost adjustments are included in the contract amendment. The City's contribution will increase from approximately \$1.4 million to approximately \$1.515 million.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Second Amendment to Development Agreement			N/A		
Location Map					

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A SECOND AMENDMENT TO DEVELOPMENT AGREEMENT WITH LEXINGTON PARK LP FOR PLANO-RICE FIELD REDEVELOPMENT PROJECT; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Second Amendment to Development Agreement with Lexington Park LP for Plano-Rice Field Redevelopment Project, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Second Amendment"); and,

WHEREAS, upon full review and consideration of the Second Amendment, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, 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 Second Amendment, 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 in his absence, an Executive Director, is hereby authorized to execute the Second Amendment 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 Second Amendment.

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

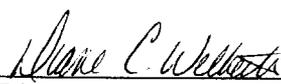
DULY PASSED AND APPROVED this the ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY

Exhibit A to Resolution No. _____

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

**SECOND AMENDMENT TO DEVELOPMENT AGREEMENT
WITH LEXINGTON PARK LP FOR
PLANO-RICE FIELD REDEVELOPMENT PROJECT**

THIS SECOND AMENDMENT ("Second Amendment") is entered into by and between the CITY OF PLANO, a Texas municipal corporation of Collin County, Texas (the "City"), and LEXINGTON PARK LP, a Texas limited liability company ("Lexington");

RECITALS:

WHEREAS, the Plano City Council adopted Resolution No. 2005-11-28(R) on November 28, 2005, approving that certain agreement titled "Development Agreement with Lexington Luxury Builders LLC For Plano-Rice Field Development Project" (the "Development Agreement"); and

WHEREAS, City and Lexington Park LP (Assignee of Lexington Luxury Builders LLC) amended the Development Agreement on October 22, 2007; and

WHEREAS, City and Lexington Park LP now desire to amend Exhibit "E" (Public Improvements and Public Improvement Construction Allowance) of the Development Agreement to provide additional funds for public improvements in the Plano-Rice Field Development Project.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

1. Exhibit "E" to the Development Agreement shall be deleted in its entirety and replaced with the new Exhibit "E" attached hereto.

2. Except as expressly amended by this Second Amendment, the Development Agreement as previously amended remains in full force and effect as provided therein.

EXECUTED on the _____ day of November, 2008, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. _____(R) approved by the City Council on November 10, 2008, and by Lexington Park LP, signing by and through its authorized representative.

[remainder of page intentionally left blank]

Exhibit A to Resolution No. _____

CITY OF PLANO:

APPROVED AS TO FORM:

Thomas H. Muehlenbeck, City Manager

Diane C. Wetherbee, City Attorney

LEXINGTON PARK LP, a Texas limited partnership

BY: KVVV Ching LLC, a Texas limited liability company, its General Partner

BY: _____
Scott J. Schaefer
Manager

Rice Field Redevelopment Block Project

Public Improvements and Public Improvement Construction Allowance

A Public/Private Partnership Between
Lexington Park LP and the City of Plano

SUMMARY DESCRIPTION AND CONSTRUCTION COSTS OF PUBLIC IMPROVEMENTS		Total
A	Civil Engineering, Surveying, Infrastructure Design and Professional Fees	\$120,140
B	Construction Management and General Overhead Costs	\$76,769
C	Demolition, Site Clearing, Site Preparation and Clean-Up	\$65,520
D	Electric Utilities, Overhead Power Line Relocation and Antique Style Street Lights	\$194,339
E	General Conditions, Mobilization, Traffic Control and Street Cleaning	\$19,550
F	Fire Hydrants, Erosion Control, Street Signs and Miscellaneous Costs	\$51,876
G	Paving, Concrete, Sidewalks, Curb and Gutter Improvements	\$327,162
H	Street Trees, Tree Grates, Irrigation Systems, Landscape and Hardscape Improvements	\$126,935
I	Construction Contingency and Other Miscellaneous Costs	\$83,231
J	Drainage and Storm Sewer Construction (Facility for Haggard Park Addn and On-Site)	\$65,534
K	Off-Site Sanitary Sewer Extension Costs	\$66,857
CITY CONSTRUCTION COST FOR PUBLIC IMPROVEMENTS		\$1,197,913
COST OF OFF-SITE DRAINAGE IMPROVEMENTS FROM THE PROPERTY TO THE POINT OF DISCHARGE¹		\$317,380

¹This line item is a cost estimate. The City shall pay the actual cost of the off-site drainage improvements from the property to the point of discharge plus construction management costs and overhead equal to 91/2% of costs.

A	Civil Engineering, Surveying, Infrastructure Design and Professional Fees	UNITS	COST/UNIT	QUANTITY	TOTAL
	Design Survey (Including Existing Public Improvements)	Each	\$10,290.00	1	\$10,290
	Public Streetscape, Landscape and Hardscape Designs	Each	\$51,680.00	1	\$51,680
	Irrigation System Design	Each	\$3,600.00	1	\$3,600
	Printing, Duplication, Renderings and Electronic Media	Each	\$4,260.00	1	\$4,260
	Civil Engineering - Demolition Plans	Each	\$4,500.00	1	\$4,500
	Civil Engineering - Traffic Control Plans	Each	\$3,400.00	1	\$3,400
	Civil Engineering - Streetscape, Sidewalk, ROW Construction Drawings	Each	\$14,750.00	1	\$14,750
	Civil Engineering - Bid Phase Services	Each	\$6,100.00	1	\$6,100
	Construction Administration	Each	\$1,450.00	7	\$10,150
	Civil Engineering - Construction Control Surveys	Each	\$5,700.00	1	\$5,700
	Civil Engineering - ROW and Easement Surveying	Each	\$2,660.00	1	\$2,660
	Reimbursable Expenses	Each	\$4,200.00	1	\$3,050
	Civil Engineering, Surveying, Infrastructure Design and Professional Fees				\$120,140

B	Construction Management and General Overhead Costs	UNITS	COST/UNIT	QUANTITY	TOTAL
	Construction Management, Overhead, General Contractor Fees				\$76,768
	Construction Management and General Overhead Costs				\$76,768

C	Demolition, Site Clearing, Site Preparation and Clean-Up	UNITS	COST/UNIT	QUANTITY	TOTAL
	Sawcut, Demolish and Remove Existing Curbs and Gutters	LF	\$14.00	2,500	\$35,000
	Demolish and Remove Existing Sidewalks	SY	\$22.50	778	\$17,500
	Sawcut, Demolish and Remove Street Sections - 18th Median 12' Width	SY	\$22.50	440	\$9,900
	Misc Clean-Up and Trash Hauling	%	5%		\$3,120
	Demolition, Site Clearing, Site Preparation and Clean-Up				\$65,520

D	Electric Utilities, Overhead Power Line Relocation and Antique Style Street Lights	UNITS	COST/UNIT	QUANTITY	TOTAL
	TXU Electric - Relocate Overhead Lines 18th Street	Each	\$162,769.00	1	\$162,839
	TXU Electric - 1" Historical Acorn Street Lights	Each	\$2,500.00	10	\$25,000
	TXU Electric - Services for Street Lights and Irrigation	Each	\$1,625.00	4	\$6,500
	Electric Utilities, Overhead Power Line Relocation and Antique Style Street Lights				\$194,339

E	General Conditions, Mobilization, Traffic Control and Street Cleaning	UNITS	COST/UNIT	QUANTITY	TOTAL
	General Conditions and Mobilization	Each	\$4,100.00	1	\$4,100
	Barricades and Traffic Control	Each	\$650.00	3	\$1,950
	Construction Signage	Each	\$1,680.00	1	\$1,680
	General Liability Insurance	Each	\$4,270.00	1	\$4,270
	Miscellaneous Costs	Each	\$1,000.00	3	\$3,000
	Construction and Street Cleaning	Each	\$2,275.00	2	\$4,550
	General Conditions, Mobilization, Traffic Control and Street Cleaning				\$19,550

Development Agreement Exhibit "E"

F	Fire Hydrants, Erosion Control, Street Signs and Miscellaneous Costs	UNITS	COST/UNIT	QUANTITY	TOTAL
	Relocate Existing Fire Hydrants	Each	\$2,235.00	4	\$8,940
	Silt Fence (prior to excavation)	LF	\$1.70	2,500	\$4,250
	Erosion Control Maintenance	%	40%		\$1,700
	Four Way Stop Signs - Intersection Ave G and 16th Street	Each	\$500.00	2	\$1,000
	8" Water line - Ave G	Each	\$18,000.00	1	\$18,000
	Paving removal and repair	Each	\$17,986.00	1	\$17,986
	Fire Hydrants, Erosion Control, Street Signs and Miscellaneous Costs				\$51,876.00

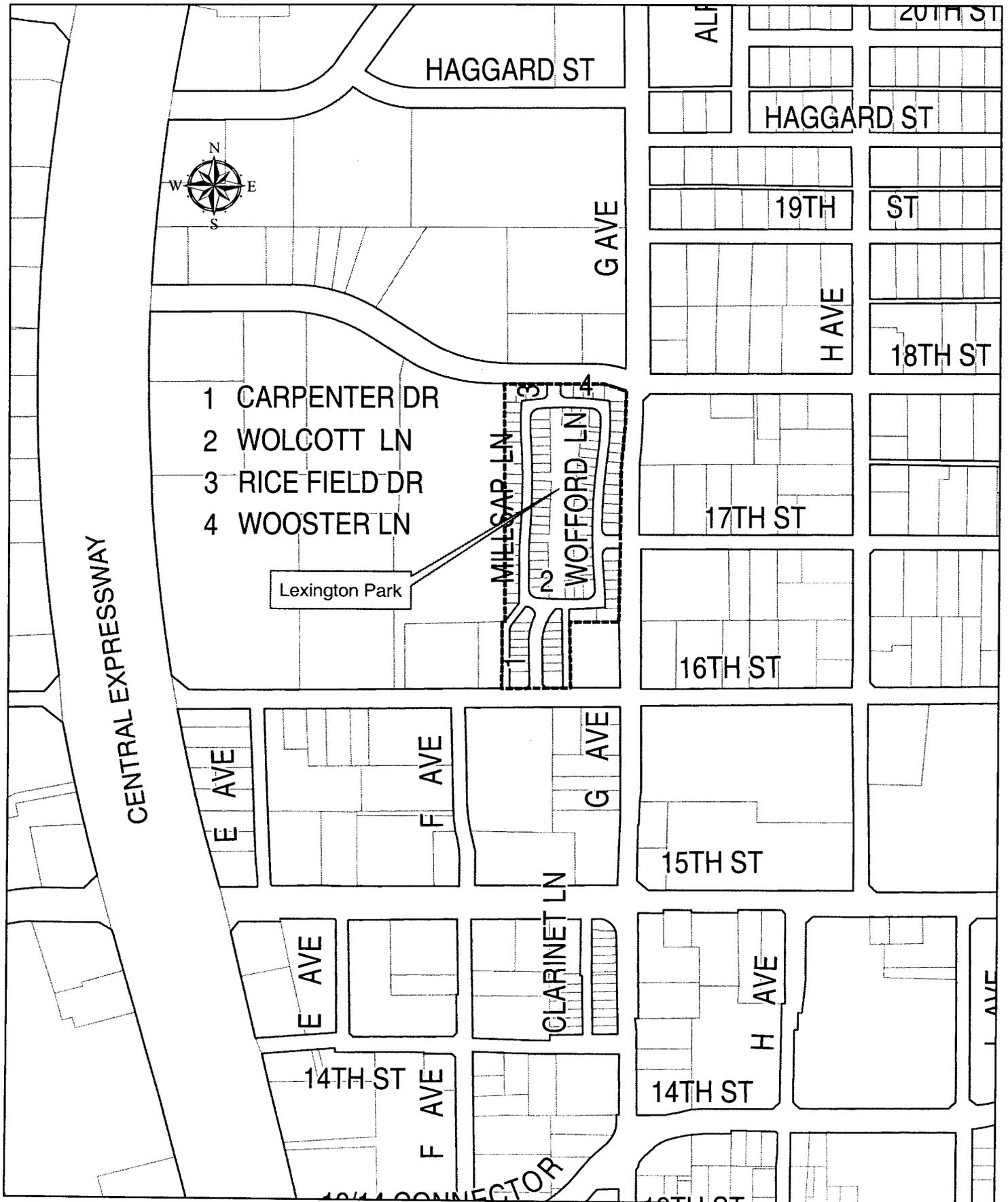
G	Paving, Concrete, Sidewalks, Curb and Gutter Improvements	UNITS	COST/UNIT	QUANTITY	TOTAL
	New 24" Curb and Gutter	LF	\$22.00	3,220	\$70,840
	New 10" Wide Concrete Sidewalk Base	SF	\$3.40	25,000	\$85,000
	Brick Pavers - Installed Turnkey	SF	\$5.45	25,000	\$136,250
	Connect Concrete Pavement at 18TH Street	SY	\$26.50	180	\$4,770
	Street Signs and Poles (Street, Parking, Stop, Pedestrian)	Each	\$425.00	25	\$10,625
	Stripe Travel and Parking Lanes	LF	\$1.00	3,200	\$3,200
	Barrier Free Ramps	Each	\$750.00	16	\$12,000
	Maintenance and Performance Bonds	%	1%		\$3,227
	Materials Testing	SY	\$0.45	2,778	\$1,250
	Paving, Concrete, Sidewalks, Curb and Gutter Improvements				\$327,162

H	Street Trees, Tree Grates, Irrigation Systems, Landscape and Hardscape Improvements	UNITS	COST/UNIT	QUANTITY	TOTAL
	3' Shade Trees (Street Trees Planted Turnkey)	Each	\$500.00	63	\$31,500
	Sidewalk Tree Gates Materials and Labor Installed	Each	\$650.00	63	\$40,950
	Landscape / Hardscape Design - 18th Street Median	Each	\$10,250.00	1	\$10,250
	Landscape Materials and Labor 18th Street Median	SF	\$6.50	2,640	\$17,160
	Hardscape Improvements 18th Street Median	Each	\$3,800.00	1	\$3,800
	Re-Sod Effected Areas After Construction	Each	\$35.00	315	\$11,025
	Irrigation System Materials and Labor Installed	Each	\$175.00	70	\$12,250
	Street Trees, Tree Grates, Irrigation Systems, Landscape and Hardscape Improvements				\$126,935

I	Construction Contingency and Other Miscellaneous Costs	UNITS	COST/UNIT	QUANTITY	TOTAL
	Contingency				\$83,231
	Construction Contingency and Other Miscellaneous Costs				\$83,231

J	Drainage and Storm Sewer Construction (Facility for Haggard Park Addn and On-Site)	UNITS	COST/UNIT	QUANTITY	TOTAL
	Drainage & Storm Sewer Engineering Plans	Contract	\$9,250.00	1	\$9,250
	Turnkey Contract - Estimate	Contract	\$238,000.00	1	\$238,000
	Maintenance Bond (1.0% of Total)	%	1%		\$2,473
	Amount Paid By Developer for On-Site Only Storm Sewer and Drainage Facilities	Contract	\$184,189.00	1	-\$184,189
	Drainage and Storm Sewer Construction (Facility for Haggard Park Addn and On-Site)				\$65,534

LEXINGTON PARK



LOCATION MAP

C



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal <i>GW</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Legal		Initials	Date
Department Head	Diane Wetherbee	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>[Signature]</i>
Agenda Coordinator (include phone #): Lynne Jones - 7109				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, FINDING STEVE COPLING IS ENTITLED TO DEFENSE REPRESENTATION PURSUANT TO CITY CODE OF ORDINANCES IN CONNECTION WITH THE MATTER OF CHARLES KENNETH SKEES, SR. AND CHARLES KENNETH SKEES, JR., VS. CHRISTOPHER JOHN CARKER; TOMMY WALTERS; RALPH COLBERG; STEVE COPLING; KIM LEE AND KEN MACKENZIE; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
This resolution provides for defense representation for Steve Copling with regard to the above lawsuit.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
n/a		n/a		

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, FINDING STEVE COPLING IS ENTITLED TO DEFENSE REPRESENTATION PURSUANT TO CITY CODE OF ORDINANCES IN CONNECTION WITH THE MATTER OF CHARLES KENNETH SKEES, SR. AND CHARLES KENNETH SKEES, JR., VS. CHRISTOPHER JOHN CARKER; TOMMY WALTERS; RALPH COLBERG; STEVE COPLING; KIM LEE AND KEN MACKENZIE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has reviewed the matter entitled Charles Kenneth Skees, Sr., and Charles Kenneth Skees, Jr., vs. Christopher John Carker; Tommy Walters; Ralph Colberg; Steve Copling; Kim Lee; and Ken Mackenzie and finds that defense representation is appropriate for Steve Copling pursuant to Section 2-10 of the City Code of Ordinances.

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

Section I. The City Council finds that based upon the pleadings in the above-referenced lawsuit and other available information, defense representation for Steve Copling is appropriate pursuant to the terms of City Code of Ordinances Section 2-10.

Section II. This Resolution shall become effective immediately after its passage.

DULY PASSED AND APPROVED this the _____ day of _____, 2008.

Pate Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Health		<i>[Signature]</i>	Date
Department Head	Brian Collins <i>[Signature]</i>		Executive Director	<i>10/20/08</i>
Dept Signature:	<i>[Signature]</i>		City Manager	<i>10/20/08</i>
Agenda Coordinator (include phone #): Doris Callaway, Ext. 7494				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE USE OF BEST MANAGEMENT PRACTICES TO PROVIDE ALTERNATIVE INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT REQUIREMENTS TO CONTROL AND REDUCE POLLUTANTS THAT MAY VIOLATE LOCAL, STATE OR FEDERAL PRETREATMENT STANDARDS AND REQUIREMENTS; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
This Resolution will approve the use of Best Management Practices to control and reduce the discharge of pollutants into the City's sanitary sewer system.				
List of Supporting Documents: n/a		Other Departments, Boards, Commissions or Agencies n/a		

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE USE OF BEST MANAGEMENT PRACTICES TO PROVIDE ALTERNATIVE INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT REQUIREMENTS TO CONTROL AND REDUCE POLLUTANTS THAT MAY VIOLATE LOCAL, STATE OR FEDERAL PRETREATMENT STANDARDS AND REQUIREMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 21-307 (b) of Chapter 21 of the Code of Ordinances of the City of Plano requires significant industrial users to obtain an industrial user wastewater discharge permit prior to discharging into the City sanitary sewer system; and

WHEREAS, Article VII, Section 21-307 (c) of Chapter 21 of the Code of Ordinances of the City of Plano allows the City to require other industrial users, whose discharge amounts would not classify them as a significant industrial user, to obtain an industrial user wastewater discharge permit as necessary to carry out the purpose of the article; and

WHEREAS, industrial users in certain industries have created self-regulatory guidelines referred to as Best Management Practices; and

WHEREAS, the goals of Best Management Practices are to control and reduce pollutants to prevent pass through, interference and violations of local, state and federal standards and to protect human health and the environment; and

WHEREAS, the use of Best Management Practices are endorsed by the United States Environmental Protection Agency and the Texas Commission on Environmental Quality; and

WHEREAS, the use of Best Management Practices will assist the City's environmental officers in regulating industrial wastewater users whose use does not rise to the level of a significant user by forming the basis for the alternative regulation and permitting of those users; and

WHEREAS, the Best Management Practices program approved for the alternative permitting and regulatory practice will be retained on file in the Health Department of the City for review; and

WHEREAS, the Council finds and staff recommends that it is appropriate and in the best interest of the public health and safety to approve the use of Best Management Practices to provide alternative industrial user wastewater discharge permit requirements to control and reduce the discharge of pollutants into the City's sanitary sewer system.

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

Section I. The City Council of the City of Plano hereby approves the use of Best Management Practices to provide alternative industrial user wastewater discharge permit requirements to control and reduce the discharge of pollutants into the City's sanitary sewer system.

Section II. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/2008	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing	Initials	Date	
Department Head	Mike Ryan	Executive Director	<i>[Signature]</i>	10-31-08
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	11/10/08
Agenda Coordinator (include phone #): Glenna Hayes x 7539				

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE PURCHASE OF ON-SITE CBRNE (CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, and EXPLOSIVES) DETECTION EQUIPMENT IN THE AMOUNT OF ONE HUNDRED TWENTY THOUSAND, FIVE HUNDRED DOLLARS (\$120,500.00) FROM SMITHS DETECTION , THE SOLE SOURCE VENDOR OF SUCH EQUIPMENT AND SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE PURCHASE; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2008/2009	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0		0	
Encumbered/Expended Amount	0	0	0	0
This Item	0	120500	0	120500
BALANCE	0	120500	0	120500

FUND(S): GRANT FUND (2007 UASI GRANT - 561)

Comments: The City will apply for reimbursement under the 2007 UASI Homeland Security Grant for the purchase of a CBRNE (Chemical, Biological Radiological, Nuclear & Explosives) detection system.

STRAGIC PLAN GOAL: Specialized equipment for the Hazmat team relates to the City's Goal of "Service Excellence"

SUMMARY OF ITEM

Purchasing staff recommends approval of sole source expenditure to enter into a contract with Smiths Detection in the amount of \$120,500.00 for the purchase of on-site CBRNE detection equipment, training and on-going support; conditioned upon timely execution by the City Manager of any necessary document. The City will apply for reimbursement of this expenditure under the 2007 UASI Grant.

List of Supporting Documents: Quote; Resolution	Other Departments, Boards, Commissions or Agencies
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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE PURCHASE OF ON-SITE CBRNE (CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, and EXPLOSIVES) DETECTION EQUIPMENT IN THE AMOUNT OF ONE HUNDRED TWENTY THOUSAND, FIVE HUNDRED DOLLARS (\$120,500.00) FROM SMITHS DETECTION, THE SOLE SOURCE VENDOR OF SUCH EQUIPMENT AND SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE PURCHASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has applied for and received approval through the 2007 Metropolitan Urban Area Security Initiative (2007 UASI) for the purchase of on-site CBRNE detection equipment; and

WHEREAS, the City Council has been presented with a quotation from Smiths Detection, for the purchase of on-site CBRNE detection equipment; and

WHEREAS, the City relies on Smiths Detection to provide equipment that has complete compatibility and interoperability for joint Dallas County, Collin County and City of Plano hazmat efforts; and

WHEREAS, the City Council thus finds that the components, service and equipment needed is available from only one source, Smiths Detection, and therefore the purchase is exempt from competitive bid as provided for in *V.T.C.A., Local Governmental Code, Section 252.022(a)(7)*.

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

Section I. The City Council hereby finds and determines that Smiths Detection is the sole source provider for the on-site CBRNE detection equipment, and said purchase is exempt from competitive bid as provided for in *V.T.C.A., Local Government Code, Section 252.022(a)(7)*.

Section II. The City Manager or his designee is hereby authorized to take such action and execute such documents with Smiths Detection, the sole source provider, as necessary to effectuate the purchase of additional such rescue and safety products in an amount not to exceed the sum of **ONE HUNDRED TWENTY THOUSAND, FIVE HUNDRED DOLLARS (\$120,500.00)**.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2008

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



DATE: 9/10/2008
 QUOTATION NO.: O6UJ9A00041L

PAGE NO.: Page 1 of 11

TERMS: Net 30

VALID UNTIL: 12/10/2008

DELIVERY: See Terms & Conditions Summary Page

WARRANTY: Sabre: 4 years, HazMatID: 5 years parts and labor

DELIVERY TERMS: EX Works Danbury, CT

Federal ID#: 22-355-2823

Smiths Detection

Quotation for:

Plano Fire Department
 1901 Avenue K
 Plano, TX 75086

Item	Qty	Part No.	Description	Base Price	Net Price
1	1	023-1010	<p><u>HazMatID Extended Package</u></p> <p>Sample interface is a single (1) reflection diamond requiring a single drop of liquid or grain of powder for analysis. Smiths Detection's customized HazMat data collection software for advanced data manipulation, HazMatID software for control of the HazMatID system, and an embedded computer system that features a touch screen interface. All screens have been customized for use by the first responder.</p> <p>Power: 12VDC or 115/240 VAC 50/60 HZ HazMatID package features</p> <ol style="list-style-type: none"> 1. Pelican hardened shipping case. 2. Sealed data compartment - including USB port, Ethernet port, Keyboard/Mouse port, and Power port. 3. Two batteries. Chargeable in the system or separately with external battery charger. 4. External Battery Charger. 5. USB storage device. 6. Laptop operating system includes the software and hardware required to operate the HazMatID system wirelessly from a remote location. 7. Keyboard and Mouse to be used with HazMatID system. 8. Standard 1 year Warranty and Partnership Program plus an additional 4 year Partnership Program for a total of 5 years- See Partnership Programs for details. 9. On-Site Training - One day HazMat integration training held on-site at the customer's facility for up to 16 people. *Best efforts will be made to arrange and complete training within 45 days after receipt of unit. *A training day must be booked within one year after receipt of unit or training will be forfeit. 10. RepeatIR - Wireless route for extended wireless range. 11. ExtractIR - Aqueous Sample Preparation Kit with components for 20 extractions. <p>Partnership Program: -Free software updates. -All parts and labor to repair system in the event of a malfunction. -Free loaner (Delivered by Overnight Carrier) if system malfunctions. -HazMatID refresher course for 1 person per yr. at a 1 day regional training class - limited to the length of Partnership Program. -Access to proprietary web site, www.hazmatid.com. -24/7 ReachBack access to Ph.D. chemists, engineers, and application scientists for spectral interpretation assistance and/or technical support.</p> <p>Included Libraries: 000-0002 Common Chemicals Smiths 000-0013 Toxic Industrial Smiths 000-0015 Explosives Smiths 000-0016 Forensic Drugs Smiths 000-0018 Drug Precursor Smiths 000-0075 Delaware Pesticides Active Ingredients Smiths 000-0077 Chemical Weapons of Mass Destruction (WMD) ATR Library 000-0078 White Powder Library Generic ATR Library 000-0079 Smiths Detection ATR-FTIR Explosives</p>	\$ 82,000.00	\$ 82,000.00

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DATE: 9/10/2008
QUOTATION NO.: O6UJ9A00041L

PAGE NO.: Page 2 of 11

TERMS: Net 30

VALID UNTIL: 12/10/2008

DELIVERY: See Terms & Conditions Summary Page

WARRANTY: Sabre: 4 years, HazMatID: 5 years parts and labor

DELIVERY TERMS: EX Works Danbury, CT

Federal ID#: 22-355-2823

Smiths Detection

Quotation for:

Plano Fire Department
1901 Avenue K
Plano, TX 75086

Item	Qty	Part No.	Description	Base Price	Net Price
2	1	023-9000	<p><u>Sabre 4000 Partnership Package</u> Sabre 4000 Explosives, Narcotics, Chemical Warfare & TICs Hand-held trace detector using Ion Mobility Spectrometry (IMS) technology. 1. SABRE 4000 with 4 Hour Battery 2. Verification Material 3. Three Spare Membranes 4. Six Spare Air Purification Cartridges 5. Spare Inlet Ring 6. Battery Charger 7. Manual 6816734, 35, 36, USA 8. Reference Guide (Manual and Reference guide are packaged together) 9. Pro-op pamphlet 10. Tool Kit 11. 200 Sample Swabs 12. 5 Vapor Sealing Cards 13. Vapor Verification Material 14. Transportation Case 15. IM Software Kit 16. On-Site Training - One day Sabre training held on-site at the customer's facility for up to 10 people. *Best efforts will be made to arrange and complete training within 45 days after receipt of unit. *A training day must be booked within one year after receipt of unit or training will be forfeit. 17. Three year Partnership Program - See Partnership Programs for details: Partnership Program - Free software updates - All parts & labor to repair system in the event of a malfunction - Free loaner (delivered by overnight carrier) if system malfunctions - Refresher course for one person per year at a one day regional training course (limited to the length of partnership program) -24/7 ReachBack access to technical support. Service Department contact 800-297-0955 for assistance.</p> <p>In compliance with Federal Law, the End User, their title and contact information must be included with the Purchase Order</p>	\$ 36,000.00	\$ 36,000.00
3	2	23310	<p><u>Additional ON-SITE training day</u> Additional training day must be purchased in conjunction with a HazMatID Extended Library Package and/or Sabre Partnership Package. Additional day must occur immediately following the standard On-Site training day and cannot be carried across a weekend. Additional day is the exact same One Day Training Course and is intended to be used for training a second shift between 8:00 AM and 5:00 PM.</p> <p>retired # 023-4040</p>	\$ 1,250.00	\$ 2,500.00

Note 1: Net price for line items 1 and 3 reflect a discounted price.

Note 2: Amended Terms and Conditions for this Quote included, pages 8 through 11.

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Smiths Detection

Quotation for:

Plano Fire Department
1901 Avenue K
Plano, TX 75086

DATE: 9/10/2008
QUOTATION NO.: O6UJ9A00041L
PAGE NO.: Page 3 of 11
TERMS: Net 30
VALID UNTIL: 12/10/2008
DELIVERY: See Terms & Conditions Summary Page
WARRANTY: Sabre: 4 years, HazMatID: 5 years parts and labor
DELIVERY TERMS: EX Works Danbury, CT
Federal ID#: 22-355-2823

Item	Qty	Part No.	Description	Base Price	Net Price
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Should you have any questions regarding this quotation, please contact *Mike Tyszkiewicz* at (251) 213-5356 or via email at mike.tyszkiewicz@smithsdetection.com.

Restriction On Disclosure And Use of Data (3/2006)"This document contains information proprietary to Smiths Detection Inc., which discloses the document in confidence with the understanding that such data shall not be duplicated, used, or disclosed-in whole or in part-for any purpose without the prior, written consent of Smiths Detection Inc. The customer is implicitly authorized to reproduce pages for evaluation of this proposal or to excerpt pages or information for incorporation into customer briefings, proposals, et cetera that endorse the products and services of Smiths Detection Inc." The information contained herein is exempt from disclosure under the Freedom of Information Act (5 U.S.C 552) under Exemption (b)(4), and its disclosure is prohibited under the Trade Secrets Act (18 U.S.C 1905) and FAR 24.202. Rights to use or disclose this proposal are governed by DFARS 252.227-7016 (Jun 1995).

Terms and Conditions Summary

ALL Smiths Detection standard Terms & Conditions apply to ALL quotations unless specifically amended in said quotation. Smiths Detection's Terms & Conditions can be found in its entirety following this summary.

Items that appear on our GSA contract reflect the appropriate discounted price. Proof of GSA discount eligibility is required for all non Federal customers. To verify that a GSA discount has been applied, simply note that the Unit Price and Net Price differ by the appropriate discount level.

Delivery for the Responder RCI product line is 120 Days after receipt of Order.	Delivery for the APD 2000 product line is 90 Days after receipt of Order.
Delivery for the IlluminatIR product line is 60 to 90 Days after receipt of Order.	Delivery for the HazMatID product line is 60 to 90 Days after receipt of Order.
Delivery for the GasID product line is 60 to 90 Days after receipt of Order.	Delivery for the IdentifyIR product line is 60 to 90 Days after receipt of Order.
Delivery for all other Products and Accessories is 45 Days after receipt of Order, unless indicated otherwise.	

To place your order and expedite shipment, please fax your Purchase Order request with all associated terms and conditions, along with a tax exemption certificate if applicable, to Fax #(203) 207-9780, Attention: Order Administration. All Purchase Orders must show Smiths Detection, 21 Commerce Drive, Danbury, CT. 06810 as the vendor name and address. Please reference our quotation number on your purchase order and on any correspondence regarding the quotation. Include a copy of this quotation with your Purchase Order.

Prices, warranty, installation and services on the items quoted herein are available only in the United States, and may not be otherwise assigned.

Buyer shall pay any applicable federal, state and local taxes in addition to the price stated on this quotation unless buyer submits a signed exemption certificate or direct pay permit. Your purchase order should indicate the sales tax status of your order.

Buyer shall not export or re-export technical data or products supplied by Smiths Detection in violation of applicable export regulations. Buyer who exports from the U.S. products purchased hereunder assumes all responsibility for obtaining any required export authorization and payment of applicable fees.

1. DEFINITIONS: "Smiths" shall mean Smiths Detection, Inc.

"Customer" shall mean the person(s) or company that purchases Goods/Equipment from Smiths pursuant to this Order.

"Operator" shall mean the Operator of the Goods/Equipment.

"Order" shall mean the agreement between Smiths and the Customer (individually "Party" and collectively "the Parties") for the sale and purchase of the Goods/Equipment, including the Terms and Conditions of Sale herein and any contemporaneous writing, signed by both Parties, and firmly attached hereto.

"Goods/Equipment" means all components, spare parts, goods, equipment or materials of any kind, which are supplied by Smiths under this Order.

2. OFFER AND GOVERNING PROVISIONS: Each Quotation and Order Acknowledgement issued by Smiths is an offer by Smiths to sell the goods and/or services described in it in accordance with these Terms and Conditions of Sale, is not an acceptance of any offer made by the Customer, and is expressly conditioned upon the Customer's assent to these Terms and Conditions of Sale. Smith objects to any additional or different terms contained in any purchase order or other communication previously or hereafter provided by Customer to Smiths. No such additional or different terms or conditions will be of force or effect. The terms of the Order will be the entire agreement between Customer and Smiths on the subject of the transaction that it describes; and there are no conditions to that agreement that are not part of the Order.

3. PURCHASE PRICE: Prices cited herein are based on current costs and are subject to reasonable adjustment on or after the date of acceptance of any purchase order to meet a rise or fall in such costs, as computed on the date of delivery.

4. PAYMENT: (A) Payment in full of the purchase price shall be made in United States currency within 30 days of the date of invoice. Remit to: 21 Commerce Drive, Danbury, CT 06810 (B) Punctual payment as stipulated herein is of the essence for the Order. When any sum owed by Customer to Smiths under this Order is overdue, Smiths may, without notice to Customer, either:

- (i) cease the supply of further Goods/Equipment under this Order without liability for any loss (including loss of profit or other financial or economic loss) to Customer until such sum, together with such interest as may be due thereon, is paid; or
- (ii) terminate the Order and any other agreements between Smiths and Customer, whether or not any sums are due for payment by Customer thereunder, without liability on the part of Smiths. Customer shall pay Smiths immediately all sums due and outstanding under all such agreements with respect to Goods/Equipment, services, components, parts, and other materials supplied or ordered in partial execution of the agreements, together with all overhead and other costs incurred by Smiths as a result of such termination.

Smiths Detection 21 Commerce Drive Danbury, CT. 06810 Main (203) 207-9700 Fax (203) 207-9780 www.smithsdetection.com

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Smiths Detection

Quotation for:

Plano Fire Department
1901 Avenue K
Plano, TX 75086

DATE: 9/10/2008
QUOTATION NO.: O6UJ9A00041L

PAGE NO.: Page 4 of 11

TERMS: Net 30

VALID UNTIL: 12/10/2008

DELIVERY: See Terms & Conditions Summary Page

WARRANTY: Sabre: 4 years, HazMatID: 5 years parts and labor

DELIVERY TERMS: EX Works Danbury, CT

Federal ID#: 22-355-2823

Item	Qty	Part No.	Description	Base Price	Net Price
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(C) No defect in the Order Goods/Equipment shall operate to interfere with the terms of payment. If payment is not made as provided above, Customer shall thereby be deemed to have waived the warranties (merchantability, fitness or otherwise, whether express or implied) provided in Section 8 hereunder. Smiths may demand different terms of payment from those specified on the face of this Order, whenever it reasonably appears that Customer's financial condition requires such changes, and may demand assurance of the Customer's ability to pay whenever it reasonably appears that such ability is in doubt. Such demand shall be in writing and Smiths may, upon making such demand, stop production and/or suspend shipments hereunder.

(D) If Customer is in default of any payment obligation, Smiths is, without reminder and prejudice to any other rights, entitled to charge interest at a rate of 1.5 times the legal interest for any outstanding sum, beginning with any due date of payment.

5. RETURN OF GOODS: There will be a 20% restocking fee, in addition to any shipping costs incurred and our technician's expense, if applicable, for all returned items.

6. LIENS AND TITLE: (A) Customer hereby grants to Smiths a security interest in any property owned by the Customer (including Customer's beneficial rights to property leased by Customer) in the possession of Smiths or any of Smiths' affiliates, at any time, to secure all amounts owed by Customer to Smiths under this Order. (B) In the case of repairs or overhauls performed pursuant to this Order, Customer agrees to grant Smiths a perfected security interest in all Goods/Equipment retained in possession of Smiths upon which any repair or overhaul services have been performed by Smiths. Customer further acknowledges and agrees that, in addition to the security interest and lien expressly granted by Customer to Smiths, Smiths shall have a lien on the Goods/Equipment retained in possession of Smiths to the extent otherwise provided by law. Customer acknowledges that the lien (whether granted by Customer or through the operation of law) for repairs or overhaul shall be for the full value of such work, and shall be superior to any lien or interest in favor of Customer, its parents, affiliates, or subsidiaries, or any other person who has knowledge of this Order. To the extent that Smiths maintains possession of Goods/Equipment under repair, Customer agrees that Smiths is a secured creditor of Customer and has all the rights of a secured creditor.

(C) With respect to Goods/Equipment sold pursuant to this Order, Customer agrees and acknowledges that Smiths shall retain a security interest in such Goods/Equipment, unless and until all payment for Goods/Equipment has been made and all other covenants and agreements of this Order have been performed in full. Accordingly, Customer agrees that it will not suffer or permit any lien or encumbrance to be established that effects the title to the Goods/Equipment sold by Smiths pursuant hereto until Smiths has been paid in full. Customer agrees that, in the event of Customer's insolvency, or in the event that any petition is filed by or against Customer under Chapter 7 or Chapter 11 of the Bankruptcy Code, Smiths may, at its discretion, recover all Goods/Equipment sold pursuant to this Order and/or seek damages or costs under applicable laws.

7. DELIVERY: (A) Unless otherwise agreed to in writing, Smiths shall deliver the Order Goods/Equipment FOB destination; freight paid by Smiths Detection, GSA freight paid by Smiths, to the place of shipment named herein within a reasonable time after receipt by Smiths of Customer's written acceptance. Typically, our customer will be contacted 24 hours prior to delivery. Typically transit time will be 7-10 business days from date of pickup from the Smiths Detection Inc. warehouse. Deliveries will be made during normal business hours Monday through Friday. One attempt to deliver will be made. Should delivery need to be rescheduled, any additional costs incurred for redelivery and/or storage fees, will be charged to the customer. Smiths shall use reasonable efforts to make timely delivery but shall be excused from any delays arising out of causes beyond its reasonable control. Any specific delivery dates that may be stated are approximate. Smiths shall, under no circumstances, be liable for damages, incidental or consequential (hereinafter contemplated as including, but not limited to, damages for lost profits, lost sales and injury to person or property), for delays, or failure to give notice of delay, whether or not caused by or resulting from Smiths' negligence. Customer agrees not to make such claim on Smiths.

(B) If proper tender of the Goods/Equipment is made and completion of delivery is prevented through no fault of Smiths, Smiths may specify a reasonable alternative place of delivery. Customer agrees that all costs of storage and transport incurred following an initial attempt at delivery are hereby allocated to and imposed upon Customer, and shall be added by Smiths to the sale price. Delivery may at any time be withheld by Smiths pending payment of any sum due from the Customer to Smiths under this Order or any other agreement. Smiths will return Goods/Equipment via the incoming method unless an alternative method has been indicated on the purchase order or a change authorized by the Customer representative. Please note that the above delivery statement does not apply for deliveries made outside the 48 contiguous States. See quotation for delivery terms and conditions.

8. DELIVERY REQUIREMENTS: The client is responsible for assuring access points for delivery of equipment when necessary and is required. In an effort to assure a successful delivery, we kindly ask that our clients take the time to fill out the "Delivery Requirements" form.

9. DELIVERY INSPECTION REPORT: In an effort to help protect both Smiths Detection Inc. and our clients, we ask that before signing for receipt of your equipment, you take a few minutes to conduct a thorough evaluation of the exterior of the system and complete the "Delivery Inspection Report" provided by the contracted trucking company.

10. STORAGE FEES: A storage fee will be applied monthly up to the maximum allowed by law on all repaired and overhauled units if delivery is not taken with five (5) days of notification.

11. WARRANTIES: See the attached "Warranty", which is incorporated herein by reference.

12. TRADEMARKS/COPYRIGHTS: Smiths makes no warranty that the Order Goods/Equipment are free from, and shall not be liable to Customer for, infringement of the intellectual rights (including patents, trademarks and copyrights) of others, and Customer agrees to assume all risks associated therewith. Customer agrees to hold Smiths harmless against any claim for infringement arising out of compliance with Customer's drawings, specifications, requirements or instructions.

13. LIMITATIONS OF LIABILITY AND INDEMNITY: (A) Customer and Operator understand that the Goods/Equipment are designed to be used as tools by personnel trained in attempting to detect the possession and/or transportation of threatening materials. The level of success of such detection attempts is dependant on numerous factors, including but not limited to, the sophistication of efforts to conceal such materials, the size, type and quantity of the conditions. Accordingly, Smiths makes no guaranty or warranty as to the results that will be achieved through the use of the Goods/Equipment, and it is agreed that the sole responsibility for such results shall be borne by Customer. Accordingly, Smiths makes no guaranty or warranty as to the results that will be achieved through the use of the Goods/Equipment; and it is agreed that the sole responsibility for such results shall be borne by Customer.

(B) AS PROVIDED IN THE WARRANTY INCORPORATED HEREIN PURSUANT TO SECTION 11 ABOVE, SMITHS' LIABILITY FOR BREACH OF WARRANTY SHALL BE LIMITED TO THE REMEDIES THEREIN PROVIDED. WITH RESPECT TO OTHER BREACHES OF CONTRACT, SMITHS SHALL HAVE NO LIABILITY IN EXCESS OF THE AMOUNT OF THIS ORDER. IN NO EVENT SHALL SMITHS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RESULTING FROM COST OF SUBSTITUTE PROCUREMENT, LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF REVENUES, LOSS OF BUSINESS, OR FAILURE OR DELAY IN PERFORMANCE, WHETHER BASED ON BREACH OF WARRANTY OR OTHER CONTRACT BREACH, NEGLIGENCE OR OTHER TORT OR ON ANY STRICT LIABILITY THEORY, EVEN IF SMITHS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. NOR SHALL SMITHS BE RESPONSIBLE FOR ANY CLAIM AGAINST CUSTOMER BY A THIRD PARTY.

(C) To the fullest extent permitted by applicable law, Customer shall defend, indemnify, and hold harmless Smiths and its affiliates and their respective officers, partners, directors, employees, agents, successors, and assigns ("Smiths Parties") from and against any and all losses, claims, damages, liabilities, expenses (including, without limitation, fees and disbursements of legal counsel and expenses of litigation) or other obligations (collectively "Losses") and threatened Losses to the extent they arise from or in connection with the purchase and/or operation of the Goods/Equipment by Customer or Owner, including but not limited to any of the following: (i) the death or bodily injury of any agent, employee, customer,

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Smiths Detection

Quotation for:

Plano Fire Department

1901 Avenue K

Plano, TX 75086

DATE: 9/10/2008

QUOTATION NO.: O6UJ9A00041L

PAGE NO.: Page 5 of 11

TERMS: Net 30

VALID UNTIL: 12/10/2008

DELIVERY: See Terms & Conditions Summary Page

WARRANTY: Sabre: 4 years, HazMatID: 5 years parts and labor

DELIVERY TERMS: EX Works Danbury, CT

Federal ID#: 22-355-2823

Item	Qty	Part No.	Description	Base Price	Net Price
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business invitee, or business visitor or other person, and the damage, loss, or destruction of any real or tangible personal property; (ii) any action taken by or on behalf of Customer in the performance of this Order that causes Smiths to be obligated to indemnify, defend, and/or hold harmless any third party; (iii) any claim, demand, charge, action, cause of action, or other proceeding resulting from an act or omission of Customer, its employees, agents, or subcontractors acting in its or their capacity as an employer or potential employer with respect to the claimant; and (iv) any claim by Customer or Operator, whether based on warranty or other contract breach, negligence or other tort or on any strict liability theory, for matters disclaimed in subsection (B) above. Customer shall fully indemnify and completely hold harmless the Smiths Parties as provided above, whether or not negligence or other fault of any of the Smiths Parties contributed to, or is claimed or alleged to have contributed to, the claim, action, damage, loss, cost, liability or expense. The only instance in which Customer shall not fully indemnify and completely hold harmless the Smiths Parties as set forth above is where the claim is based solely upon the alleged fault of Smiths and Smith's fault is adjudicated to be the sole cause of all of the Losses.

(D) Smiths shall not be liable for failure to deliver, for delay in delivery, or for any losses or damage to Customer, or to the Goods/Equipment occasioned by delays, in the performance of Smiths obligations, due to: (i) any cause beyond Smiths reasonable control or the control of Smiths suppliers or subcontractors; (ii) an act of God, act or omission of Customer, act of civil or military authority, fire, strike or other labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation; or (iii) any other commercial impracticability.

(E) The conditions to performance specifically stated in this provision and elsewhere in this Order shall be the only conditions precedent or subsequent to an absolute duty of performance on the part of Customer and Smiths. Any official action or legal proceeding by Customer in connection with this Order, other than provided for elsewhere in this Order, must be commenced within one (1) year from delivery. In no event of breach or repudiation of this Order by Smiths shall Smiths be liable for indirect, special, third party, incidental, or consequential damages, including without limitation lost profits, data, or goodwill, and Customer hereby agrees not to make any such claim on Smiths. Customer agrees to defend, indemnify and hold harmless Smiths from and against any claim, loss, liability, expense or damage (including liens or legal fees) incurred by Smiths with respect to any of Customers export or re-export activities contrary to Section 19 Export & Import Controls.

14. TAXES: Sales and use taxes, payable by Customer, which are presently or may hereafter be imposed by any taxing authority, are not included in the sale price. Any direct or excise tax or import or customs exaction payable by Smiths, which may hereafter be imposed by any taxing authority, wheresoever located, upon the manufacture, sale or delivery of products covered by this order, or any increase in rate of any such tax or import or customs exaction now in force, shall be added to the sales price. If such charge is not collected at the time of payment or sale price, Customer will hold Smiths harmless.

15. CHANGES AND TERMINATION: (A) Smiths shall have the right, in its sole discretion, to terminate this Order if Customer: (i) is unable to pay its debts generally as and when they become due; (ii) is the subject of a legal process declaring it insolvent; (iii) ceases or threatens to cease carrying on its business; or (iv) commits a substantial breach of this Order which is incapable of remedy.

(B) Customer may make a written request for amendment, modification, or termination. If a request for amendment or modification is accepted by Smiths, and any changes cause an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified in writing accordingly. Wherever the cost of property made obsolete as a result of the change is included in the price adjustment, Customer shall have the right to prescribe the manner of disposition of such property. If request for termination is accepted by Smiths, equitable provision shall be made to Smiths for a recoupment of all costs incurred under the Order and for reasonable profit based on time and costs expended. The Order shall continue in effect until such time as payment is received. A written request as specified herein shall give Smiths adequate reason to demand written assurance of Customer's ability and intent to carry out the Order.

16. MERGER AND SEVERABILITY: This Order contains the total agreement of the Parties, and all agreements entered into prior to or contemporaneously with the execution of this agreement are excluded whether oral or in writing, except that a contemporaneous writing, signed by both Parties, and firmly attached to this tender, shall be considered part hereof. If any provision of this Order shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not effect the remaining provisions of this Order, all of which shall remain in full force and effect.

17. DISPUTE RESOLUTION, GOVERNING LAW, AND FORUM: (A) This Order shall be governed by, and construed in accordance with, the laws of the State of [jurisdiction], without the application of conflict of laws principles. THIS ORDER SHALL NOT BE GOVERNED BY THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS. Notwithstanding the foregoing, the federal laws of the United States of America shall be the governing laws, to the extent appropriate, with respect to issues involving patent, copyright, or trademark.

(B) In the event a dispute arises under or relates to this Order, the Parties shall diligently attempt to resolve the dispute within thirty (30) days from the date either Party gives written notice to the other of its intent to invoke this provision, during which period neither Party may commence legal action to assert its rights against the other. In the event the Parties do not resolve the dispute within the thirty (30) day period referenced above, either Party may institute legal action to pursue any right or remedy it may have against the other Party. Any legal action or proceeding with respect to this Order shall be brought and maintained in the courts of the State of [jurisdiction] or of the United States of America for the District of [jurisdiction]. By execution of this Order, Customer hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. No action in law or equity arising out of this Order may be brought by Customer more than two years after the cause of action has first arisen.

(C) Customer further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding if such process shall be in writing and either shall be delivered in person or sent by registered or certified mail (return receipt requested), postage pre-paid, and addressed to Customer at the address of Customer for notices under this Order. Nothing herein shall affect the right of Smiths to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against Customer in any other jurisdiction.

(D) Smiths shall have the right to collect from Customer its reasonable expenses, including attorneys' fees, incurred in enforcing this Order.

(E) The rights and obligations herein shall survive completion of the final payment under this Order.

18. CONFIDENTIALITY: The Parties agree that, in the course of performance of this Order, it may be necessary and desirable for them to exchange confidential information. For example, all updates, repairs, replacements, fixes, modifications, and other changes to the Goods/Equipment shall be considered Smiths proprietary information. To accomplish this confidentiality, the Parties agree as follows: any Party disclosing confidential information to the other Party shall identify such information as confidential when disclosing it. The receiving Party shall not disclose confidential information of the disclosing Party to any person outside its employ, except when authorized by the disclosing Party. Any Party receiving confidential information under this Article shall maintain such information in confidence in the same manner it protects its own confidential information and shall use it only for the performance of this Order, and for no other purpose.

19. EXPORT AND IMPORT CONTROLS: Customer acknowledges and agrees that the Ultimate Destination of the Order Goods/Equipment is in the United States, unless otherwise agreed to in writing. Customer shall not authorize or permit its employees, distributors, customers, brokers, freight forwarders, and/or agents to export or re-export any of the Order Goods/Equipment to any foreign person without complying with applicable import and export laws and regulations of Customer's country and of the United States, including the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR). Customer agrees to obtain and properly utilize U.S. Government export authorization

Smiths Detection 21 Commerce Drive Danbury, CT. 06810 Main (203) 207-9700 Fax (203) 207-9780 www.smithsdetection.com

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DATE: 9/10/2008
 QUOTATION NO.: O6UJ9A00041L
 PAGE NO.: Page 6 of 11
 TERMS: Net 30
 VALID UNTIL: 12/10/2008
 DELIVERY: See Terms & Conditions Summary Page
 WARRANTY: Sabre: 4 years, HazMatID: 5 years parts and labor
 DELIVERY TERMS: EX Works Danbury, CT
 Federal ID#: 22-355-2823

Smiths Detection

Quotation for:

Plano Fire Department
 1901 Avenue K
 Plano, TX 75086

Item	Qty	Part No.	Description	Base Price	Net Price
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prior to exporting or re-exporting the Order Goods/Equipment, either in their original form or after being incorporated into other end-items.

20. NOTIFICATION: Customer agrees to notify Smiths immediately if Customer is listed in any Denied Persons List, Entity List, or Specially Designated Nationals List, or if Customer's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

21. LICENSE AND OWNERSHIP: To the extent that the Order Goods/Equipment contain or are software, Smiths hereby grants to Customer a non-exclusive, non-transferable, personal license to use the software and related documentation. Customer's use of the Order Goods/Equipment conclusively evidences its acceptance of this license and this Order, including this Section 20. Title to the software shall at all times remain with Smiths. Customer agrees that the software, all enhancements, related documentation, and derivative works are, and will remain, the sole property of Smiths and includes valuable trade secrets. Customer agrees to treat the software and related documentation as confidential and to not copy, reproduce, sub-license, or otherwise disclose the software and related documentation to third parties. Customer agrees to not disassemble, decompile, reverse engineer, create derivative works from or otherwise translate, customize, localize, modify, add to, or in any way alter, rent, or loan the software or related documentation.

22. ASSIGNMENT: Neither Party shall assign this Order without the prior written consent of the other Party, except that Smiths may assign it to any of its parent, sister, or affiliate companies.

23. RELATIONSHIP: Nothing in this Order shall be construed to place the Parties in the relationship of partners or joint ventures, and the Parties shall have no power to obligate or bind the other in any manner whatsoever.

24. HEADINGS: Any headings or paragraph titles are for the convenience of reference only and shall not define, limit, or extend the scope or intent of this Order or any provision thereof.

25. PROPRIETARY INFORMATION STATEMENT: This quotation contains information proprietary to Smiths Detection, Inc. No part of this information may be reproduced or transmitted in any form without the prior written permission of Smiths Detection Inc. This quotation supersedes all previous quotations and is valid for 90 days from date of issue, unless otherwise stated.

26. INSTALLATION & TRAINING: This Installation and Training provision only applies to X-Ray equipment. Installation is not included for TRACE products unless otherwise denoted on quotation.

The cost of installation and training, for the X-ray equipment (160 Kv or lower) purchased, is included within Smiths Detection Inc.'s proposal, provided the installation is scheduled within 90 days from the date the unit shipped. This includes one visit to the client's facility where the installation and training will be conducted during normal business hours Monday through Friday. Please note that installation and training is only included for equipment delivered and installed within the 48 contiguous States. Once the client receives the equipment, they must contact the Smiths Detection Inc. Service Department at 800-297-0955 to confirm receipt and a visit will be scheduled for a mutually agreed upon date.

During this visit, the technician will install the X-ray unit (160 Kv or lower), which includes a Radiation Survey and calibration of the equipment as well as train the client's personnel on the start-up and fail-safe features, basic usage and software features of the equipment purchased.

Warranty Statement

- (A) Smiths warrants that the Goods/Equipment sold by Smiths, and that is manufactured by Smiths, (a) conforms to Smiths specifications, and (b) is free from defects in materials and workmanship (under normal usage and provided that Smiths' operation and maintenance instructions are followed by competent personnel) appearing within the applicable warranty period set forth in Appendix A. Normal wear and tear shall not be considered a defect.
- (B) For equipment that is not manufactured by Smiths, Smiths' only responsibility is to assign to its customer any manufacturer's warranty that does not prohibit such assignment.
- (C) Equipment and parts that are consumed in normal operation are not covered by this warranty.
- (D) If the Customer or Operator, as the case may be, discovers a defect within the applicable warranty period, it must be reported to Smiths service department at 1-800-297-0955 immediately upon discovery.
- (E) Within a reasonable time after proper notification, Smiths shall, during its normal business hours, Monday through Friday, correct any defect covered by this warranty with either new or used replacement parts, without charge, subject to the further applicable terms and conditions set forth in Appendix A. The original duration of this Warranty shall remain applicable to those parts not repaired or replaced. Any part repaired or replaced is warranted to conform to Smith's specifications and to be free from defects in materials or workmanship appearing within a period after repair or replacement equivalent to the warranty period originally applicable to the Goods/Equipment of which it is a part, subject to the other terms of this Warranty. The above remedies are the exclusive remedies of Customer and Operator, and the sole responsibility of Smiths, for breach of this Warranty.
- (F) Smiths' warranty ceases to be effective if Purchaser fails to operate and use the equipment sold hereunder in a safe and reasonable manner in accordance with Smiths' written instructions.
- (G) Neither Customer nor Operator shall be entitled to any remedy under this Warranty with respect to
 - (i) Goods/Equipment that has been subjected to any alteration, disassembly, tampering, modification, or repair without prior authorization by Smiths;
 - (ii) Goods/Equipment subjected to experimental running or any type of operation or use other than that for which the Goods/Equipment is designed;
 - (iii) Goods/Equipment from which Smiths' and/or vendor's trademark or serial number has been altered, removed, or obliterated without Smiths' written permission, excluding any alteration, removal, or obliteration directly caused by accident or mishap;
 - (iv) Goods/Equipment that has been in storage or immobilized for one year or more after delivery.
- (H) SMITHS MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE; AND THE EXPRESS WARRANTY SET IN THIS ARTICLE IS IN LIEU OF ANY SUCH WARRANTY AND ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF SMITHS.
- (I) For purposes of the exclusive remedies set forth in this Warranty, and the limitations of liability set forth in Section 13 of the Terms and Conditions of Sale into which it is incorporated, "Smiths" shall be deemed to include Smiths, its subsidiaries, and their affiliates, directors, officers, employees, agents, representatives, subcontractors, and suppliers of all of them.
- (J) This Warranty is non-transferable and is applicable only to the original Customer or Operator.
- (K) This Warranty shall not be extended, altered or varied except by written instrument executed by Smiths.



Smiths Detection

Quotation for:

Plano Fire Department
1901 Avenue K
Plano, TX 75086

DATE: 9/10/2008
QUOTATION NO.: O6UJ9A00041L
PAGE NO.: Page 7 of 11
TERMS: Net 30
VALID UNTIL: 12/10/2008
DELIVERY: See Terms & Conditions Summary Page
WARRANTY: Sabre: 4 years, HazMatID: 5 years parts and labor
DELIVERY TERMS: EX Works Danbury, CT
Federal ID#: 22-355-2823

Item	Qty	Part No.	Description	Base Price	Net Price
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(L) Any official action or legal proceeding for breach of this Warranty must be commenced within thirty (30) months after acceptance of the Goods/Equipment.

TERMS AND CONDITIONS OF SALE

1. DEFINITIONS: "Smiths" shall mean Smiths Detection Inc.

"Customer" shall mean the person(s) or company that purchases Equipment/Services from Smiths pursuant to this Order.

"Operator" shall mean the operator or user of the Equipment/Services.

"Order" shall mean the agreement between Smiths and the Customer (individually "Party" and collectively "the Parties") for the sale and purchase of the Equipment/Services, including the Terms and Conditions of Sale herein and any contemporaneous writing, signed by both Parties, and firmly attached hereto.

"Equipment" means all components, spare parts, goods, equipment, or materials of any kind, which are supplied by Smiths under this Order.

"Services" means all services, including maintenance and installation services, provided under this Order.

2. OFFER AND GOVERNING PROVISIONS: Each quotation and Order acknowledgement issued by Smiths is an offer by Smiths to sell the goods and/or services described in it in accordance with these Terms and Conditions of Sale, is not an acceptance of any offer made by the Customer, and is expressly conditioned upon the Customer's assent to these Terms and Conditions of Sale. Smith objects to any additional or different terms contained in any purchase order or other communication previously or hereafter provided by Customer to Smiths. No such additional or different terms or conditions will be of any force or effect. The terms of the Order will be the entire agreement between Customer and Smiths on the subject of the transaction that it describes; and there are no conditions to that agreement that are not part of the Order.

3. PURCHASE PRICE: Prices shall remain firm based upon this quote # O6UJ9A00041L, dated 9/10/08.

~~Prices cited herein are based on current costs and are subject to reasonable adjustment on or after the date of acceptance of any purchase order to meet a rise or fall in such costs, as computed on the date of delivery.~~

4. PAYMENT: (A) Payment in full of the purchase price shall be made in United States currency within 30 days of the date of invoice. Remit to: Smiths Detection, 23137 Network Place, Chicago, IL 60673-1231

(B) Punctual payment as stipulated herein is of the essence for the Order. When any sum owed by Customer to Smiths under this Order is overdue, Smiths may, without notice to Customer, either:

(i) cease the supply of further Equipment/Services under this Order without liability for any loss (including loss of profit or other financial or economic loss) to Customer until such sum, together with such interest as may be due thereon, is paid; or

(ii) terminate the Order and any other agreements between Smiths and Customer, whether or not any sums are due for payment by Customer thereunder, without liability on the part of Smiths. Customer shall pay Smiths immediately all sums due and outstanding under all such agreements with respect to Equipment/Services, supplied or ordered in partial execution of the agreements, together with all overhead and other costs incurred by Smiths as a result of such termination.

(C) No defect in the Order of the Equipment/Services shall operate to interfere with the terms of payment. If payment is not made as provided above, Customer shall thereby be deemed to have waived the warranties provided in Section 11 hereunder. Smiths may demand different terms of payment from those specified on the face of this Order, whenever it reasonably appears that Customer's financial condition requires such changes, and may demand assurance of the Customer's ability to pay whenever it reasonably appears that such ability is in doubt. Such demand shall be in writing and Smiths may, upon making such demand, stop production and/or suspend shipments hereunder.

(D) If Customer is in default of any payment obligation, Smiths is, without reminder and prejudice to any other rights, entitled to charge interest at a rate of 1.5 times the legal interest for any outstanding sum, beginning with any due date of payment.

5. RETURN OF GOODS: There will be no restocking fee for any returned goods.

~~There will be a 20% restocking fee, in addition to any shipping costs incurred and our technician's expense, if applicable, for all returned items.~~

6. LIENS AND TITLE: (A) ~~Customer hereby grants to Smiths a security interest in any property owned by the Customer (including Customer's beneficial rights to property leased by Customer) in the possession of Smiths or any of Smiths' affiliates, at any time, to secure all amounts owed by Customer to Smiths under this Order.~~

(B) In the case of repairs or overhauls performed pursuant to this Order, Customer agrees to grant Smiths a perfected security interest in all Equipment retained in possession of Smiths upon which any repair or overhaul services have been

performed by Smiths. Customer further acknowledges and agrees that, in addition to the security interest and lien expressly granted by Customer to Smiths, Smiths shall have a lien on the Equipment retained in possession of Smiths to the extent otherwise provided by law. Customer acknowledges that the lien (whether granted by Customer or through the operation of law) for repairs or overhaul shall be for the full value of such work, and shall be superior to any lien or interest in favor of Customer, its parents, affiliates, or subsidiaries, or any other person who has knowledge of this Order. To the extent that Smiths maintains possession of Equipment under repair, Customer agrees that Smiths is a secured creditor of Customer and has all the rights of a secured creditor.

(C) With respect to Equipment sold pursuant to this Order, Customer agrees and acknowledges that Smiths shall retain a security interest in such Equipment, unless and until all payment for Equipment has been made and all other covenants and agreements of this Order have been performed in full. Accordingly, Customer agrees that it will not suffer or permit any lien or encumbrance to be established that affects the title to the Equipment sold by Smiths pursuant hereto until Smiths has been paid in full. Customer agrees that, in the event of Customer's insolvency, or in the event that any petition is filed by or against Customer under Chapter 7 or Chapter 11 of the Bankruptcy Code, Smiths may, at its discretion, recover all Equipment sold pursuant to this Order and/or seek damages or costs under applicable laws.

7. DELIVERY: (A) Unless otherwise agreed to in writing, Smiths shall deliver the Equipment FOB destination; freight prepaid by Smiths and added to invoice, the place of shipment named herein within a reasonable time after receipt by Smiths of Customer's written acceptance. Typically, our customer will be contacted 24 hours prior to delivery. Typically transit time will be 7-10 business days from date of pickup from the Smiths Detection Inc. warehouse. Deliveries will be made during normal business hours Monday through Friday. One attempt to deliver will be made. Should delivery need to be rescheduled, any additional costs incurred for redelivery and/or storage fees, will be charged to the customer. Smiths shall use reasonable efforts to make timely delivery but shall be excused from any delays arising out of causes beyond its reasonable control. Any specific delivery dates that may be stated are approximate. Smiths shall, under no circumstances, be liable for damages, incidental or consequential (hereinafter contemplated as including, but not limited to, damages for lost profits, lost sales and injury to person or property), for delays, or failure to give notice of delay, whether or not caused by or resulting from Smiths' negligence. Customer agrees not to make such claim on Smiths.

(B) If proper tender of the Equipment is made and completion of delivery is prevented through no fault of Smiths, Smiths may specify a reasonable alternative place of delivery. Customer agrees that all costs of storage and transport incurred following an initial attempt at delivery are hereby allocated to and imposed upon Customer, and shall be added by Smiths to the sale price. Delivery may at any time be withheld by Smiths pending payment of any sum due from the Customer to Smiths under this Order or any other agreement. Smiths will return Equipment via the incoming method unless an alternative method has been indicated on the purchase order or a change authorized by the Customer representative. Please note that the above delivery statement does not apply for deliveries made outside the 48 contiguous States. See quotation for delivery terms and conditions.

8. DELIVERY REQUIREMENTS: The client is responsible for assuring access points for delivery of equipment when necessary and is required. In an effort to assure a successful delivery, we kindly ask that our clients take the time to fill out the "Delivery Requirements" form.

9. DELIVERY INSPECTION REPORT: In an effort to help protect both Smiths Detection Inc. and our clients, we ask that before signing for receipt of your equipment, you take a few minutes to conduct a thorough evaluation of the exterior of the system and complete the "Delivery Inspection Report" provided by the contracted trucking company.

10. STORAGE FEES: A storage fee will be applied monthly up to the maximum allowed by law on all repaired and overhauled units if delivery is not taken within five (5) days of notification.

11. WARRANTIES: (A) Smiths warrants that the Equipment sold by Smiths, and that is manufactured by Smiths, for a period of 12 months (1) conforms to Smiths specifications, and (2) is free from defects in materials and workmanship (under normal usage and provided that Smiths' operation and maintenance instructions are followed by competent personnel). Normal wear and tear shall not be considered a defect.

(B) Smiths warrants that it shall use reasonable efforts to provide the Services ordered under the Order. Smiths does not represent or warrant that all equipment problems will be corrected or if corrected, corrected to the full satisfaction of Customer. The express warranty set forth in the first sentence of this paragraph shall be the only warranty given by Smiths with respect to the Services provided.

TERMS AND CONDITIONS OF SALE

(C) For goods that are not manufactured by Smiths, Smiths' only responsibility is to assign to its Customer any manufacturer's warranty that does not prohibit such assignment.

(D) Equipment and parts that are consumed in normal operation are not covered by this warranty.

(E) If the Customer or Operator, as the case may be, discovers a defect within the applicable warranty period, it must be reported to Smiths' service department at 1-800-297-0955 immediately upon discovery.

(F) Within a reasonable time after proper notification, Smiths shall, during its normal business hours, Monday through Friday, correct any defect covered by this warranty with either new or used replacement parts, without charge. The original duration of this Warranty shall remain applicable to those parts not repaired or replaced. Any part repaired or replaced is warranted to conform to Smith's specifications and to be free from defects in materials or workmanship appearing within a period after repair or replacement equivalent to the warranty period originally applicable to the Equipment of which it is a part, subject to the other terms of this Warranty. The above remedies are the exclusive remedies of Customer and Operator, and the sole responsibility of Smiths, for breach of this Warranty.

(G) Smiths' warranty ceases to be effective if Purchaser fails to operate and use the Equipment sold hereunder in a safe and reasonable manner in accordance with Smiths' written instructions.

(H) Neither Customer nor Operator shall be entitled to any remedy under this Warranty with respect to

(i) Equipment/Services that has been subjected to any alteration, disassembly, tampering, modification, or repair without prior authorization by Smiths;

(ii) Equipment/Services subjected to experimental running or any type of operation or use other than that for which the Equipment/Services is designed;

(iii) Equipment/Services from which Smiths' and/or vendor's trademark or serial number has been altered, removed, or obliterated without Smiths' written permission, excluding any alteration, removal, or obliteration directly caused by accident or mishap;

(iv) Equipment/Services that has been in storage or immobilized for one year or more after delivery.

(I) SMITHS MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE; AND THE EXPRESS WARRANTY SET FORTH IN THIS ARTICLE IS IN LIEU OF ANY SUCH WARRANTY AND ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF SMITHS.

(J) For purposes of the exclusive remedies set forth in this Warranty, and the limitations of liability set forth in Section 13 of the Terms and Conditions of Sale into which it is incorporated, "Smiths" shall be deemed to include Smiths, its subsidiaries, and their affiliates, directors, officers, employees, agents, representatives, subcontractors, and suppliers of all of them.

(K) This Warranty is non-transferable and is applicable only to the original Customer or Operator.

(L) This Warranty shall not be extended, altered or varied except by written instrument executed by Smiths.

(M) Any official action or legal proceeding for breach of this Warranty must be commenced within thirty (30) months after acceptance of the Equipment/Services.

12. TRADEMARKS/COPYRIGHTS: Smiths makes no warranty that the Equipment/Services are free from, and shall not be liable to Customer for, infringement of the intellectual rights (including patents, trademarks and copyrights) of others, and Customer agrees to assume all risks associated therewith. Customer agrees to hold Smiths harmless against any claim for infringement arising out of compliance with Customer's drawings, specifications, requirements or instructions.

13. LIMITATIONS OF LIABILITY AND INDEMNITY:

(A) Customer and Operator understand that

(i) Equipment/Services are designed to be used as tools by personnel trained in attempting to detect the willful or negligent possession and/or transportation of illegal and/or hazardous materials;

(ii) The level of success of such detection attempts is dependant on numerous factors, including but not limited to the sophistication of efforts to conceal such materials, the skill, diligence and qualifications of the detection personnel and environmental conditions; and

(iii) No combination of personnel and equipment is capable of detecting all such materials.

Accordingly, Smiths makes no guaranty or warranty as to the results that will be achieved through the use of the Equipment/Services; and it is agreed that the sole responsibility for such results shall be borne by Customer.

(B) AS PROVIDED IN THE WARRANTY IN SECTION 11 ABOVE, SMITHS' LIABILITY FOR BREACH OF WARRANTY SHALL BE LIMITED TO THE REMEDIES THEREIN PROVIDED. WITH RESPECT TO OTHER BREACHES OF CONTRACT, SMITHS SHALL HAVE NO LIABILITY IN EXCESS OF THE AMOUNT OF THIS ORDER. IN NO EVENT SHALL SMITHS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RESULTING FROM COST OF SUBSTITUTE PROCUREMENT, LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF REVENUES, LOSS OF BUSINESS, OR FAILURE OR DELAY IN PERFORMANCE, WHETHER BASED ON BREACH OF WARRANTY OR OTHER CONTRACT BREACH, NEGLIGENCE OR OTHER TORT OR ON ANY STRICT LIABILITY THEORY, EVEN IF SMITHS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. NOR SHALL SMITHS BE RESPONSIBLE FOR ANY CLAIM AGAINST CUSTOMER BY A THIRD PARTY.

~~(C) To the fullest extent permitted by applicable law, Customer shall defend, indemnify, and hold harmless Smiths and its affiliates and their respective officers, partners, directors, employees, agents, successors, and assigns ("Smiths Parties") from and against any and all losses, claims, damages, liabilities, expenses (including, without limitation, fees and disbursements of legal counsel and expenses of litigation) or other obligations (collectively "Losses") and threatened Losses to the extent they arise from or in connection with the purchase, use and operation of the Equipment/Services by Customer or Owner, including but not limited to any of the following: (i) the death or bodily injury of any agent, employee, customer, business invitee, or business visitor or other person, and the damage, loss, or destruction of any real or tangible personal property; (ii) any action taken by or on behalf of Customer in the performance of this Order that causes Smiths to be obligated to indemnify, defend, and/or hold harmless any third party; (iii) any claim, demand, charge, action, cause of action, or other proceeding resulting from an act or omission of Customer, its employees, agents, or subcontractors acting in its or their capacity as an employer or potential employer with respect to the claimant; and (iv) any claim by Customer or Operator, whether based on warranty or other contract breach, negligence or other tort or on any strict liability theory, for matters disclaimed in subsection (B) above. Customer shall fully indemnify and completely hold harmless the Smiths Parties as provided above, whether or not negligence or other fault of any of the Smiths Parties contributed to, or is claimed or alleged to have contributed to, the claim, action, damage, loss, cost, liability or expense. The only instance in which Customer shall not fully indemnify and completely hold harmless the Smiths Parties as set forth above is where the claim is based solely upon the alleged fault of Smiths and Smith's fault is adjudicated to be the sole cause of all of the Losses.~~

(D) Smiths will deliver the quoted items within 60 days after receiving the Purchase Order.

~~Smiths shall not be liable for failure to deliver, for delay in delivery, or for any losses or damage to Customer, or to the Equipment/Services occasioned by delays, in the performance of Smiths' obligations, due to: (i) any cause beyond Smiths' reasonable control or the control of Smiths' suppliers or subcontractors; (ii) an act of God, act or omission of Customer, act of civil or military authority, fire, terrorism, strike or other labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation; or (iii) any other commercial impracticability.~~

(E) The conditions to performance specifically stated in this provision and elsewhere in this Order shall be the only conditions precedent or subsequent to an absolute duty of performance on the part of Customer and Smiths. Any official action or legal proceeding by Customer in connection with this Order, other than provided for elsewhere in this Order, must be commenced within one (1) year from delivery. In no event of breach or repudiation of this Order by Smiths shall Smiths be liable for indirect, special, third party, incidental, or consequential damages, including without limitation lost profits, data, or goodwill, and Customer hereby agrees not to make any such claim on Smiths. Customer agrees to defend, indemnify and hold harmless Smiths from and against any claim, loss, liability, expense or damage (including liens or legal fees) incurred by Smiths with respect to any of Customer's export or re-export activities contrary to Section 10 - Export & Import Controls.

(F) Smiths shall not be liable to Customer nor Operator for any losses or damage as a result of Equipment/Services that has been subjected to any alteration, disassembly, tampering, modification, or repair without prior authorization by Smiths.

14. TAXES: Sales and use taxes, payable by Customer, which are presently or may hereafter be imposed by any taxing authority, are not included in the sale

r-12

TERMS AND CONDITIONS OF SALE

price. Any direct or excise tax or import or customs exaction payable by Smiths, which may hereafter be imposed by any taxing authority, wheresoever located, upon the manufacture, sale or delivery of products covered by this order, or any increase in rate of any such tax or import or customs exaction now in force, shall be added to the sales price. If such charge is not collected at the time of payment or sale price, Customer will hold Smiths harmless.

15. CHANGES AND TERMINATION: (A) Smiths shall have the right, in its sole discretion, to terminate this Order if Customer: (i) is unable to pay its debts generally as and when they become due; (ii) is the subject of a legal process declaring it insolvent; (iii) ceases or threatens to cease carrying on its business; or (iv) commits a substantial breach of this Order which is incapable of remedy.

(B) Customer may make a written request for amendment, modification, or termination. If a request for amendment or modification is accepted by Smiths, and any changes cause an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified in writing accordingly. Wherever the cost of property made obsolete as a result of the change is included in the price adjustment, Customer shall have the right to prescribe the manner of disposition of such property. If request for termination is accepted by Smiths, equitable provision shall be made to Smiths for a recoupment of all costs incurred under the Order and for reasonable profit based on time and costs expended. The Order shall continue in effect until such time as payment is received. A written request as specified herein shall give Smiths adequate reason to demand written assurance of Customer's ability and intent to carry out the Order.

16. MERGER AND SEVERABILITY: This Order contains the total agreement of the Parties, and all agreements entered into prior to or contemporaneously with the execution of this agreement are excluded whether oral or in writing, except that a contemporaneous writing, signed by both Parties, and firmly attached to this tender, shall be considered part hereof. If any provision of this Order shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not effect the remaining provisions of this Order, all of which shall remain in full force and effect.

17. DISPUTE RESOLUTION, GOVERNING LAW, AND FORUM: (A) This Order shall be governed by, and construed in accordance with, the laws of the State of Texas, without the application of conflict of laws principles. **THIS ORDER SHALL NOT BE GOVERNED BY THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.** Notwithstanding the foregoing, the federal laws of the United States of America shall be the governing laws, to the extent appropriate, with respect to issues involving patent, copyright, or trademark.

(B) In the event a dispute arises under or relates to this Order, the Parties shall diligently attempt to resolve the dispute within thirty (30) days from the date either Party gives written notice to the other of its intent to invoke this provision, during which period neither Party may commence legal action to assert its rights against the other. In the event the Parties do not resolve the dispute within the thirty (30) day period referenced above, either Party may institute legal action to pursue any right or remedy it may have against the other Party. Any legal action or proceeding with respect to this Order shall be brought and maintained in the courts of the State of Collin County, Texas or of the United States of America for the Texas Eastern District, Fifth Circuit. By execution of this Order, Customer hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. No action in law or equity arising out of this Order may be brought by Customer more than two years after the cause of action has first arisen.

(C) Customer further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding if such process shall be in writing and either shall be delivered in person or sent by registered or certified mail (return receipt requested), postage pre-paid, and addressed to Customer at the address of Customer for notices under this Order. Nothing herein shall affect the right of Smiths to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against Customer in any other jurisdiction.

(D) ~~Smiths shall have the right to collect from Customer its reasonable expenses, including attorneys' fees, incurred in enforcing this Order.~~

(E) The rights and obligations herein shall survive completion of the final payment under this Order.

18. CONFIDENTIALITY: The Parties agree that, in the course of performance of this Order, it may be necessary and desirable for them to exchange confidential information. For example, all updates, repairs, replacements, fixes, modifications, and other changes to the Equipment/Services shall be considered Smiths' proprietary information. To accomplish this confidentiality, the Parties agree that restrictions on use and release of any exchanged proprietary or confidential information data is subject to the Texas Public Information Act. Smiths will be contacted in the event of a request for this data and will be provided an opportunity to assert any exceptions to release offered by that Act, as follows: any Party

~~disclosing confidential information to the other Party shall identify such information as confidential when disclosing it. The receiving Party shall not disclose confidential information of the disclosing Party to any person outside its employ, except when authorized by the disclosing Party. Any Party receiving confidential information under this Article shall maintain such information in confidence in the same manner it protects its own confidential information and shall use it only for the performance of this Order, and for no other purpose.~~

19. EXPORT AND IMPORT CONTROLS: Customer acknowledges and agrees that the Ultimate Destination of the Order Equipment/Services is in the United States, unless otherwise agreed to in writing. Customer shall not authorize or permit its employees, distributors, customers, brokers, freight forwarders, and/or agents to export or re-export any of the Order Equipment/Services to any foreign person without complying with applicable import and export laws and regulations of Customer's country and of the United States, including the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR). Customer agrees to obtain and properly utilize U.S. Government export authorization prior to exporting or re-exporting the Order Equipment/Services, either in their original form or after being incorporated into other end-items.

20. NOTIFICATION: Customer agrees to notify Smiths immediately if Customer is listed in any Denied Persons List, Entity List, or Specially Designated Nationals List, or if Customer's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

21. LICENSE AND OWNERSHIP: To the extent that the Order Equipment/Services contain or are software, Smiths hereby grants to Customer a non-exclusive, non-transferable, personal license to use the software and related documentation. Customer's use of the Order Equipment/Services conclusively evidences its acceptance of this license and this Order, including this Section 20. Title to the software shall at all times remain with Smiths. Customer agrees that the software, all enhancements, related documentation, and derivative works are, and will remain, the sole property of Smiths and includes valuable trade secrets. Customer agrees to treat the software and related documentation as confidential and to not copy, reproduce, sub-license, or otherwise disclose the software and related documentation to third parties. Customer agrees to not disassemble, decompile, reverse engineer, create derivative works from or otherwise translate, customize, localize, modify, add to, or in any way alter, rent, or loan the software or related documentation.

22. ASSIGNMENT: Neither Party shall assign this Order without the prior written consent of the other Party, except that Smiths may assign it to any of its parent, sister, or affiliate companies.

23. RELATIONSHIP: Nothing in this Order shall be construed to place the Parties in the relationship of partners or joint ventures, and the Parties shall have no power to obligate or bind the other in any manner whatsoever.

24. HEADINGS: Any headings or paragraph titles are for the convenience of reference only and shall not define, limit, or extend the scope or intent of this Order or any provision thereof.

25. PROPRIETARY INFORMATION STATEMENT: This quotation contains information proprietary to Smiths Detection, Inc. Restrictions on use and release of said data is subject to the Texas Public Information Act. Smiths will be contacted in the event of a request for this data and will be provided an opportunity to assert any exceptions to release offered by that Act. No part of this information may be reproduced or transmitted in any form without the prior written permission of Smiths Detection Inc. This quotation supersedes all previous quotations and is valid for 90 days from date of issue, unless otherwise stated.

26. INSTALLATION & TRAINING: This installation and training provision only applies to X-Ray equipment. Installation is not included for TRACE products unless otherwise denoted on quotation.

The cost of installation and training, for the X-ray equipment (160 Kv or lower) purchased, is included within Smiths Detection Inc.'s proposal, provided the installation is scheduled within 90 days from the date the unit shipped. This includes one visit to the client's facility where the installation and training will be conducted during normal business hours Monday through Friday. Please note that installation and training is only included for equipment delivered and installed within the 48 contiguous States.

Once the client receives the equipment, they must contact the Smiths Detection Inc. Service Department at 800-297-0955 to confirm receipt and a visit will be scheduled for a mutually agreed upon date.

During this visit, the technician will install the X-ray unit (160 Kv or lower), which includes a Radiation Survey and calibration of the equipment as well as train the client's personnel on the start-up and fail-safe features, basic usage and software features of the equipment purchased. The technician will not engage in any form of image interpretation training.

TERMS AND CONDITIONS OF SALE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the last date provided below.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Customer and Utility Services		Initials	Date
Department Head	Mark Israelson	Executive Director	<i>[Signature]</i>	10-31-08
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	11/11/08
Agenda Coordinator (include phone #): Nancy Rodriguez X7510				

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A COMMUNICATIONS FACILITIES LICENSE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND SPRINT WIRELESS BROADBAND COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY TO LOCATE, PLACE, ATTACH, INSTALL, AND OPERATE, TELECOMMUNICATIONS EQUIPMENT IN CERTAIN SPECIFIC PORTIONS OF THE PUBLIC RIGHTS-OF-WAY IN THE CITY OF PLANO NEAR THE COIT ROAD WATER TOWER SITE LOCATED AT 3617 SANDY TRAIL LANE; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	08-09, 09-10, 10-11, 11-12, 12-13	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	14,100	60,758	74,858
BALANCE		0	14,100	60,758	74,858

FUND(S): WATER & SEWER FUND (041)

COMMENTS: Approval of this item will provide a five year lease agreement with \$14,100 annual revenue beginning FY 2008-09, and includes a minimum annual lease fee increase of 3% or annual CPI, whichever is greater.

STRATEGICPLAN GOAL: Facilities license agreements and water tower leases relate to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

This Resolution approves a Communications Facilities License Agreement with Sprint Wireless Broadband, LLC for communications facilities near Coit Road Water Tower.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A COMMUNICATIONS FACILITIES LICENSE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND SPRINT WIRELESS BROADBAND COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY TO LOCATE, PLACE, ATTACH, INSTALL, AND OPERATE, TELECOMMUNICATIONS EQUIPMENT IN CERTAIN SPECIFIC PORTIONS OF THE PUBLIC RIGHTS-OF-WAY IN THE CITY OF PLANO NEAR THE COIT ROAD WATER TOWER SITE LOCATED AT 3617 SANDY TRAIL LANE; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Communications Facilities License Agreement by and between the City of Plano, Texas and Sprint Wireless Broadband Company, LLC, (hereinafter called "Agreement"), a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director should 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, 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, in his absence, an Executive Director, 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.

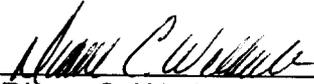
DULY PASSED AND APPROVED on this the _____ day of _____, 2008.

PAT EVANS, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"

The "Communications Facilities License" is available for review in the Customer and Utility Services Department, 1520 K Avenue, Plano, TX 75074.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/2008		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Police Department		Initials	Date	
Department Head	Gregory W. Rushin		Executive Director		
Dept Signature:	<i>Gregory W. Rushin</i>		City Manager	<i>[Signature]</i> 11/14/08	
Agenda Coordinator (include phone #): Pam Haines, ext 2538					

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

A Resolution of the City Council of the City of Plano, Texas, designating certain municipal vehicles as authorized emergency vehicles; and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S):

COMMENTS:

SUMMARY OF ITEM

The City Council deems it necessary to designate certain municipal vehicles as authorized emergency vehicles.

List of Supporting Documents: Resolution, Memo	Other Departments, Boards, Commissions or Agencies
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P.O. Box 860358
Plano, Texas 75086-0358
972-941-7000
Fax. No. 972-941-0099

MEMORANDUM

DATE: *November 4, 2008*

TO: *Bruce D. Glasscock, Executive Director*

FROM: *grw* *Gregory W. Rushin, Chief of Police*

SUBJECT: *Resolution to Designation Vehicles as Authorized Emergency Vehicles*

The Texas Transportation Code, 547.305, allows certain equipment privileges for "authorized emergency vehicles." In particular, vehicles designated as authorized emergency vehicles by the governing body of a municipality may display alternately flashing lighting that standard vehicles may not. The governing body of a municipality may designate or authorize municipal department or public service corporation emergency vehicles as authorized emergency vehicles. An emergency is the unforeseen combination of circumstances or the resulting state that calls for immediate action. The Plano Police Department has two different groups of vehicles driven by civilians that respond to emergency situations and thus should be designated "Authorized Emergency Vehicles" by the City Council: the Mobile Command Post and vehicles driven by Public Safety Officers.

I. MOBILE COMMAND POST

The Mobile Command Post is a large RV type vehicle that responds to barricaded person incidents, hostage situations, and other occasions that may require a centralized on-site command facility. Although it is staffed by sworn peace officers, it is driven by civilians, and thus requires the "authorized emergency vehicle" designation to legally operate.

II. PUBLIC SAFETY OFFICER VEHICLES

Public Safety Officers in the Plano Police Department are not sworn peace officers but civilians employed in a support role to the officers. Public Safety Officers use specially assigned vehicles to respond to minor property offenses, enforce city ordinances, and assist at accident scenes. They routinely respond to crashes to assist officers with traffic control and also handle motorist assist calls, man road closures and barricades at crash, fire, and crime scenes, and transport and set up cones and barricades for lane closures and road closures associated with major accidents.

This designation by City Council will allow these vehicles to be equipped with lighting options to protect these employees while conducting their duties, but only after arriving at the scene of an emergency. Civilian employees are required to drive legally at all times. If you have any questions please advise.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, DESIGNATING CERTAIN MUNICIPAL VEHICLES AS AUTHORIZED EMERGENCY VEHICLES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Transportation Code §547.305 provides that the governing body of a municipality may designate or authorize municipal department emergency vehicles to be equipped with alternately flashing lights and other warning devices that are not permitted on non-emergency vehicles; and

WHEREAS, the Plano Police Department has two different categories of vehicles driven by civilian personnel that may be called upon to respond to an emergency; and

WHEREAS, the City wishes to designate these two categories of vehicles as authorized emergency vehicles.

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

Section I. The City Council of the City of Plano designates the following vehicles which are operated by the Plano Police Department but driven by civilians as authorized emergency vehicles:

Mobile Command Post
Public Safety Officer Vehicles

Section II. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal <i>JP</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Manager		Initials	Date
Department Head	Thomas H. Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>THM</i>	<i>11/13/08</i>
Agenda Coordinator (include phone #): Cindy Pierce				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, SUPPORTING THE RAISE YOUR HAND TEXAS PROGRAM; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
A Resolution showing City of Plano's support of the Raise Your Hand Texas program. Raise Your Hand Texas is a bipartisan group of business and community leaders, parents and tax payers dedicated to strengthening and improving Texas public schools.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, SUPPORTING THE RAISE YOUR HAND TEXAS PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the education of young Texans is of vital importance to the economic future and the social well-being of our communities and state.

WHEREAS, Texans agree that they want schools to be stronger and to be the best they can be.

WHEREAS, Raise Your Hand Texas is a bipartisan group of business and community leaders, parents, and tax payers dedicated to strengthening and improving Texas public schools.

WHEREAS, Raise Your Hand Texas focuses its efforts and resources in three areas:

- To celebrate the tremendous work Texas students, educators, and parents have done and continue to do every day.
- To respond to unfair and unfounded criticism directed at our public schools.
- To support our schools by seeking additional state resources and making commonsense suggestions that will help our schools provide a safe and effective learning environment for all Texas children.

WHEREAS, The City of Plano has an interest in developing, attracting, and retaining an available educated work force to serve area businesses, as well as maintaining relationships with the educational entities in the community.

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

Section I. We do hereby strongly support Raise Your Hand Texas;

Section II. We shall add our voice to Raise Your Hand Texas by becoming a member advocate; and

Section III. We shall encourage our employees and citizens to become member advocates of Raise Your Hand Texas.

Section IV. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget <i>CS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>WJ</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Finance		Initials	Date
Department Head	Denise Tacke <i>DT</i>	Executive Director		
Dept Signature:		City Manager	<i>JM</i>	<i>11/10/08</i>
Agenda Coordinator (include phone #):		Katherine Crumbley x-7479 <i>KC</i>		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, REPEALING RESOLUTION NO. 2008-9-37(R) IN ITS ENTIRETY AND APPROVING THE TERMS AND CONDITIONS OF A NEW AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, THE COUNTY OF COLLIN, TEXAS, CONNECTICUT GENERAL LIFE INSURANCE COMPANY, A CONNECTICUT CORPORATION, AND CMC-PLANO PKWY EQUITY INVESTORS, L.P., A TEXAS LIMITED PARTNERSHIP; PROVIDING FOR A REAL AND BUSINESS PERSONAL PROPERTY TAX ABATEMENT, AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
This resolution repeals Resolution No. 2008-9-37 and approves a new tax abatement agreement.				
List of Supporting Documents: Tax Abatement Agreement		Other Departments, Boards, Commissions or Agencies		

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, REPEALING RESOLUTION NO. 2008-9-37(R) IN ITS ENTIRETY AND APPROVING THE TERMS AND CONDITIONS OF A NEW AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, THE COUNTY OF COLLIN, TEXAS, CONNECTICUT GENERAL LIFE INSURANCE COMPANY, A CONNECTICUT CORPORATION, AND CMC-PLANO PKWY EQUITY INVESTORS, L.P., A TEXAS LIMITED PARTNERSHIP; PROVIDING FOR A REAL AND BUSINESS PERSONAL PROPERTY TAX ABATEMENT, AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council approved Resolution No. 2008-9-37(R) on September 22, 2008; and

WHEREAS, the City Council desires to repeal Resolution No. 2008-9-37(R) and to hereby approve a new tax abatement agreement; and

WHEREAS, the City Council has been presented a proposed Tax Abatement Agreement by and between the City of Plano, Texas, the County of Collin, Texas, Connecticut General Life Insurance Company, a Connecticut Corporation, and CMC-Plano Pkwy Equity Investors, L.P., a Texas limited partnership, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager, or in his absence an Executive Director, 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:

Section I. Resolution No. 2008-9-37(R) is repealed in its entirety.

Section II. 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 III. The City Manager, or in his absence an Executive Director, 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 IV. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this the 10th day November, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

THE STATE OF TEXAS §
 §
COUNTY OF COLLIN §

TAX ABATEMENT AGREEMENT

This Agreement is entered into by and between the City of Plano, Texas, a home rule municipal corporation of Collin and Denton Counties, Texas, duly acting herein by and through its City Manager, hereinafter referred to as "**City**"; the County of Collin, Texas, duly acting herein by and through its County Judge, and hereinafter referred to as "**County**", and together are hereinafter collectively referred to as "**Taxing Units**," CMC-Plano Pkwy Equity Investors, L.P., a Texas limited partnership, duly acting by and through its partners, hereinafter "**Owner**," and Connecticut General Life Insurance Company, a Connecticut corporation, duly acting by and through its officers, hereinafter "**Lessee**."

WITNESSETH:

WHEREAS, on the 22nd day of September, 2008, the City Council of the City of Plano, Texas, passed Ordinance No. 2008-9-36 establishing Reinvestment Zone No. 116, for commercial/industrial tax abatement, hereinafter referred to as the "Ordinance," as authorized by V.T.C.A. Tax Code, Chapter 312.001, et seq., cited as the Property Redevelopment and Tax Abatement Act, hereinafter referred to as "Acts"; and

WHEREAS, on the 10th day of November, 2008, the City Council of the City of Plano, Texas, amended Section VI of Ordinance No.2008-9-36 to provide for minimum investments in real and business personalty improvements consistent with the terms of this agreement; and

WHEREAS, the City has adopted a revised policy statement for Tax Abatement by Resolution No. 2007-8-27(R) stating that it elects to be eligible to participate in tax abatement (the "Policy Statement"); and

WHEREAS, the Policy Statement sets forth appropriate guidelines and criteria governing tax abatement agreements to be entered into by the City as contemplated by the Act; and

WHEREAS, the tax abatement will maintain and enhance the commercial/industrial economic and employment base of the Plano area thereby benefiting both the City and the Taxing Units in accordance with the said Ordinance and Act; and

WHEREAS, the contemplated use of the Real Property, as hereinafter defined, the contemplated improvements to the Real Property in the amount as set forth in this Agreement and the other terms hereof are consistent with encouraging development of said Reinvestment Zone No. 116 in accordance with the purposes for its creation and are in compliance with the intent of the Policy Statement and the Ordinance and similar guidelines and criteria adopted by the City and all applicable law.

NOW THEREFORE, the parties hereto do mutually agree as follows:

REAL PROPERTY

1. The real property subject to this Agreement is described by metes and bounds in **EXHIBIT "A"** (the "Real Property") and the Improvements as shown on **EXHIBIT "B"** thereon (the "Development") attached hereto and made a part hereof.

TANGIBLE PERSONAL PROPERTY

2. The tangible personal property subject to this Agreement shall be personal property, excluding inventory and supplies, used within Reinvestment Zone No. 116, which shall be hereinafter referred to as the "Personalty." The Personalty will have an approximate initial investment value, of not less than **Twelve Million Dollars (\$12,000,000)** and is or will be owned by the Lessee and/or their affiliates. Lessee shall timely render their personal property value each year to the Central Appraisal District.

3. Lessee may not relocate, for purposes of maintaining taxable situs of tangible personal property, the Personalty on the Real Property in other Reinvestment Zones in the City.

JOBS

4. The Lessee estimates the proposed development of the Real Property as shown in **EXHIBIT "B"** (the "Development") will result in not less than 1,064 Job Equivalents at the Development when the new office building is completed. "Job Equivalent" shall mean one or more Company job positions located at the Development which individually or when combined total two thousand eighty (2,080) hours (inclusive of holidays, vacation and sick leave) annually.

IMPROVEMENTS

5. The Owner shall complete construction of improvements and/or repairs to the Real Property (hereinafter referred to as Improvements) consisting primarily of new buildings consisting of a total of not less than 204,000 gross square feet of office space with an initial investment value, of not less than **Twenty Five Million Four Hundred Thousand Dollars (\$25,400,000)** on or before December 31, 2009 provided that Owner shall have such additional time to complete the Improvements as may be required in the event of "force majeure," if Owner is diligently and faithfully pursuing the completion of the Improvements, or if in the reasonable opinion of the City, the Owner has made substantial progress toward completion of the Improvements. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of Owner including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by the intentional wrongful acts or omissions of Owner), fire, earthquake, shortages of material and/or labor, explosion or flood, strikes, lockouts, slowdowns, work stoppages or labor disturbances. The "date of completion" of the Improvements shall be defined as the date a Certificate of Occupancy is issued by the City of Plano.

6. The Owner agrees and covenants that they will diligently and faithfully in a good and workmanlike manner pursue the substantial completion of the Improvements as a good and valuable consideration of this Agreement. Owner further covenants and agrees that all construction of the Improvements will be in accordance with all applicable federal, state and local laws and regulations or valid waiver thereof.

7. The Lessee agrees and covenants that they shall occupy not less than 204,000 gross square feet of office space on the Real Property and employ thereon at least 1,064 full time jobs at time of occupancy, referred to herein as the "Purposes."

DEFAULT

8. Any of the following events shall be deemed a breach of this agreement resulting in default:

(a) The Improvements are not completed in accordance with this Agreement;

(b) Owner or Lessee allows their real or personal property taxes owed the **City** or **County** on the Real Property, Improvements, or Personalty to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes;

(c) Lessee fails to occupy the Improvements for the Purposes set forth in paragraph 7 above on or before December 31, 2009; or

(d) The initial investment value on the Improvements to Real Property, and the initial investment value of Personalty placed on the improved Real Property on or before December 31, 2009 and maintained on the Real Property during the term of this Agreement is less than the minimum amounts set forth in paragraphs 2 and 5 above; or

(e) Lessee fails to employ at least 75% of their employee commitments on or before December 31, 2009, as provided in paragraph 4 above;

(f) Owner fails to provide annual certification as required in paragraph 11 below; or

(g) Owner or Lessee has been convicted of a violation under 8 U.S.C. Section 1324a (f) regarding the unlawful employment of aliens with respect to the Development.

9. In the event that the Owner or the Lessee defaults under this Agreement then the **City** or **County** shall give the Owner and the Lessee written notice of such default and if the defaulting party has not cured such default, or obtained a waiver thereof from the appropriate authority, within thirty (30) days of said written notice, this Agreement may be terminated by the **Taxing Units**; provided, however, that such 30 day period shall be extended if the default is of a nature that cannot be cured within such 30-day period and the defaulting party is diligently pursuing

such remedy. Notice shall be in writing as provided below. Upon the occurrence of an event of default other than under Paragraph 8(b) or 8(g) above and after the defaulting party fails to cure same in accordance herewith, this Agreement shall immediately terminate and all taxes due after the event of default shall be paid in full without the benefit of any abatement. The parties acknowledge that actual damages in the event of default and termination would be speculative and difficult to determine.

10. Upon the occurrence of an event of default under Paragraph 8(b) above or upon the occurrence of an event of default under Paragraph 8(g), then the **City** or **County** shall give the Owner written notice of such default and if the Owner has not cured such default, or obtained a waiver thereof from the appropriate authority, within thirty (30) days of said written notice, this Agreement may be terminated by the **Taxing Units** and all taxes, including previously abated taxes which would have been paid to the **Taxing Units** without the benefit of this Agreement, shall become due and owing to the **Taxing Units**, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07.

ANNUAL CERTIFICATION

11. On or before the 1st day of November of each calendar year during the term of this Agreement, the Owner and the Lessee, or their successors or assigns, each must provide annual certification (substantially in the form attached as **EXHIBIT "C"** hereto) to the Governing Body of the City certifying compliance with each applicable term of the Agreement.

ASSIGNMENT

12. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement cannot be assigned by Owner or Lessee unless written permission is first granted by **Taxing Units**, which permission shall be at the reasonable discretion of the **Taxing Units**, except under the following conditions:

(a) Assignment to an affiliate of Owner or Lessee is permissible;

(b) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by Owner to successors or assigns is permissible wherein the successors or assigns agree to be bound by the terms of this Agreement and Lessee shall continue to conduct business on the subject premises.

However, Owner and Lessee agree to give written notice to the **Taxing Units** of any assignment or transfer of interest allowed pursuant to subparagraphs (a) and (b) hereof.

ABATEMENT PROVISIONS

13. Subject to the terms and conditions of this Agreement, a portion of ad valorem real and personal property taxes from the Real Property, Improvements, and Personalty otherwise owed to the **Taxing Units** shall be abated as follows:

(a) The tax abatements as to the Real Property, Improvements, and Personalty, as provided for herein, shall be for a period of the earlier of ten (10) years from the date of completion or December 31, 2020 (the "Abatement Term").

(b) In accordance with all applicable federal, state, and local laws and regulations, the City's abatement shall be based on amounts equal to fifty percent (50%) of the improved value of the Real Property and Improvements and fifty percent (50%) of the Personalty for each tax year during the Abatement Term. The County's abatement shall be based on amounts equal to fifty percent (50%) of the improved value of the Real Property and Improvements and fifty percent (50%) of the Personalty for each tax year during the Abatement Term.

(c) The Owner and Lessee shall have the right to protest and/or contest any assessment of the Real Property, Improvements or Personalty, and the abatement shall be applied to the amount of taxes finally determined to be due as a result of any such protest and/or contest. Notwithstanding the above, it shall be a breach of this agreement if assessed values fall below those in paragraphs 2 and 5 as a result of an Owner or Lessee filed protest and/or contest.

NOTICE

14. Notices required to be given to any party to this Agreement shall be given personally or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and, if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For City by notice to:

City of Plano
Attention: Mr. Thomas H. Muehlenbeck
City Manager
P.O. Box 860358
Plano, Texas 75086-0358

With copy to:

City of Plano
Attention: Ms. Diane C. Wetherbee
City Attorney
P.O. Box 860358
Plano, Texas 75086-0358

For Taxing Units by notice to:

County of Collin, Texas

Attention: The Honorable Keith Self
County Judge
Collin County Commissioners' Court
210 S. McDonald, Ste. 626
McKinney, Texas 75069

For Owner by notice to:

CMC-Plano Pkwy Equity Investors, L.P.
Attn: Subash Gaitonde
17300 Dallas Parkway
Suite 2010
Dallas, TX 75248

For Lessee by notice to:

Connecticut General Life Insurance Company
Attn: Manager, Corporate Real Estate
1601 Chestnut Street TL04G
Philadelphia, PA 19192

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

MISCELLANEOUS PROVISIONS

15. The Owner and Lessee further agree that the **Taxing Units**, their agents and employees, shall have reasonable right (upon reasonable prior notice to Owner and Lessee) to access the Real Property to inspect the Improvements and Personalty in order to insure that the construction of the Improvements and locations of the Personalty are in accordance with this Agreement and all applicable federal, state, and local laws and regulations. After completion of the Improvements, **Taxing Units** shall have the continuing right (upon reasonable prior notice to Owner and Lessee) to inspect the Real Property and Personalty to insure that the Real Property and Personalty is thereafter maintained, operated and occupied in accordance with this Agreement.

16. It is understood and agreed between the parties that the Owner and Lessee, in performing their obligations hereunder, are acting independently, and the **Taxing Units** assume no responsibilities or liabilities in connection therewith to third parties and Owner and Lessee agree to indemnify and hold harmless **Taxing Units** from any and all claims, suits, and causes of actions, including attorneys' fees, of any nature whatsoever arising out of Owner's or Lessee's default of their obligations hereunder ("Claims").

17. The **Taxing Units** each represent and warrant that the Real Property, Improvements and Personalty do not include any property that is owned by a member of their respective councils or boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of this Agreement.

18. This Agreement was authorized by Resolution of the City Council at its Council meeting on the ____th day of _____, 2008, authorizing the City Manager to execute the Agreement on behalf of the City.

19. This Agreement was authorized by the minutes of the Commissioners' Court of Collin County, Texas, at its meeting on the ____th day of _____, 2008, whereupon it was duly determined that the County Judge would execute the Agreement on behalf of Collin County.

20. This Agreement was entered into by Owner and Lessee pursuant to authority granted by their partner and officer, respectively, whereby the partner of the limited partnership and the officer of the corporation were authorized to execute this Agreement on behalf of their respective parties.

21. This instrument shall constitute a valid and binding agreement between the **City, Owner and Lessee** when executed in accordance herewith, regardless of whether the **County** executes this Agreement. This shall constitute a valid and binding Agreement between the **County, Owner and Lessee** when executed on behalf of said parties, for the abatement of the **County's** taxes in accordance therewith.

22. Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term or provision, to persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms or provisions, which are made subject to or conditioned upon such invalid or unenforceable term or provision, shall not be affected thereby, and each other term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

This Agreement is performable in Collin County, Texas. Signed this _____th day of _____, 2008.

[Signatures on following page]

ATTEST:

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

Diane Zucco, CITY SECRETARY

Thomas H. Muehlenbeck, CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ATTEST:

COMMISSIONERS' COURT OF COLLIN
COUNTY

Keith Self, Successor to Ronald L. Harris,
COUNTY JUDGE

ATTEST:

CMC-PLANO PKWY EQUITY
INVESTORS, L.P., a Texas limited
partnership

By: CMC-Plano Pkwy GP, Inc., a Texas
corporation, its general partner

By: _____
Name
Title

ATTEST:

CONNECTICUT GENERAL LIFE
INSURANCE COMPANY, a Connecticut
corporation

By: _____
Name
Title

EXHIBIT "A"
LEGAL DESCRIPTION
REINVESTMENT ZONE NO. 116
Real Property
Metes and Bounds

EXHIBIT "B"
THE DEVELOPMENT
REINVESTMENT ZONE NO. 116

Site Plan/Map of Project

EXHIBIT "C"
CERTIFICATION FORM
REINVESTMENT ZONE NO. 116

This letter certifies that _____ is in compliance with each applicable term as set forth in the Agreement to Resolution No. _____ (R) as of _____, 20___. The term of this agreement shall be for a period of the earlier of ten (10) years from the date of completion or December 31, 2020. This form is due on November 1 of each year this tax abatement is in force.

ATTEST:

_____, a
_____ corporation

By: _____
Name
Title

NOTE: This certification form should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget <i>C.S.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>MD</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Finance		Initials	Date	
Department Head	Denise Tacke <i>DT</i>		Executive Director		
Dept Signature:			City Manager <i>MD</i>		
Agenda Coordinator (include phone #): Katherine Crumbley x-7479 <i>kc</i>					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, REPEALING RESOLUTION NO. 2008-9-38(R) IN ITS ENTIRETY AND APPROVING THE TERMS AND CONDITIONS OF A NEW ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND CONNECTICUT GENERAL LIFE INSURANCE COMPANY, A CONNECTICUT CORPORATION; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS	
Budget	0	0	0	0	
Encumbered/Expended Amount	0	0	0	0	
This Item	0	0	0	0	
BALANCE	0	0	0	0	
FUND(S):					
COMMENTS:					
SUMMARY OF ITEM					
This resolution repeals Resolution No. 2008-9-38 and approves a new economic development agreement.					
List of Supporting Documents: Economic Development Agreement		Other Departments, Boards, Commissions or Agencies			

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, REPEALING RESOLUTION NO. 2008-9-38(R) IN ITS ENTIRETY AND APPROVING THE TERMS AND CONDITIONS OF A NEW ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND CONNECTICUT GENERAL LIFE INSURANCE COMPANY, A CONNECTICUT CORPORATION; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council approved Resolution No. 2008-9-38(R) on September 22, 2008 which authorized the City Manager to execute an economic incentive agreement with CIGNA; and

WHEREAS, the City Council desires to repeal Resolution No. 2008-9-38(R) in its entirety; and

WHEREAS, the City Council has been presented a proposed Economic Development Incentive Agreement By and Between the City of Plano, Texas and Connecticut General Life Insurance Company, a Connecticut corporation, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, 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. Resolution No. 2008-9-38(R) is repealed in its entirety.

Section II. 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 III. The City Manager, or in his absence, an Executive Director, 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 IV. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 10th day of November, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Economic Development Incentive Agreement ("Agreement") is made by and between the City of Plano, Texas (the "City"), and Connecticut General Life Insurance Company, a Connecticut Corporation, acting by and through their respective authorized officers and representatives.

WITNESSETH:

WHEREAS, Connecticut General Life Insurance Company (hereinafter referred to as the "Company") is an insurance company; and

WHEREAS, the Company has advised the City that a contributing factor that would induce the Company to relocate its business and commercial activities to the City, thereby generating additional local sales tax revenues and increasing ad valorem tax values for the City, would be an agreement by the City to provide an economic development grant to the Company; and

WHEREAS, the Company agrees to occupy not less than 204,000 square feet of office space located at 1640 Dallas Parkway, Plano, Texas 75093, (the "Property"), for the full term of this Agreement; construct or cause the construction of real property improvements to the Property with an initial taxable value of not less than \$25,400,000.00; add a minimum of \$12,000,000.00 of business personalty to the Property; and to retain, transfer or create one thousand sixty-four (1,064) Job Equivalents on the Property by December 31, 2009 and maintain those positions for the full term of this Agreement; and

WHEREAS, the retention, creation or transfer of one thousand sixty-four (1,064) Job Equivalents at the Property within the City will promote economic development, stimulate commercial activity and enhance the tax base and economic vitality of the City; and

WHEREAS, the City has adopted programs for promoting economic development; and

WHEREAS, the City is authorized by TEX. LOC. GOV'T CODE §380.001 *et seq.* to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to the Company in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City.

NOW THEREFORE, in consideration of the foregoing and the premises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

**Article I
Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

"Commencement Date" shall mean the earlier of the date of occupancy of the Property by the Company or January 1, 2011, whichever occurs first.

"Effective Date" shall mean the last date on which all of the parties hereto have executed this Agreement.

"Event of Force Majeure" shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), unusually adverse weather conditions, fires, earthquakes, shortages of material and/or labor, explosions or floods, strikes, slowdowns, work stoppages or labor disputes, any of which event(s) directly impact the Company's operations in the City.

"Job Equivalent" shall mean one or more Company job positions located at the Property which individually or when combined total two thousand eighty (2,080) hours (inclusive of holidays, vacation and sick leave) annually.

**Article II
Term**

The term of this Agreement shall begin on the Commencement Date and continue until the earlier of ten (10) years or December 31, 2020, unless sooner terminated as provided herein.

**Article III
Obligations of Company**

In consideration for the grant of public funds as set forth in Section 4.01 below, the Company agrees to the following:

- (a) Occupy not less than 204,000 square feet of office space on the Property on or before December 31, 2009;
- (b) Construct or cause the construction of real property improvements on the Property for a minimum initial taxable value of not less than Twenty Five Million Four Hundred Thousand Dollars (\$25,400,000.00) on or before December 31, 2009;

- (c) Add business personalty to the Property that has a minimum initial taxable value of not less than Twelve Million Dollars (\$12,000,000.00) on or before December 31, 2009;
- (d) Retain, create or transfer one thousand sixty four (1,064) Job Equivalents to the Property on or before December 31, 2009;
- (e) Maintain those Job Equivalents for the full term of this Agreement; and
- (f) Place Company-managed hotel room nights, related to the Company's business activities, at facilities located in the City of Plano whenever practicable.

**Article IV
Economic Development Grant**

4.01 **Grant.** The City agrees to provide the Company a one-time cash grant of Seven Hundred Ninety Eight Thousand Dollars (\$798,000.00) for the occupancy of 204,000 square feet of office space on the Property and to assist in the retention, transfer or addition of one thousand sixty four (1,064) Job Equivalent positions to the Property. The Company agrees to maintain those Job Equivalents throughout the term of this Agreement as provided in Section 4.03 below.

4.02 **Grant Payments.** Except as otherwise indicated, payment by the City under this Agreement shall be made within thirty (30) days after the Company verifies to the City on the Initial Certification attached hereto as Exhibit "A" that the Company has met its obligations as set forth in Article III (a), (b), (c) and (d) above.

4.03 **Refunds.**

(a) In the event the Company allows Job Equivalents at the Property to fall below one thousand sixty four (1,064) Job Equivalents for one hundred eighty (180) consecutive days during the term of this Agreement, not the result of an Event of Force Majeure, the Company shall refund to the City an amount equal to Seven Hundred and Fifty Dollars (\$750.00) for each Job Equivalent that falls below one thousand sixty four (1,064). For the purposes of determining whether the City is due a refund under this section, an officer of the Company shall certify to the City by January 31, 2010 and by January 31 of each year thereafter during the term of this agreement the actual number of Job Equivalents at the Property for the preceding calendar year using the Certificate Form attached as Exhibit "B". All refunds under this Agreement shall be due within thirty (30) days of written demand for payment. Notwithstanding the foregoing, the Company shall never be required to refund to the City, in the aggregate, any amount in excess of the total grant amount set forth in Section 4.01.

(b) In the event the Company, at any time during the term of this Agreement, is convicted of a violation under 8 U.S.C. Section 1324a(f) regarding the unlawful employment of undocumented workers, it shall reimburse the City all grant funds paid pursuant to this Agreement together with interest charged from the date of payment of the funds at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition

of penalty. Repayment of grant funds and interest shall be due not later than one hundred twenty (120) days after the date the City notifies the Company of the violation.

Article V Termination

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

- (a) By mutual written agreement of the parties;
- (b) Upon expiration of the term of this Agreement;
- (c) By either party upon written notice to the other, if the other 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 (provided that such 30 day period shall be extended if the default is of a nature that cannot reasonably be cured within such 30 day period and further provided that the remedy is being diligently pursued); and
- (d) By either party upon written notice to the other if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable, provided, that such termination notice shall set forth an explanation of the terminating party's basis for termination under this subsection (d).

5.02 **Effect of Termination.** The rights, responsibilities and liabilities of the parties under this Agreement shall be extinguished upon the applicable effective date of termination of this Agreement, except for any obligations that accrue prior to such termination or as otherwise provided herein. All rights and obligations set forth above in this Section 5.02 shall survive the termination of this Agreement.

Article VI Miscellaneous

6.01 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the parties. This Agreement may not be assigned without the express written consent of the non-assigning party, except that the Company may assign this Agreement without obtaining the City's consent (a) to one of its affiliates, or (b) to any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or substantially all of the assets of the Company.

6.02 **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.

6.03 **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 nationally recognized courier.

If intended for the City:
City of Plano, Texas
Attention: Thomas H. Muehlenbeck
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

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

If intended for the Company:
Connecticut General Life Insurance Company
Attention: Manager, Corporate Real Estate
1601 Chestnut Street TL04G
Philadelphia, PA 19192
With cc to: Senior Counsel

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 **Legal Construction.** 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 **Recitals.** The recitals to this Agreement are incorporated herein.

6.10 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.11 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.12 **Dispute Resolution.** Any controversy or claim arising from or relating to this Agreement, or a breach thereof shall be subject to non-binding mediation, as a condition precedent to the institution of legal or equitable proceedings by any party. The parties shall endeavor to resolve their claims by mediation that, unless the parties mutually agree otherwise, shall be in accordance with the American Arbitration Association's Commercial Mediation Rules in effect at the time of mediation. Request for mediation shall be filed concurrently with the other party. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing for mediation, unless stayed for a longer period of time by agreement of the parties. The parties shall share equally in the costs related to the retention of the mediator, but each side shall otherwise bear its own attorneys fees and expenses. The mediation shall be held in Collin County, Texas, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any Court having jurisdiction thereof.

EXECUTED on this _____ day of _____, 2008.

ATTEST:

CITY OF PLANO, TEXAS, a home rule
municipal corporation

Diane Zucco, CITY SECRETARY

By:

Thomas H. Muehlenbeck
CITY MANANGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Exhibit "A" to Resolution No. _____ (R)

ATTEST:

CONNECTICUT GENERAL LIFE
INSURANCE COMPANY, a Connecticut
Corporation

By: _____
Name:
Title:

Exhibit "A" to Resolution No. _____(R)

EXHIBIT "A"

CERTIFICATE OF COMPLIANCE

I hereby certify that CONNECTICUT GENERAL LIFE INSURANCE COMPANY has occupied not less than 204,000 square feet of office space on the Property; constructed or caused the construction of real property improvements on the Property of an initial expenditure of not less than Twenty Five Million Four Hundred Thousand Dollars (\$25,400,000.00); added business personalty to the Property of a taxable value of not less than Twelve Million Dollars (\$12,000,000.00); and has hired/transferred/retained one thousand sixty four (1,064) Job Equivalents to the Property, and is in compliance with subsections (a), (b), (c) and (d) of Article III of the Agreement to Resolution No. _____(R) as of _____, and is entitled to receive payment under the terms of that Agreement.

ATTEST:

CONNECTICUT GENERAL LIFE
INSURANCE COMPANY, a Connecticut
Corporation

By: _____
Name:
Title:

Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358

EXHIBIT "B"

CERTIFICATE OF COMPLIANCE

I hereby certify that CONNECTICUT GENERAL LIFE INSURANCE COMPANY, is in compliance with each applicable term as set forth in Article III of the Agreement to Resolution No. _____(R) as of _____. The term of the Agreement is January 1, 2010 through December 31, 2019. "The number of new, transferred or retained Job Equivalents, calculated as set forth in the Agreement, and maintained pursuant to the Agreement since its inception has not fallen below one thousand sixty four (1,064) for more than one hundred eighty (180) consecutive days and is _____ as of the date of this Certificate of Compliance." If the number herein reported is below the number required to be maintained pursuant the Agreement, I certify that the City of Plano has been refunded the appropriate amount as required by Section 4.03 of the Agreement. This form is due on January 31 of each year this Agreement is in force.

ATTEST:

CONNECTICUT GENERAL LIFE
INSURANCE COMPANY, a Connecticut
Corporation

By:

Name:
Title:

Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Finance		Initials	Date
Department Head	Denise Tacke	Executive Director		
Dept Signature:		City Manager		
Agenda Coordinator (include phone #):		Katherine Crumbley x-7479		
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING SECTION VI OF ORDINANCE NO. 2008-9-36 SO AS TO PROVIDE FOR NEW THRESHOLD AMOUNTS FOR TAX ABATEMENT REAL PROPERTY AND BUSINESS PERSONALTY INVESTMENTS WITHIN REINVESTMENT ZONE NO. 116 LOCATED ON A 13.030 ACRE TRACT OF LAND AT THE NORTHEAST CORNER OF PLANO PARKWAY AND DALLAS NORTH TOLLWAY, IN THE CITY OF PLANO, TEXAS; ORDAINING OTHER MATTERS RELATING THERETO; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
Ordinance amends Section VI of Ordinance No. 2008-9-36 so as to provide for new threshold amounts for real property and business personalty investments seeking tax abatements within Reinvestment Zone 116.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Tax Abatement Agreement				

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING SECTION VI OF ORDINANCE NO. 2008-9-36 SO AS TO PROVIDE FOR NEW THRESHOLD AMOUNTS FOR TAX ABATEMENT REAL PROPERTY AND BUSINESS PERSONALTY INVESTMENTS WITHIN REINVESTMENT ZONE NO. 116 LOCATED ON A 13.030 ACRE TRACT OF LAND AT THE NORTHEAST CORNER OF PLANO PARKWAY AND DALLAS NORTH TOLLWAY, IN THE CITY OF PLANO, TEXAS; ORDAINING OTHER MATTERS RELATING THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano, Texas (the "City") approved Ordinance No. 2008-9-36 on September 22, 2008 which created Reinvestment Zone 116; and

WHEREAS, the City now desires to amend Section VI of Ordinance No. 2008-9-36 so as to provide for new threshold amounts for real property and business personalty investments seeking tax abatements within Reinvestment Zone 116;

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

Section I. Section VI of Ordinance No.2008-9-36 is hereby amended to read as follows:

Section VI. To be eligible for tax abatement a retail project shall:

- a) Be located wholly within the zone as established herein.
- b) Have a minimum expenditure on real property improvements equal to or greater than **Twenty Five Million Four Hundred Thousand and No/100 Dollars (\$25,400,000.00)** and a minimum expenditure on business personalty equal to or greater than **Twelve Million and No/100 Dollars (\$12,000,000.00).**
- c) Not include property that is owned or leased by a member of the City Council of the City of Plano or by a member of the Planning and Zoning Commission.

- d) Conform to the requirements of the City's Zoning Ordinance and all other applicable laws and regulations.
- e) Have and maintain all land located within the designated zone, appraised at market value for tax purposes.”

Section II. All other terms and provisions of Ordinance No. 2008-9-36 not amended by this Ordinance shall remain in full force and effect.

Section III. This Ordinance shall become effective from and after its date of passage.

DULY PASSED AND APPROVED this 10th day of November, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

THE STATE OF TEXAS §
§
COUNTY OF COLLIN §

TAX ABATEMENT AGREEMENT

This Agreement is entered into by and between the City of Plano, Texas, a home rule municipal corporation of Collin and Denton Counties, Texas, duly acting herein by and through its City Manager, hereinafter referred to as "City"; the County of Collin, Texas, duly acting herein by and through its County Judge, and hereinafter referred to as "County", and together are hereinafter collectively referred to as "Taxing Units," CMC-Plano Pkwy Equity Investors, L.P., a Texas limited partnership, duly acting by and through its partners, hereinafter "Owner," and Connecticut General Life Insurance Company, a Connecticut corporation, duly acting by and through its officers, hereinafter "Lessee."

WITNESSETH:

WHEREAS, on the 22nd day of September, 2008, the City Council of the City of Plano, Texas, passed Ordinance No. 2008-9-36 establishing Reinvestment Zone No. 116, for commercial/industrial tax abatement, hereinafter referred to as the "Ordinance," as authorized by V.T.C.A. Tax Code, Chapter 312.001, et seq., cited as the Property Redevelopment and Tax Abatement Act, hereinafter referred to as "Acts"; and

WHEREAS, on the 10th day of November, 2008, the City Council of the City of Plano, Texas, amended Section VI of Ordinance No.2008-9-36 to provide for minimum investments in real and business personalty improvements consistent with the terms of this agreement; and

WHEREAS, the City has adopted a revised policy statement for Tax Abatement by Resolution No. 2007-8-27(R) stating that it elects to be eligible to participate in tax abatement (the "Policy Statement"); and

WHEREAS, the Policy Statement sets forth appropriate guidelines and criteria governing tax abatement agreements to be entered into by the City as contemplated by the Act; and

WHEREAS, the tax abatement will maintain and enhance the commercial/industrial economic and employment base of the Plano area thereby benefiting both the City and the Taxing Units in accordance with the said Ordinance and Act; and

WHEREAS, the contemplated use of the Real Property, as hereinafter defined, the contemplated improvements to the Real Property in the amount as set forth in this Agreement and the other terms hereof are consistent with encouraging development of said Reinvestment Zone No. 116 in accordance with the purposes for its creation and are in compliance with the intent of the Policy Statement and the Ordinance and similar guidelines and criteria adopted by the City and all applicable law.

NOW THEREFORE, the parties hereto do mutually agree as follows:

X-4

REAL PROPERTY

1. The real property subject to this Agreement is described by metes and bounds in **EXHIBIT "A"** (the "Real Property") and the Improvements as shown on **EXHIBIT "B"** thereon (the "Development") attached hereto and made a part hereof.

TANGIBLE PERSONAL PROPERTY

2. The tangible personal property subject to this Agreement shall be personal property, excluding inventory and supplies, used within Reinvestment Zone No. 116, which shall be hereinafter referred to as the "Personalty." The Personalty will have an approximate initial investment value, of not less than **Twelve Million Dollars (\$12,000,000)** and is or will be owned by the Lessee and/or their affiliates. Lessee shall timely render their personal property value each year to the Central Appraisal District.

3. Lessee may not relocate, for purposes of maintaining taxable situs of tangible personal property, the Personalty on the Real Property in other Reinvestment Zones in the City.

JOBS

4. The Lessee estimates the proposed development of the Real Property as shown in **EXHIBIT "B"** (the "Development") will result in not less than 1,064 Job Equivalents at the Development when the new office building is completed. "Job Equivalent" shall mean one or more Company job positions located at the Development which individually or when combined total two thousand eighty (2,080) hours (inclusive of holidays, vacation and sick leave) annually.

IMPROVEMENTS

5. The Owner shall complete construction of improvements and/or repairs to the Real Property (hereinafter referred to as Improvements) consisting primarily of new buildings consisting of a total of not less than 204,000 gross square feet of office space with an initial investment value, of not less than **Twenty Five Million Four Hundred Thousand Dollars (\$25,400,000)** on or before December 31, 2009 provided that Owner shall have such additional time to complete the Improvements as may be required in the event of "force majeure," if Owner is diligently and faithfully pursuing the completion of the Improvements, or if in the reasonable opinion of the City, the Owner has made substantial progress toward completion of the Improvements. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of Owner including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by the intentional wrongful acts or omissions of Owner), fire, earthquake, shortages of material and/or labor, explosion or flood, strikes, lockouts, slowdowns, work stoppages or labor disturbances. The "date of completion" of the Improvements shall be defined as the date a Certificate of Occupancy is issued by the City of Plano.

6. The Owner agrees and covenants that they will diligently and faithfully in a good and workmanlike manner pursue the substantial completion of the Improvements as a good and valuable consideration of this Agreement. Owner further covenants and agrees that all construction of the Improvements will be in accordance with all applicable federal, state and local laws and regulations or valid waiver thereof.

7. The Lessee agrees and covenants that they shall occupy not less than 204,000 gross square feet of office space on the Real Property and employ thereon at least 1,064 full time jobs at time of occupancy, referred to herein as the "Purposes."

DEFAULT

8. Any of the following events shall be deemed a breach of this agreement resulting in default:

(a) The Improvements are not completed in accordance with this Agreement;

(b) Owner or Lessee allows their real or personal property taxes owed the **City** or **County** on the Real Property, Improvements, or Personalty to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes;

(c) Lessee fails to occupy the Improvements for the Purposes set forth in paragraph 7 above on or before December 31, 2009; or

(d) The initial investment value on the Improvements to Real Property, and the initial investment value of Personalty placed on the improved Real Property on or before December 31, 2009 and maintained on the Real Property during the term of this Agreement is less than the minimum amounts set forth in paragraphs 2 and 5 above; or

(e) Lessee fails to employ at least 75% of their employee commitments on or before December 31, 2009, as provided in paragraph 4 above;

(f) Owner fails to provide annual certification as required in paragraph 11 below; or

(g) Owner or Lessee has been convicted of a violation under 8 U.S.C. Section 1324a (f) regarding the unlawful employment of aliens with respect to the Development.

9. In the event that the Owner or the Lessee defaults under this Agreement then the **City** or **County** shall give the Owner and the Lessee written notice of such default and if the defaulting party has not cured such default, or obtained a waiver thereof from the appropriate authority, within thirty (30) days of said written notice, this Agreement may be terminated by the **Taxing Units**; provided, however, that such 30 day period shall be extended if the default is of a nature that cannot be cured within such 30-day period and the defaulting party is diligently pursuing

such remedy. Notice shall be in writing as provided below. Upon the occurrence of an event of default other than under Paragraph 8(b) or 8(g) above and after the defaulting party fails to cure same in accordance herewith, this Agreement shall immediately terminate and all taxes due after the event of default shall be paid in full without the benefit of any abatement. The parties acknowledge that actual damages in the event of default and termination would be speculative and difficult to determine.

10. Upon the occurrence of an event of default under Paragraph 8(b) above or upon the occurrence of an event of default under Paragraph 8(g), then the **City** or **County** shall give the Owner written notice of such default and if the Owner has not cured such default, or obtained a waiver thereof from the appropriate authority, within thirty (30) days of said written notice, this Agreement may be terminated by the **Taxing Units** and all taxes, including previously abated taxes which would have been paid to the **Taxing Units** without the benefit of this Agreement, shall become due and owing to the **Taxing Units**, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07.

ANNUAL CERTIFICATION

11. On or before the 1st day of November of each calendar year during the term of this Agreement, the Owner and the Lessee, or their successors or assigns, each must provide annual certification (substantially in the form attached as **EXHIBIT "C"** hereto) to the Governing Body of the City certifying compliance with each applicable term of the Agreement.

ASSIGNMENT

12. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement cannot be assigned by Owner or Lessee unless written permission is first granted by **Taxing Units**, which permission shall be at the reasonable discretion of the **Taxing Units**, except under the following conditions:

(a) Assignment to an affiliate of Owner or Lessee is permissible;

(b) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by Owner to successors or assigns is permissible wherein the successors or assigns agree to be bound by the terms of this Agreement and Lessee shall continue to conduct business on the subject premises.

However, Owner and Lessee agree to give written notice to the **Taxing Units** of any assignment or transfer of interest allowed pursuant to subparagraphs (a) and (b) hereof.

ABATEMENT PROVISIONS

13. Subject to the terms and conditions of this Agreement, a portion of ad valorem real and personal property taxes from the Real Property, Improvements, and Personalty otherwise owed to the **Taxing Units** shall be abated as follows:

(a) The tax abatements as to the Real Property, Improvements, and Personalty, as provided for herein, shall be for a period of the earlier of ten (10) years from the date of completion or December 31, 2020 (the "Abatement Term").

(b) In accordance with all applicable federal, state, and local laws and regulations, the City's abatement shall be based on amounts equal to fifty percent (50%) of the improved value of the Real Property and Improvements and fifty percent (50%) of the Personalty for each tax year during the Abatement Term. The County's abatement shall be based on amounts equal to fifty percent (50%) of the improved value of the Real Property and Improvements and fifty percent (50%) of the Personalty for each tax year during the Abatement Term.

(c) The Owner and Lessee shall have the right to protest and/or contest any assessment of the Real Property, Improvements or Personalty, and the abatement shall be applied to the amount of taxes finally determined to be due as a result of any such protest and/or contest. Notwithstanding the above, it shall be a breach of this agreement if assessed values fall below those in paragraphs 2 and 5 as a result of an Owner or Lessee filed protest and/or contest.

NOTICE

14. Notices required to be given to any party to this Agreement shall be given personally or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and, if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For City by notice to:

City of Plano
Attention: Mr. Thomas H. Muehlenbeck
City Manager
P.O. Box 860358
Plano, Texas 75086-0358

With copy to:

City of Plano
Attention: Ms. Diane C. Wetherbee
City Attorney
P.O. Box 860358
Plano, Texas 75086-0358

For Taxing Units by notice to:

County of Collin, Texas

X-8

Attention: The Honorable Keith Self
County Judge
Collin County Commissioners' Court
210 S. McDonald, Ste. 626
McKinney, Texas 75069

For Owner by notice to:

CMC-Plano Pkwy Equity Investors, L.P.
Attn: Subash Gaitonde
17300 Dallas Parkway
Suite 2010
Dallas, TX 75248

For Lessee by notice to:

Connecticut General Life Insurance Company
Attn: Manager, Corporate Real Estate
1601 Chestnut Street TL04G
Philadelphia, PA 19192

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

MISCELLANEOUS PROVISIONS

15. The Owner and Lessee further agree that the **Taxing Units**, their agents and employees, shall have reasonable right (upon reasonable prior notice to Owner and Lessee) to access the Real Property to inspect the Improvements and Personalty in order to insure that the construction of the Improvements and locations of the Personalty are in accordance with this Agreement and all applicable federal, state, and local laws and regulations. After completion of the Improvements, **Taxing Units** shall have the continuing right (upon reasonable prior notice to Owner and Lessee) to inspect the Real Property and Personalty to insure that the Real Property and Personalty is thereafter maintained, operated and occupied in accordance with this Agreement.

16. It is understood and agreed between the parties that the Owner and Lessee, in performing their obligations hereunder, are acting independently, and the **Taxing Units** assume no responsibilities or liabilities in connection therewith to third parties and Owner and Lessee agree to indemnify and hold harmless **Taxing Units** from any and all claims, suits, and causes of actions, including attorneys' fees, of any nature whatsoever arising out of Owner's or Lessee's default of their obligations hereunder ("Claims").

17. The **Taxing Units** each represent and warrant that the Real Property, Improvements and Personalty do not include any property that is owned by a member of their respective councils or boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of this Agreement.

18. This Agreement was authorized by Resolution of the City Council at its Council meeting on the ____th day of _____, 2008, authorizing the City Manager to execute the Agreement on behalf of the City.

19. This Agreement was authorized by the minutes of the Commissioners' Court of Collin County, Texas, at its meeting on the ____th day of _____, 2008, whereupon it was duly determined that the County Judge would execute the Agreement on behalf of Collin County.

20. This Agreement was entered into by Owner and Lessee pursuant to authority granted by their partner and officer, respectively, whereby the partner of the limited partnership and the officer of the corporation were authorized to execute this Agreement on behalf of their respective parties.

21. This instrument shall constitute a valid and binding agreement between the **City, Owner and Lessee** when executed in accordance herewith, regardless of whether the **County** executes this Agreement. This shall constitute a valid and binding Agreement between the **County, Owner and Lessee** when executed on behalf of said parties, for the abatement of the **County's** taxes in accordance therewith.

22. Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term or provision, to persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms or provisions, which are made subject to or conditioned upon such invalid or unenforceable term or provision, shall not be affected thereby, and each other term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

This Agreement is performable in Collin County, Texas. Signed this _____th day of _____, 2008.

[Signatures on following page]

ATTEST:

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

Diane Zucco, CITY SECRETARY

Thomas H. Muehlenbeck, CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ATTEST:

COMMISSIONERS' COURT OF COLLIN
COUNTY

Keith Self, Successor to Ronald L. Harris,
COUNTY JUDGE

ATTEST:

CMC-PLANO PKWY EQUITY
INVESTORS, L.P., a Texas limited
partnership

By: CMC-Plano Pkwy GP, Inc., a Texas
corporation, its general partner

By: _____
Name
Title

ATTEST:

CONNECTICUT GENERAL LIFE
INSURANCE COMPANY, a Connecticut
corporation

By: _____
Name
Title

EXHIBIT "A"
LEGAL DESCRIPTION
REINVESTMENT ZONE NO. 116
Real Property
Metes and Bounds

EXHIBIT "B"
THE DEVELOPMENT
REINVESTMENT ZONE NO. 116

Site Plan/Map of Project

EXHIBIT "C"
CERTIFICATION FORM
REINVESTMENT ZONE NO. 116

This letter certifies that _____ is in compliance with each applicable term as set forth in the Agreement to Resolution No. _____(R) as of _____, 20___. The term of this agreement shall be for a period of the earlier of ten (10) years from the date of completion or December 31, 2020. This form is due on November 1 of each year this tax abatement is in force.

ATTEST:

_____, a
_____ corporation

By:

Name
Title

NOTE: This certification form should be mailed to:

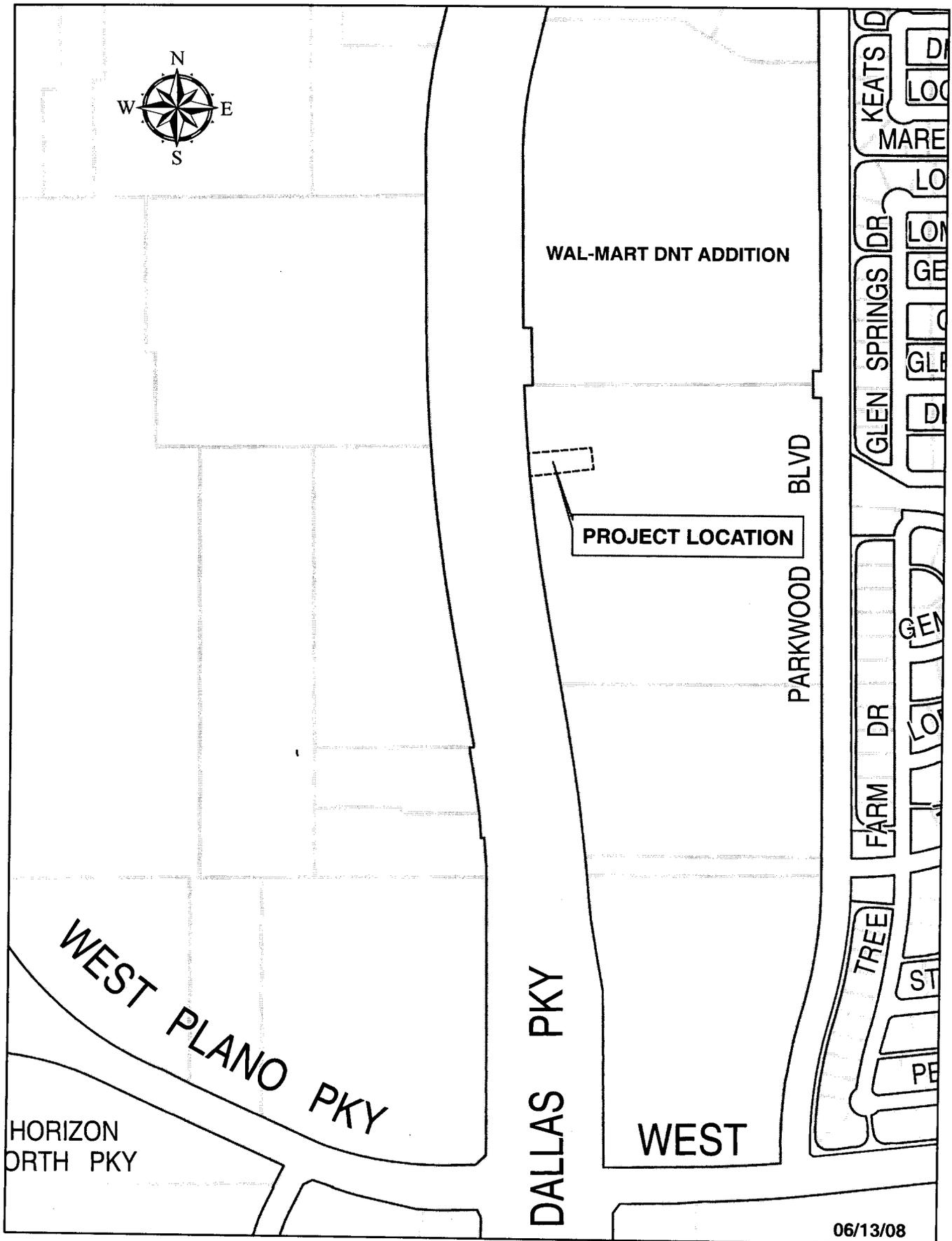
**City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358**



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	11/10/08	Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering	Initials	Date	
Department Head	Alan L. Upchurch	Executive Director	<i>DA</i>	10.27.08
Dept Signature:	<i>Alan L. Upchurch</i>	City Manager	<i>[Signature]</i>	10/27/08
Agenda Coordinator (include phone #):		Irene Pegues (7198) <i>IP</i>	Proj #5893	
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain Drainage Easement recorded in Volume 2276, Page 167 of the Land Records of Collin County, Texas, being situated in the William Miller Survey, Abstract No. 568, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, CMC-Plano Pkwy, L.P., to the extent of its interest; authorizing the City Manager, or in his absence an Executive Director, to execute any documents deemed necessary; and providing an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
The existing drainage system is being placed underground and a new easement provided. The existing easement is no longer required and can be abandoned.				
List of Supporting Documents: Location Map		Other Departments, Boards, Commissions or Agencies n/a		

DRAINAGE EASEMENT ABANDONMENT



Y-2

LOCATION MAP

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, ABANDONING ALL RIGHT, TITLE AND INTEREST OF THE CITY, IN AND TO A PORTION OF THAT CERTAIN DRAINAGE EASEMENT RECORDED IN VOLUME 2276, PAGE 167 OF THE LAND RECORDS OF COLLIN COUNTY, TEXAS, BEING SITUATED IN THE WILLIAM MILLER SURVEY, ABSTRACT NO. 568, WHICH IS LOCATED WITHIN THE CITY LIMITS OF PLANO, COLLIN COUNTY, TEXAS; QUITCLAIMING ALL RIGHT, TITLE AND INTEREST OF THE CITY IN SUCH EASEMENT TO THE ABUTTING PROPERTY OWNER, CMC-PLANO PKWY, L.P., TO THE EXTENT OF ITS INTEREST; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE ANY DOCUMENTS DEEMED NECESSARY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in and to a portion of that certain Drainage Easement (hereinafter called "Easement") recorded in Volume 2276, Page 167 of the Land Records of Collin County, Texas being situated in the William Miller Survey, Abstract No. 568, which is located within the City Limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A-1" attached hereto and incorporated herein by reference; and

WHEREAS, the Property Owner has filed with the City a Petition for Abandonment, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference; and

WHEREAS, the Engineering Department has determined that there will be no detrimental effect on the City if the Easement is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Easement should be abandoned;

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

Section I. All the right, title and interest of the City of Plano, Texas, in and to the Easement is hereby abandoned, and all right, title and interest of the City in and to the Easement is hereby quitclaimed to the abutting Property Owner in accordance with its respective interests. A certified copy of this Ordinance may be recorded in the Collin County Land Records to reflect this abandonment and quitclaim. The City Manager, or in his absence an Executive Director, is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the Easement by the City of Plano.

Section II. The abandonment and quitclaim is without prejudice to any and all improvements, facilities, equipment or lines of any public utility, municipal or otherwise, if any, which are presently located within any portion of the Easement. Any such utility shall have the continued right to locate, maintain, repair, reconstruct, preserve or relocate improvements, facilities, equipment or lines in such portion of the Easement.

Section III. The City Council hereby finds and determines that the abandonment of the Easement is in the public interest of the City of Plano, Texas, and its citizens, and will inure to the benefit of the public generally.

Section IV. This Ordinance shall become effective immediately upon its passage as set forth below.

DULY PASSED AND APPROVED this the ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

DRAINAGE EASEMENT ABANDONMENT

City of Plano

William Miller Survey, Abstract No.568

Collin County, Texas

DESCRIPTION, of a 10,404 square foot (0.239 acre) tract of land situated in the William Miller Survey, Abstract No. 568, Collin County, Texas; said tract being part of that certain tract of land described in Special Warranty Deed With Vendor's Lien to Scarborough Parkway II, LP recorded in Instrument No. 20071204001616890 of the Official Public Records of Collin County, Texas and all of that certain tract of land described as Parcel 8-23, Drainage Easement No. 1 in Dallas North Tollway Grant of Drainage Easement to the City of Plano, Texas recorded in Volume 2276, Page 167 of the Deed Records of Collin County, Texas; said 10,404 square foot tract being more particularly described as follows (Bearing system for this survey is based on a bearing of North 89 degrees, 20 minutes, 29 seconds East for the north line of the referenced tract of land described in said Special Warranty Deed with Vendor's Lien to Scarborough Parkway II, LP):

COMMENCING, at a "+" cut in concrete found in the east right-of-way line of the Dallas North Tollway (a variable width right-of-way); said point being the northwest corner of said Scarborough Parkway II, LP tract, the southwest corner of Lot 1, Block A, Wal-Mart DNT Addition, an addition to the City of Plano, Texas according to the plat recorded in Cabinet 2007, Page 185 of the Map Records of Collin County, Texas and the beginning of a non-tangent curve to the left;

THENCE, in a southerly direction, along the said east line of the Dallas North Tollway, the west line of said Scarborough Parkway II, LP tract and said curve to the left, having a central angle of 02 degrees, 19 minutes, 30 seconds, a radius of 5,553.36 feet, a chord bearing and distance of South 03 degrees, 37 minutes, 00 seconds East, 225.33 feet, an arc distance of 225.34 feet to the POINT OF BEGINNING (nothing found or set); said point being the northwest corner of said Drainage Easement;

THENCE, North 84 degrees, 54 minutes, 45 seconds East, departing the said east line of the Dallas North Tollway and the said west line of the Scarborough Parkway II, LP tract, a distance of 160.00 feet to a point for corner (nothing found or set);

THENCE, South 05 degrees, 06 minutes, 52 seconds East, a distance of 65.00 feet to a point for corner (nothing found or set);

THENCE, South 84 degrees, 54 minutes, 45 seconds West, a distance of 160.00 feet to a point for corner (nothing found or set) in the said east line of the Dallas North Tollway and the said west line of the Scarborough Parkway II, LP tract; said point being in a non-tangent curve to the right;

THENCE, in a northerly direction, along the said east line of the Dallas North Tollway, the said west line of the Scarborough Parkway II, LP tract and said curve to the right, having a central angle of 00 degrees, 40 minutes, 14 seconds, a radius of 5,553.36 feet, a chord bearing and distance of North 05 degrees, 06 minutes, 52 seconds West, 65.00 feet, an arc distance of 65.00 feet to the POINT OF BEGINNING;

CONTAINING, 10,404 square feet or 0.239 acres of land, more or less.

(A survey plat of even survey date herewith accompanies this description.)

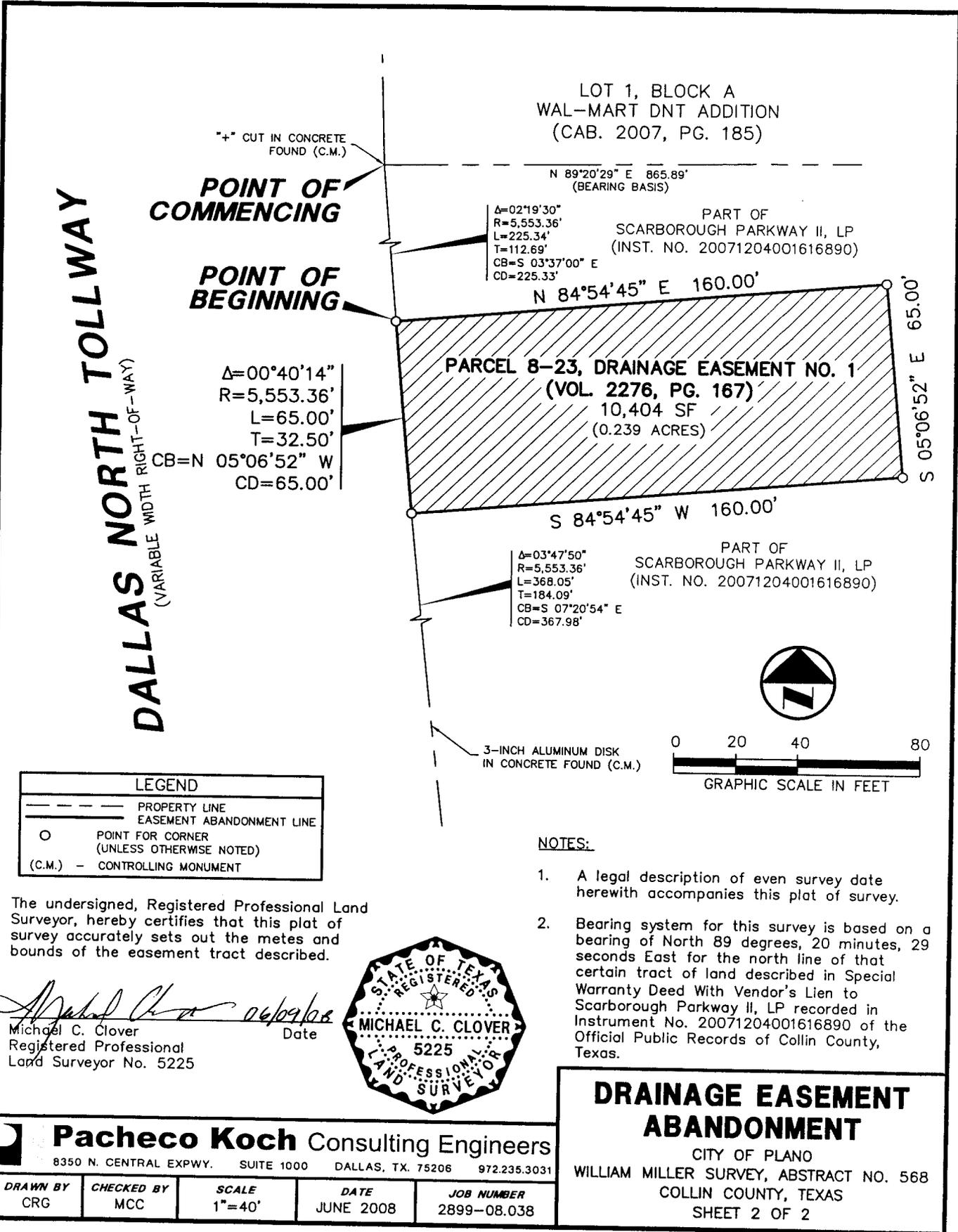
The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the easement tract described.

Michael C. Clover

Michael C. Clover Date
Registered Professional Land Surveyor No. 5225
Pacheco Koch Consulting Engineers, Inc.
8350 N. Central Expwy, #1000, Dallas TX 75206
(972) 235-3031



Y-5



06/09/2008 12:01PM
M:\DWG-28\2899-08.038\DWG\2899-08-038EX1.DWG

Michael C. Clover 06/09/08
Michael C. Clover
Registered Professional
Land Surveyor No. 5225

DRAWN BY CRG	CHECKED BY MCC	SCALE 1"=40'	DATE JUNE 2008	JOB NUMBER 2899-08.038
------------------------	--------------------------	------------------------	--------------------------	----------------------------------

Y-6

EXHIBIT "B"**PETITION FOR ABANDONMENT**

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting **65' DRAINAGE EASEMENT** (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A-1"** do hereby request that the City of Plano, Texas (called "City") abandon the Easement.

1. The Owners are requesting the abandonment of the Easement for the following reasons:

Easement will be replaced by drainage facilities in a larger easement to be dedicated to the City of Plano.

2. The following public interest will be served as a result of the abandonment:

A larger drainage easement will be dedicated to the city and new drainage improvements will be installed.

3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Easement as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs incident to the abandonment (called "Costs"). The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Easement, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.
4. If the Owners are providing a replacement easement for the Easement requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement easement and attach same to this Petition as **Exhibit "B-1"**.
5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Easement to access or to serve their property.
6. **The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all claims, losses, demands, suits, judgments and costs, including reasonable**

and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment of the Easement by City.

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Easement will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Easement owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:

100% OF THE PROPERTY IS OWNED BY CMC-PLANO PKWY, L.P.

[Remainder of page blank]

- 10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

CMC-PLANO PKWY, L.P.

Typed Name of Owner

17300 Dallas Parkway, Suite 2010

Address

Dallas, TX 75248

City, State and Zip

Dated: 6/12/08

Signature of Owner

Subash Gaitonde

Contact Person for Property Owners:

Name: Steve Huff

Phone No: 972.931.3338

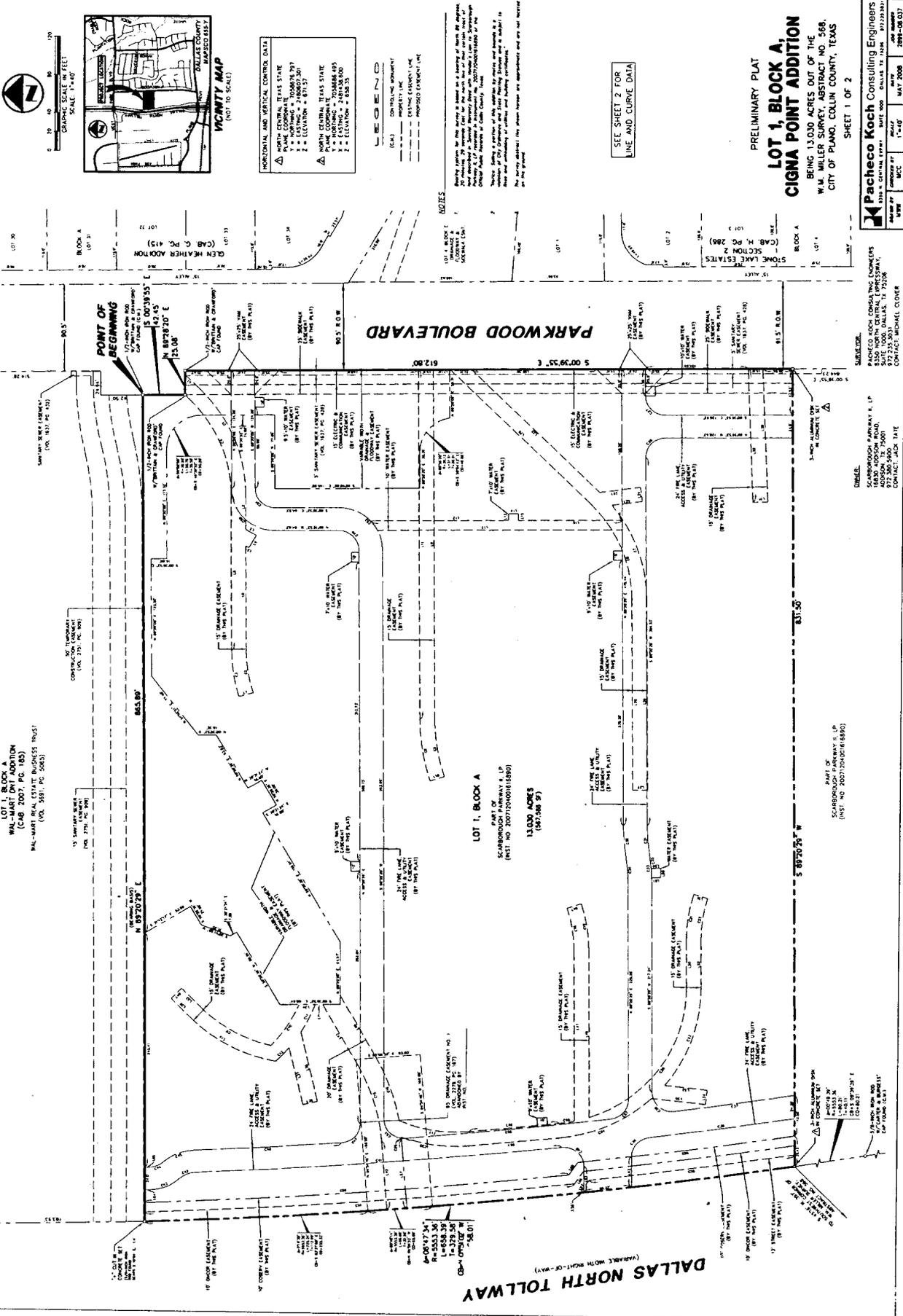
FOR DEPARTMENTAL USE ONLY

The Easement to be abandoned is to one or more abutting property owners and is exempt from the requirement that fair market value be paid for the following reason(s):

- The Easement consists of narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development code ordinances;
- The Easement consists of streets or alleys, owned in fee or used by easement;
- The Easement consists of land or a real property interest originally acquired for streets, rights-of-way, or easements that the City of Plano has decided to exchange with Owner for other land to be dedicated and used for streets, rights of way, easements, or other public purposes, including transactions partly for cash;
- The Easement contains land that the City wants to have developed by an independent foundation;
- The Easement is located within a reinvestment zone designated by law that the City desires to have developed under a project plan adopted by the municipality for the zone.



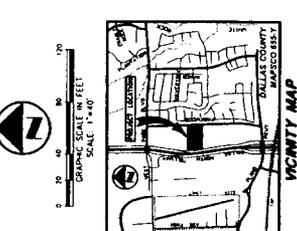
 Engineering Department
 City of Plano, Texas



LOT 1, BLOCK A
WAL-MART PLANT ADDITION
(CAB 2007, PG. 183)
WAL-MART REAL ESTATE BUSINESS TRUST
(VOL. 5891, PG. 5083)

LOT 1, BLOCK A
PART OF
SCARBOROUGH PARKWAY E, LP
(PST. NO. 20071200181580)
13.030 ACRES
(547,568 SF)

PART OF
SCARBOROUGH PARKWAY E, LP
(PST. NO. 20071200181580)



HORIZONTAL AND VERTICAL CONTROL DATA

△	NORTH CENTRAL TEXAS STATE PLANE COORDINATE	POINT NO.	1	Easting = 720807.201	Y = ELEVATION = 611.57
△	NORTH CENTRAL TEXAS STATE PLANE COORDINATE	POINT NO.	2	Easting = 720888.495	Y = ELEVATION = 613.000
△	NORTH CENTRAL TEXAS STATE PLANE COORDINATE	POINT NO.	3	Easting = 720933.500	Y = ELEVATION = 613.335

LEGEND

(CA)	CONTROLLING POINTMENT
---	PROPERTY LINE
---	EXISTING EASEMENT LINE
---	PROPOSED EASEMENT LINE

NOTES

1. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACTS OF 1909 AND 1924, AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, TEXAS.

2. THE SURVEYOR HAS BEEN ADVISED BY THE OWNER THAT THE PROPERTY IS SUBJECT TO AN EASEMENT FOR THE CONDUIT OF UTILITY LINES AS SHOWN ON THE ATTACHED UTILITY MAP.

3. THE SURVEYOR HAS BEEN ADVISED BY THE OWNER THAT THE PROPERTY IS SUBJECT TO AN EASEMENT FOR THE CONDUIT OF UTILITY LINES AS SHOWN ON THE ATTACHED UTILITY MAP.

4. THE SURVEYOR HAS BEEN ADVISED BY THE OWNER THAT THE PROPERTY IS SUBJECT TO AN EASEMENT FOR THE CONDUIT OF UTILITY LINES AS SHOWN ON THE ATTACHED UTILITY MAP.

SEE SHEET 2 FOR
LINE AND CURVE DATA

PRELIMINARY PLAT
**LOT 1, BLOCK A,
CIGNA POINT ADDITION**
BEING 13.030 ACRES OUT OF THE
W.M. MILLER SURVEY, ABSTRACT NO. 56A
CITY OF PLANO, COLLIN COUNTY, TEXAS

SHEET 1 OF 2

Pacheco Koch Consulting Engineers
1830 NORTH CENTRAL EXPRESSWAY,
SUITE 200, DALLAS, TEXAS 75208
PHONE: 972.330.3000 FAX: 972.330.3001
WWW.PACHECO-KOCH.COM

DATE: 05/11/07
DRAWN BY: MCC
CHECKED BY: JAC
APPROVED BY: JAC
SCALE: 1"=40'

OWNER:
SCARBOROUGH PARKWAY E, LP
1830 NORTH CENTRAL EXPRESSWAY,
SUITE 200, DALLAS, TEXAS 75208
PHONE: 972.330.3000 FAX: 972.330.3001
CONTACT: JACK FAHE

ENGINEER:
PACHECO KOCH CONSULTING ENGINEERS
1830 NORTH CENTRAL EXPRESSWAY,
SUITE 200, DALLAS, TEXAS 75208
PHONE: 972.330.3000 FAX: 972.330.3001
CONTACT: MICHAEL CLOVER

11-X



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal ^{WS}	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Health		<i>[Signature]</i>	Date	
Department Head	Brian Smith		Executive Director	10-21-08	
Dept Signature:	<i>[Signature]</i>		City Manager	10/21/08	
Agenda Coordinator (include phone #): Doris Callaway (7494)					

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING ORDINANCE NO. 92-7-15 CODIFIED AS CHAPTER 21, ARTICLE VII, INDUSTRIAL WASTEWATER PRETREATMENT, PLANO CODE OF ORDINANCES BY AMENDING SECTION 21-301 DEFINITIONS BY DELETING THE DEFINITION "TWC. TEXAS WATER COMMISSION" AND ADDING DEFINITIONS FOR "TCEQ. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY" AND "BMP. BEST MANAGEMENT PRACTICES"; BY AMENDING SECTIONS 21-303(a)(2) AND 21-317(c) BY REPLACING "TWC" WITH "TCEQ"; BY AMENDING SECTION 21-323(a) BY REPLACING "TEXAS WATER COMMISSION" WITH "TCEQ"; BY AMENDING SECTION 21-307(c) INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT REQUIREMENTS BY DELETING THE PHRASE "INCLUDING LIQUID WASTE HAULERS"; BY ADDING SECTION 21-307.1 "ALTERNATIVE INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT REQUIREMENTS"; PROVIDING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(s):

COMMENTS:

SUMMARY OF ITEM

Amending Ordinance No. 92-7-15, codified as Chapter 21, Article VII, Industrial Wastewater Pretreatment, in order to make changes to definitions to meet current law and terminology, changing references in the ordinance to match the new definitions and adding a new section to regulate persons who discharge certain pollutants into the wastewater stream so as to further promote the health, safety and welfare of the citizens of the City and to the general public.

List of Supporting Documents:
N/A

Other Departments, Boards, Commissions or Agencies
N/A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING ORDINANCE NO. 92-7-15 CODIFIED AS CHAPTER 21, ARTICLE VII, INDUSTRIAL WASTEWATER PRETREATMENT, PLANO CODE OF ORDINANCES BY AMENDING SECTION 21-301 DEFINITIONS BY DELETING THE DEFINITION "TWC. TEXAS WATER COMMISSION" AND ADDING DEFINITIONS FOR "TCEQ. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY" AND "BMP. BEST MANAGEMENT PRACTICES"; BY AMENDING SECTIONS 21-303(a)(2) AND 21-317(c) BY REPLACING "TWC" WITH "TCEQ"; BY AMENDING SECTION 21-323(a) BY REPLACING "TEXAS WATER COMMISSION" WITH "TCEQ"; BY AMENDING SECTION 21-307(c) INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT REQUIREMENTS BY DELETING THE PHRASE "INCLUDING LIQUID WASTE HAULERS"; BY ADDING SECTION 21-307.1 "ALTERNATIVE INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT REQUIREMENTS"; PROVIDING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, on July 15, 1992, the City Council enacted Ordinance No. 92-7-15, codified as Chapter 21, Article VII, Industrial Wastewater Pretreatment, Plano Code of Ordinances, which regulates the disposal of sewage, pretreatment of industrial wastewater, and discharges into the public sewer system within the City limits; and

WHEREAS, staff recommends the deletion of the definition of TWC and the addition of the definition of TCEQ so that the terminology in the ordinance is current with state law; and

WHEREAS, staff recommends that the terms TWC and Texas Water Commission be replaced with the term TCEQ so the terminology in the ordinance is consistent; and

WHEREAS, staff recommends the addition of the definition of BMP to the ordinance to facilitate the regulation of persons who discharge certain chemicals or metals into the wastewater stream; and

WHEREAS, staff recommends the deletion of the phrase liquid waste haulers from the ordinance as the term is not relevant to the regulatory goals of the ordinance; and

WHEREAS, the staff recommends that it is necessary to add a new section 21-307.1 Alternative Industrial Wastewater Discharge Permit Requirements to the ordinance

to regulate persons who discharge certain pollutants into the wastewater stream so as to further promote the health, safety and welfare of the citizens of the City and to the general public; and

WHEREAS, upon review of all things considered, including staff recommendations, the Council finds that it is in the best interest of the City and its citizens to amend Ordinance 92-7-15 codified as Chapter 21, Article VII, Industrial Wastewater Pretreatment, Plano Code of Ordinances by amending sections 21-301, 21-303(a)(2), 21-307(c), 21-317(c), and 21-323(a) and adding section 21-307.1;

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

Section I. Article VII, Industrial Wastewater Pretreatment, Section 21-301 Definitions, of Chapter 21 of the Code of Ordinances is hereby amended by:

- (1) Deleting “*TWC*. Texas Water Commission” and replacing it with “*TCEQ*. Texas Commission on Environmental Quality”; and
- (2) Adding a new definition as follows:
“*BMP (Best Management Practices)*. Means a pollution prevention program for facility specific plans implemented by an industry sector for the purpose of controlling and reducing certain pollutants including those discharged to the sanitary sewer system.”

Section II. Article VII, Industrial Wastewater Pretreatment, Section 21-303(a)(2) Hazardous metals and chemical or toxic substances, Section 21-317(c) General reporting and record-keeping requirements, Section 21-323(a) Inspection and sampling, of Chapter 21 of the Code of Ordinances are hereby amended by changing all “*TWC*” and “Texas Water Commission” references to “*TCEQ*”.

Section III. Article VII, Industrial Wastewater Pretreatment, section 21-307(c) Industrial user wastewater discharge permit requirements, of Chapter 21 of the Code of Ordinances is hereby amended by deleting the phrase “including liquid waste haulers”.

Section IV. Article VII, Industrial Wastewater Pretreatment of Chapter 21 of the Code of Ordinances is hereby amended by adding section 21-307.1 Alternative Industrial User Wastewater Discharge Permit Requirements which shall read as follows:

“Section 21-307.1 Alternative Industrial Wastewater Discharge Permit Requirements:

- (a) Industrial users, other than significant industrial users, may elect to be permitted under a BMP program which has been approved by the City. All BMP programs approved by the City shall be on file in the Environmental Health Department and are incorporated into this chapter by reference. Users making this election shall complete and file with the City an application and appropriate permit fee.
- (b) Industrial users under a City approved BMP program shall be subject to all conditions established by the City, the BMP program and other applicable state or federal regulations. BMP program requirements shall include, but not be limited to, the following:
 - (1) Installation and maintenance of equipment to prevent the following:
 - (a) pass through of the pollutants specified in the BMP into the sanitary sewer system;
 - (b) interference with the POTW;
 - (c) violation of specific numerical pollutant concentration limits.
 - (2) Self-monitoring and recordkeeping requirements, including an identification of the pollutant(s) to be monitored and the sampling frequency.
- (c) Industrial users failing to submit an annual permit application and fee associated with a City approved BMP program shall be subject to regulation under section 21-307.
- (d) Any person, operator or owner failing to comply with this section shall be subject to the penalty as provided for in Section 1-4(b) of the Code of Ordinances of the City of Plano. Each day the violation continues shall be deemed a separate offense.
- (e) The requirement of a culpable mental state is expressly waived for purposes of this section.”

Section V. All provisions of the Code of Ordinances of the City of Plano 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, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

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

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

DULY PASSED AND APPROVED this the _____ day of _____,
2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>ms</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department: Health	Executive Director		<i>[Signature]</i>	Date: 11.03.08	
Department Head: <i>Brian Collins</i>	City Manager		<i>[Signature]</i>	11/4/08	
Dept Signature: <i>[Signature]</i>	Agenda Coordinator (include phone #): Lynne Jones - 7109				

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NO. 2004-12-15, ENTITLED "FOOD CATEGORIES AND FEES", AND REPLACING IT WITH THIS ORDINANCE, TO BE ENTITLED "HEALTH DEPARTMENT FEES" TO PROVIDE FOR UPDATED PERMIT AND INSPECTION FEES; AMENDING ARTICLE X, DIVISION 2, SECTION 6-454(a), ISSUANCE OF AN OPERATING HEALTH PERMIT, OF CHAPTER 6 OF THE CODE OF ORDINANCES BY DELETING REFERENCES TO SPECIFIC FEE AMOUNTS AND ADDING LANGUAGE REFERRING TO THIS FEE ORDINANCE; AMENDING ARTICLE VIII, SECTION 21-362(a), FEE AND DISPLAY OF PERMIT, OF CHAPTER 21 OF THE CODE OF ORDINANCES BY DELETING REFERENCES TO SPECIFIC FEE AMOUNTS AND ADDING LANGUAGE REFERRING TO THIS FEE ORDINANCE; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A PUBLICATION CLAUSE AND AN EFFECTIVE DATE.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	490,910	0	490,910
Encumbered/Expended Amount	0	0	0	0
This Item	0	26,275	0	26,275
BALANCE	0	517,185	0	517,185

FUND(S): GENERAL FUND

COMMENTS: Approval of this item will add an overall increase in food permitting revenue of approximately \$26,275 to the FY 2008-09 Budget.

STRATEGIC PLAN GOAL: Changes to Food Permit Fees relates to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

This ordinance will update the health department's fee schedule to reflect the increased costs of processing and overseeing permits related to health department functions. This ordinance will also relocate fee language for permits from specific sections of health department related ordinances into this fee ordinance. This will assist the health department by establishing a comprehensive fee ordinance thereby minimizing the chance of an incorrect fee being charged.



City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
972-941-7143
972-941-7142 FAX

MEMORANDUM

Health Department

DATE: November 3, 2008
TO: City Council
FROM: Tomeji Miller, Health Manager *T.M.*
THRU: Brian Collins, Health Director
Bruce Glasscock, Executive Director
SUBJECT: Health Fee Schedule Ordinance

The Health Department is recommending revision to the health food permit fee ordinance to consolidate Health Permit Fees and to adjust annual food establishment fees. Two new programs will be implemented in the FY 2008-09 budget which includes an on-line food service manager review course and Industrial Pre-treatment Best Management Practices (BMP) silver recovery program. Projected revenue for the new programs is expected to generate \$26,275 in new revenues.

Additionally, in order to provide adequate services to our customers and citizens of Plano, it is necessary to increase the food category fee schedule to cover the cost of administrative services and inspections. A food handler card fee of \$15 will be added to cover costs for processing approved off-site courses. Since 2004, permitted food service establishments have increased by 20% from 1090 to 1362 facilities, which require additional inspections and processing of permits. Projected revenue for proposed changes to retail food permit fees will be approximately \$36,442 annually. Proposed fee changes are justified by service overhead and time allotted to administer the retail food inspection program. The permit fee change schedule is shown below:

RETAIL FOOD PERMIT FEES:	Current Fee	New Fee	% Increase
1. Mega Stores (Central Market, Super Wal-mart Super Target, Costco, etc.)	\$800	\$1000	20%
2. Grocery Stores, (Kroger, Tom Thumb, etc.)	\$700	\$800	12.5%
3. Full Service, (Luby's, Friday's, Chili's, etc.)	\$475	\$500	6%
4. Exempt, (PISD)	-0-		
5. Fast Foods, (McDonald's, Jack-In-Box, etc.)	\$350	\$400	12.5%

6. Convenience, (7-11, etc.)	\$300	No Change	
7. Non-PHF, prepackaged only, (Marshall's, T.J. Maxx, Beer and Wine only, etc.)	\$175	\$200	12.5%
8. Misc. Vending			
A. Hot Trucks	\$300.00	No Change	
B. Catering, Prepackaged	\$275.00	No Change	
C. Push Cart (Ice Cream)	\$150.00	No Change	
9. Seasonal, Non-PHF	\$150.00	No Change	
Temporary	\$ 75.00	No Change	

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NO. 2004-12-15, ENTITLED "FOOD CATEGORIES AND FEES", AND REPLACING IT WITH THIS ORDINANCE, TO BE ENTITLED "HEALTH DEPARTMENT FEES" TO PROVIDE FOR UPDATED PERMIT AND INSPECTION FEES; AMENDING ARTICLE X, DIVISION 2, SECTION 6-454(a), ISSUANCE OF AN OPERATING HEALTH PERMIT, OF CHAPTER 6 OF THE CODE OF ORDINANCES BY DELETING REFERENCES TO SPECIFIC FEE AMOUNTS AND ADDING LANGUAGE REFERRING TO THIS FEE ORDINANCE; AMENDING ARTICLE VIII, SECTION 21-362(a), FEE AND DISPLAY OF PERMIT, OF CHAPTER 21 OF THE CODE OF ORDINANCES BY DELETING REFERENCES TO SPECIFIC FEE AMOUNTS AND ADDING LANGUAGE REFERRING TO THIS FEE ORDINANCE; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A PUBLICATION CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, on December 13, 2004, the City Council of the City of Plano duly passed Ordinance No. 2004-12-15 which adopted permit and inspection fees for food establishments; and

WHEREAS, staff recommends the consolidation of fees for health department services found in other sections of the City Code of Ordinances into this comprehensive fee ordinance for ease of use; and

WHEREAS, the City Council, based upon staff recommendations and review and consideration of these matters, recognizes it is in the best interest of the City of Plano to consolidate fees into one comprehensive fee ordinance for ease of use and that such consolidation is proper and should be approved and adopted; and

WHEREAS, the City Council recognizes that certain adjustments to fees are necessary to cover increased administrative costs for providing specific services; and

WHEREAS, generation of resources through fees needed to administer the programs and services of the City of Plano is of vital concern to all citizens and must be considered for each year in concurrence with the annual budget for the City; and

WHEREAS, the City Council, based upon staff recommendations and review and consideration of these matters, and in concurrence with the adoption of the annual budget for the City of Plano, has determined that it is in the best interest of the City of Plano, Texas, to revise the fees hereinafter set forth, and that they are proper and should be approved and adopted.

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

Section I. Ordinance No. 2004-12-15 providing permit and inspection fees for certain health department services is hereby repealed and replaced with the following text:

“HEALTH DEPARTMENT FEES

RETAIL FOOD PERMIT FEES:	Fee
1. Mega Stores (Central Market, Super Wal-Mart, Super Target, Costco, etc.)	\$1000.00
2. Grocery Stores, (Kroger, Tom Thumb, etc.)	\$800.00
3. Full Service, (Luby’s, Friday’s, Chili’s, etc.)	\$500.00
4. Exempt, (PISD)	-0-
5. Fast Foods, (McDonald’s, Taco Bell, Jack-In-Box, etc.)	\$400.00
6. Convenience, (7-11, etc.)	\$300.00
7. Non-PHF, prepackaged only, (Marshall’s, T.J. Maxx, Beer and Wine only, etc.)	\$200.00
8. Misc. Vending	
A. Hot Trucks	\$300.00
B. Catering, Prepackaged	\$275.00
C. Push Cart (Ice Cream)	\$150.00
9. Seasonal, Non-PHF	\$150.00
Temporary	\$ 75.00

POOL INSPECTION, WASTEHAULER AND PRETREATMENT FEES

POOL	Fee
1. Swimming Pool Inspection Fee	\$200.00
2. Additional Pool	\$100.00
3. Re-inspection Pool Fee	\$50.00
WASTE HAULER AND TRAP FEES	
1. Waste Haulers	\$300.00
2. Generator Inspection	\$250.00
INDUSTRIAL WASTEWATER PRETREATMENT	
1. Industrial Pretreatment Annual Fee	\$300.00
2. Industrial Pretreatment BMP Permit Fee	\$50.00

No permit shall be issued or renewed until such fee is paid. Late fees for permit renewals shall apply as follows:

Late Fees:

Food and Pool Permits-Renewals.	
1-30 days after expiration date	10% of permit fee
31-60 days after expiration date	15% of permit fee
60 or more days after expiration date	30% of permit fee

Liquid Waste Generator Permit renewal.	
1-30 days after expiration	\$50.00

C/O and Re-inspection Fees.	
First Re-inspection	-0-
Second Re-inspection	\$ 75.00
Body Art Permit Fee	\$200.00

Training Fees:

Food Manager Certification	\$100.00
Food Handler Class	\$ 20.00
Food Handler Card for Off-site Course	\$ 15.00
Food Manager Review Course	\$ 25.00
Certified Pool Operator Course	\$200.00

A permit fee of Seventy-Five Dollars (\$75.00) must accompany each completed temporary food service permit application. An additional Fifty Dollars (\$50.00) will be assessed if application is submitted less than two (2) business days prior to the event. All nonprofit organizations shall be exempt from the temporary food service permit fee charge. Proper documentation of nonprofit status must be provided to the Health Department at the time of application.

Vendors having more than one booth at an event will be charged Seventy-Five Dollars (\$75.00) for the first booth and Twenty-Five Dollars (\$25.00) for each additional booth.

A permit fee of One Hundred Fifty Dollars (\$150.00) must accompany each completed seasonal food service permit application. An additional Fifty Dollars (\$50.00) will be assessed if application is submitted less than two (2) business days prior to the event. Proper documentation of nonprofit status must be provided to the Health Department at the time of application.

A permit fee waiver may be obtained if proof of charitable non-profit (tax-supported) status is submitted with application. There is a Twenty Dollar (\$20.00) permit processing and inspection fee.

A plans review fee of Three Hundred Dollars (\$300.00) shall be charged for the review of plans and specifications of new construction or remodeled facilities.”

Section II. Article X, Division 2, Section 6-454(a), Issuance of an operating health permit, of Chapter 6 of the Code of Ordinances is amended to read in its entirety as follows:

“(a) No person shall operate a swimming pool without first obtaining a valid health permit from the City of Plano Health Department. Each separate pool requires a separate permit. The permit will be valid for one (1) year unless otherwise revoked as described in this Article. Permit fees shall be reviewed, set, and adopted by ordinance of the city council of the city on a regular basis.”

Section III. Article VIII, Section 21-362(a), Fee and display of permit, of Chapter 21 of the Code of Ordinances is amended to read in its entirety as follows:

“(a) Except as provided in (c) below, the approving authority shall not issue a permit unless the appropriate fee is paid. Each permit, including vehicle permits, must be renewed annually. Permit fees shall be reviewed, set, and adopted by ordinance of the city council of the city on a regular basis.”

Section IV. All provisions of the 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 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. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section VI. This Ordinance shall become effective from and after its passage and publication as required by law.

ORDINANCE NO. _____

DULY PASSED AND APPROVED this the _____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	HEALTH		<i>[Signature]</i>	Date
Department Head	BRIAN COLLINS		Executive Director	11.03.08
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>
Agenda Coordinator (include phone #): Doris Callaway X 7494				
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NOS. 99-9-1, 99-9-5, 2002-9-11, 2003-3-4, 2004-12-15 AND 2004-12-16 CODIFIED AS CHAPTER 9, FOOD CODE OF THE CODE OF ORDINANCES OF THE CITY OF PLANO AND REPLACING THEM WITH A NEW CHAPTER 9, FOOD CODE; AND PROVIDING A PENALTY CLAUSE; A REPEALER CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE; A PUBLICATION CLAUSE AND AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
Repealing of Chapter 9, Food Code, of the Code of Ordinances of the City and replacing with a new Chapter 9, Food Code, of the Code of Ordinances of the City of Plano in order to conform with current state and federal laws and regulations.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

WITH MARKED UP CHANGES

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NOS. 99-9-1, 99-9-5, 2002-9-11, 2003-3-4, 2004-12-15 AND 2004-12-16 CODIFIED AS CHAPTER 9, FOOD CODE OF THE CODE OF ORDINANCES OF THE CITY OF PLANO AND REPLACING THEM WITH A NEW CHAPTER 9, FOOD CODE; AND PROVIDING A PENALTY CLAUSE; A REPEALER CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE; A PUBLICATION CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano has previously enacted ordinances for Food and Food Establishments and those ordinances are codified as Chapter 9, Food Code, of the Code of Ordinances of the City of Plano; and

WHEREAS, upon review of the existing ordinances as well as current state and federal laws and regulations governing food and food establishments, staff recommends the repeal of Chapter 9, Food Code, of the Code of Ordinances of the City and to replace it with a new Chapter 9, Food Code, of the Code of Ordinances of the City of Plano in order to conform with current state and federal laws and regulations; and

WHEREAS, the City Council of the City of Plano, Texas determines it is necessary for public health and safety to provide regulations for food and food establishments within the City of Plano; and

WHEREAS, the City Council determines that it is in the public interest to repeal the current Chapter 9, Food Code, of the Code of Ordinances of the City of Plano, and enact this new Chapter 9, Food Code, of the Code of Ordinances of the City of Plano to conform with current state laws and regulations; and

WHEREAS, the City Council of the City of Plano, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended changes are in the best interest of the City and its citizens and will promote the health, safety and welfare of the citizens of Plano and the general public.

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

Section I. Ordinance nos. 99-9-1, 99-9-5, 2002-9-11, 2003-3-4, 2004-12-15 and 2004-12-16, codified as Chapter 9 Food Code, of the Code of Ordinances of the City of Plano are hereby repealed and replaced with this new Chapter 9, Food Code, to read in its entirety as set forth below:

“ARTICLE I. GENERAL PROVISIONS

Sec. 9-1. Purpose.

The function of this chapter is to protect the public health by establishing uniform requirements for food service operations.

The regulatory authority may also enforce state, federal statute or regulation applicable to a food establishment operating within the city.

Sec. 9-2. Definitions.

[The following words, terms, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:]

(1) ~~Adulterated food. A food containing any poisonous or deleterious substance as specified in the Texas Health and Safety Code, Chapter 431, Section 431.002(17).~~

Adulterated food. A food shall be deemed to be adulterated as specified in the Texas Health and Safety Code, Chapter 431, §431.081.

(2) Approved. Acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

(3) Base of operation. An operating base to which a mobile food establishment vehicle returns as needed for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(4) Bed & breakfast. An establishment with rooms for rent that serves only breakfast to over-night guests. The establishment is not a retail food establishment and the owner or manager shall successfully complete an accredited food manager's certification course.

(5) Bed & breakfast food establishment. An establishment that provides food service other than to its overnight guests. The establishment must meet the rules and regulations applicable to retail food establishments.

(6) Beverage. A liquid for drinking, including water.

(7) Child care center. Any facility licensed by the regulatory authority to receive thirteen (13) or more children for child care which prepares food for on-site consumption.

(8) Cleaned in place. The circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen

dessert machine. The term does not include the cleaning of equipment such as band saws, slicers or mixers that are subject to in-place manual cleaning without the use of a CIP system.

(9) Code of Federal Regulation (CFR). The compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

(10) Commissary. Means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

(11) Common dining area. A central location in a group residence where people gather to eat at mealtime. The term does not apply to a kitchenette or dining area located within a resident's private living quarters.

(12) Confirmed disease outbreak. A foodborne illness outbreak in which laboratory analysis of appropriate specimens identifies a causative **organism** agent and epidemiological **analysis implicates the food as the source of the illness.**

(13) Consumer. A person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

(14) Corrosion-resistant material. A material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

(15) Critical control point. A point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

(16) Critical **item**. A provision of these rules that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, injury, or environmental health hazard.

(17) Critical limit. The maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(18) Dry storage area. A room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

(19) Easily cleanable. A characteristic of a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; and varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose and use (Texas Food Establishment Rules (TFER) §229.162).

(20) Employee. The permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

(21) Equipment. An article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, steam table, temperature measuring device for ambient air, vending machine, warewashing machine, and similar items other than utensils, used in the operation of a food establishment.

~~(22) Fish. Fresh or saltwater finfish, crustaceans and other forms of aquatic life other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. The term includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.~~

Fish. Fish means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals), other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(23) Food. A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum. (TFER §229.162).

~~(24) Foodborne disease outbreak. An incident in which two or more persons experience a similar illness after ingestion of a common food, and epidemiological analysis implicates the food as the source of the illness; except that in the cases of botulism or chemical poisoning, one ill person shall constitute an outbreak. The occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.~~

(25) Food-contact surface. A surface of equipment or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

(26) Food employee. An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(27) Food establishment. An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a restaurant food establishment; retail food store; food bank; pre-packaged non-PHF; produce stand; satellite or catered feeding location; catering operation; market; remote catered operations; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders; restaurant take-out orders; or where consumption is on or off the premises; and regardless of whether there is a charge for the food. The term does not include: a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as

a religious or charitable organization's bake sale; bed & breakfast limited facility as defined in these rules; or a private home **that receives catered or home-delivered food.**

(28) Food processing plant. A commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer. The term does not include a food establishment as previously defined.

(29) Game animal. An animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine, poultry, or fish as defined under paragraph 22 of this section. Game animal includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes and does not include ratites such as ostrich, emu, and rhea.

(30) Hazard. A biological, chemical, or physical property that may cause an unacceptable consumer health risk.

~~(31) Hazard analysis critical control point (HACCP). A rational, systematic approach that identifies and monitors specific foodborne hazards (biological, physical or chemical) that may adversely affect the safety of the food product. This system utilizes the HACCP Principles as defined by the National Advisory Committee on Microbiological Criteria for Foods (NACMCF), 1992, or its successor document.~~ Hazard analysis critical control point (HACCP). A systematic approach to the hazard identification, evaluation, and control of food safety hazards.

~~(32) Hazard analysis critical control point plan.~~ **HACCP plan.** A written document that delineates the formal procedures for following the HACCP principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

(33) Hermetically sealed container. A container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

(34) Highly susceptible population. A group of persons who are more likely than other populations to experience foodborne disease because they are immunocompromised or older adults; and in a facility that provides health care or assisted living services, such as a hospital or nursing home; **adult day care or senior center**; or preschool age children in a facility that provides custodial care, such as a child care center.

~~(35) Hot truck. A vehicle mounted food establishment, which prepares foods on site within the vehicle. The vehicle is equipped with food preparation equipment and must meet regulations applicable to a fixed food establishment.~~

(35) Imminent health hazard. A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.

- (36) Kitchenware. All multi-use utensils other than tableware.
- (37) Law. Federal, state, and local statutes, ordinances, and regulations.
- (38) Linens. Fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.
- (39) Mobile food establishment. A self-propelled vehicle mounted food establishment designed to be readily moveable. This includes vehicles which prepare food on site within the vehicle. The vehicle is equipped with food preparation equipment and must meet regulations applicable to a fixed food establishment.
- (40) Molluscan shellfish. Any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.
- (41) Packaged. Bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. The term does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
- (42) Permit. The document issued by the regulatory authority that authorizes a person to operate a food establishment.
- (43) Person in charge. The individual present in a food establishment who is responsible for the operation ~~the apparent supervisor of the food establishment~~ at the time of inspection.
- (44) Personal care items. Items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. The term includes such items as medicines; first-aid supplies; and other items such as cosmetics and toiletries such as toothpaste and mouthwash.
- (45) Personal items. Articles belonging to employees.
- (46) Poisonous or toxic materials. Substances that are not intended for ingestion including cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes and other chemicals; pesticides and rodenticides; and substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health.
- (47) Potable. Suitable or safe for drinking.
- (48) Potable water. Water that is fit for drinking.

(49) Potentially hazardous food (PHF). A food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does include fresh shell eggs, which is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth. This term does not include: an air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable Salmonellae; a food, in an unopened commercially hermetically sealed container, that is shelf stable; a food for which a product assessment including laboratory evidence, demonstrates that time and temperature control for safety is not required and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or a food that does not support the growth of microorganisms as specified even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

(50) Poultry. Any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead and any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or guinea, or pigeon or squab, whether live or dead. Poultry does not include ratites.

(51) Premises. The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

(52) Pushcart. A non self-propelled mobile food unit limited to serving only prepackaged, nonpotentially, hazardous food or prepackaged ice cream. A pushcart is classified as a mobile food unit.

(53) Ready-to-eat food. Food that is in a form that is edible without additional preparation to achieve food safety; is raw or partially cooked animal food and the consumer is advised. The term includes raw, washed, cut fruits and vegetables; whole, raw fruits and vegetables; all potentially hazardous food that is cooked to the temperature and time required for the specified food. The term also includes plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shell, if naturally present are removed; substances derived from plants such as spices, seasonings, and sugar; a bakery item such as bread, cakes, pies, fillings or icing for which further cooking is not required for food safety; the following products that are produced with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks.

(54) Refuse. Solid waste not carried by water through the sewage system.

(55) Regulatory authority. The director of health of the City of Plano, or his designated representative.

(56) Safe material. An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in Chapter 431 of the Texas Health and Safety Code; or other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

(57) Sanitization. The application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of five (5) logs, which is equal to a 99.999% reduction of representative disease microorganisms of public health importance.

(58) Sealed. Free of cracks or other openings that allow the entry or passage of moisture.

(59) Seasonal food establishment. A food establishment that operates at a fixed location for a period greater than fourteen (14) consecutive days, but less than forty-five (45) consecutive days in conjunction with a single event or celebration.

(60) Sewage. Liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(61) Single-service articles. Cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one-person use and then discarded.

(62) Single-use articles. Utensils and bulk food containers designed and constructed to be used once and discarded. The term includes items such as wax paper, butcher paper, plastic wrap, formed aluminum containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the material, durability, strength, and cleanability specifications in Section 229.165(a)(1), (c)(1), and (d)(1) of Texas Food Establishment Rules (relating to Equipment, Utensils, and Linens) for multi-use utensils. Tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

(63) Slacking. The process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of minus ten (-10) degrees Fahrenheit (minus twenty-three (-23) degrees Celsius) to twenty-five (25) degrees Fahrenheit (minus four (-4) degrees Celsius) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

(64) Smooth. A food contact surface free of pits and inclusions, a non-food contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible

scale; and a floor, wall or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

(65) Sound condition. Free from defect, decay or damage; healthy.

(66) Sufficient size. As much as is needed; adequate to contain all materials.

(67) Temporary food establishment. A food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(68) Temporary event. Temporary events are defined as, but not limited to traveling fairs, carnivals, multicultural celebrations, special interest fundraisers, restaurant food shows, grand openings, customer appreciation days, athletic competition, and other transitory gatherings.

(69) TCS. Time and temperature controlled for safety.

(70) Utensil. Any implement used in the storage, preparation, transportation, or service of food.

(71) Vending machine. A self-service device that, upon insertion of a coin, paper currency, token, card, or key, **or by optional manual operation**, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(72) Vending machine location. The room, enclosure, space or area where one or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used to service and maintain the vending machines.

(73) Warewashing. The cleaning and sanitizing of food-contact surfaces of equipment and utensils.

(74) Wholesome. In good, sound condition; free from contamination or adulteration, healthy.

Secs. 9-3--9-20. Reserved.

ARTICLE II. FOOD CARE

Sec. 9-21. Food supplies.

(a) General. Food shall be safe, unadulterated and honestly presented. Food shall be obtained from sources that comply with all laws relating to food labeling. The use of food in hermetically sealed containers that was not prepared in a food-processing establishment is prohibited.

(1) Food establishment or manufacturers' dating information on food may not be concealed or altered.

- (2) Food prepared in a private home may not be used or offered for human consumption.
 - (3) Potentially hazardous foods/time and temperature control for safety (PHF/TCS) can only be sold from a permitted food establishment.
- (b) Special requirements.
- (1) Fluid milk and fluid milk products used ~~or~~, served, or commercially sold shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.
 - (2) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they are received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.
 - (a) Shellstock tags shall remain attached to the container in which they are received until the container is empty and shall be maintained at facility for 90 calendar days from the date the container is emptied by using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served.
 - (b) If shellstock are removed from their tagged or labeled container preserve, source identification by using a record keeping system and ensuring that shellstock from one tagged or labeled container is not commingled with shellstock from another container with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label.
 - (3) Only clean whole eggs, with shell intact and without cracks or checks or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard boiled, peeled eggs, commercially prepared and packaged, may be used. Shell eggs that have not been specifically treated to destroy all viable Salmonella shall be labeled to include safe handling instructions as specified in law, including 21 CFR §101.17(h) (Code of Federal Regulations).
 - (4) Prepackaged juice shall be obtained from a processor with a HACCP system as specified in 21 CFR §120, be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR §120.24 or bear a warning label as specified in 21 CFR §101.17(g).
 - (5) Donation of Foods. Foods which are considered distressed, such as foods which have been subjected to fire, flooding, excessive heat, smoke, radiation or other environmental

contamination or prolonged storage shall not be directly donated for consumption by the consumer. Foods may be sold or donated to a licensed food salvage establishment under the provisions of the Texas Food Establishment Rules ~~provision of the Health and Safety Code (HSC), Chapter 432.~~ (TFER §229.164 (v)(1) thru (6)).

- (a) Foods which have been previously served to a consumer may not be donated.
- (b) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in law, including 9 CFR §317.2(1) and 9 CFR §381.125(b).
- (c) A potentially hazardous food/~~time and temperature control for safety (PHF/TCS)~~ may be donated if:
 - (1) The food has been kept at one hundred forty (140) degrees Fahrenheit during hot holding and service and subsequently refrigerated to meet the time and temperature requirements under section 9-23(b)(3).
 - (2) The donor can substantiate that the food recipient has the facilities to meet transportation, storage and reheating requirements.
 - (3) The temperature of the food is at or below forty (40) degrees Fahrenheit at the time of donation and is protected from contamination.

(c) Game animals. Game animals must be from a source approved by the regulatory authority and must be commercially processed. No game animal may be received for sale or service if it is listed in 50 CFR §17, (Code of Federal Regulations), (TFER §229.164) ~~(b)(7)(B)(i-iv) Endangered and Threatened Wildlife and Plants.~~ Approved sources include:

- (1) As allowed by law, commercially raised indigenous game animals;
 - (2) Indigenous game animals harvested under the authority of the Texas Parks and Wildlife Department, which are wholesome at the time of delivery to a commercial processor.
- (d) Fish.
- (1) Fish that are received for sale or service shall be commercially and legally caught or harvested; or approved for sale or service.
 - (2) Molluscan shellfish that are recreationally caught may not be received for sale or service. Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. Molluscan shellfish received in the interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(e) Wild mushrooms. Mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert. (TFER §229.164(b)(6)(A)).

(f) Bottled water. Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR 129 (Processing and Bottling of Bottled Drinking Water. ~~the law. (USFDA, USPHS 2001 Food Code, §5-101.13).~~

Sec. 9-22. Food protection.

(a) General. At all times including while being stored, prepared, displayed, served or transported, food shall be protected from potential contamination. Potential contamination to food includes but is not limited to: dust, insects, rodents, unclean equipment and utensils, unnecessary handling by the use of sanitary disposable gloves, coughs and sneezes, flooding, drainage, and overhead drippage from condensation.

(b) Emergency occurrences. In the event of an occurrence, such as a fire, flood, extended power outage of thirty (30) to forty-five (45) minutes, or similar event which might result in the contamination of food, or which might prevent potentially hazardous foods/~~time and temperature control for safety (PHF/TCS)~~ from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary to protect the public health.

~~(c) Specialized processing methods. A food establishment shall obtain a variance as specified in TFER §229.171 (1) and (2) (relating to compliance and enforcement) before smoking or curing food; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food non-potentially hazardous; using a reduced oxygen method of packaging food, except as specified in paragraph (2) of this subsection where a barrier to Clostridium botulinum in addition to refrigeration exists; or preparing food by another method that is determined by the regulatory authority to require a variance. A food establishment that packages food using a reduced oxygen packaging method shall have a HACCP Plan that contains information in accordance with the Texas Food Establishment Rules.~~

(d) Protection from unapproved additives.

(1) A food shall be protected from contamination that may result from the addition of:

(a) Unsafe or unapproved food or color additives; and

(b) Unsafe or unapproved levels of approved and color additives.

- (2) A food employee may not apply sulfating agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1 or serve or sell food specified in paragraph (1) above that is treated with sulfating agents before receipt by the food establishment, except that grapes need not meet this subparagraph.

(e) Treating juice. Juice packaged in a food establishment shall be:

(1) Treated under a HACCP plan as specified in TFER §229.171(d)(2)(B)-(D) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

(2) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:

(a) As specified under TFER §164(r)(1)(A)-(B); and

(b) As specified in 21 CFR §101.17(g) with the phrase, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with a weakened immune system."

Sec. 9-23. Food storage.

(a) General.

(1) Food, whether raw or prepared, if removed from the container or package in which it was obtained shall be stored in a clean covered container intended for food storage except during necessary periods of preparation or service. Container covers shall be impervious and non-absorbent except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

(2) Containers of food shall be stored a minimum of six (6) inches above the floor in the manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area except that:

(a) Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and

(b) Containers may be stored on dollies or racks, provided such equipment is easily moveable.

- (3) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.
 - (4) Food shall be protected from cross contamination by separating raw animal food during storage, preparation, holding and display from:
 - (a) raw, ready-to-eat food including other raw animal food such as fish, sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables and,
 - (b) cooked ready-to-eat food.
 - (5) Except when combined as ingredients, separating types of raw animal foods from each other during storage, preparation, holding and display from:
 - (a) using separate equipment for each type; or
 - (b) arranging each type of food in equipment so that cross contamination of one type with another is prevented; and
 - (c) preparing each type of food at different times or in separate areas.
 - (6) Packaged food may not be stored in direct contact with ice or water if the food is subject to entry of water because of the nature of its packaging, wrapping, or container or its position in the ice or water. Unpackaged food may not be stored in direct contact with undrained ice with the exception of whole, raw fruits and vegetables; cut, raw vegetables and tofu may be immersed in ice or water. Raw chicken and raw fish that are received immersed in ice in shipping container may remain in that condition while awaiting preparation, display, service or sale.
 - (7) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.
 - (8) Proper separation and identification of employee's or personal food and items must be stored in a manner that will prevent contamination of items intended for public consumption.
- (b) Refrigerated storage.
- (1) Conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of all potentially hazardous food/time and temperature control for safety (PHF/TCS) at required temperatures during storage.
 - (2) Each mechanically refrigerated facility storing potentially hazardous food/time and temperature control for safety (PHF/TCS) shall be provided with a numerically scaled

indicating thermometer, accurate to +/- 3 degrees Fahrenheit, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to +/- 3 degrees Fahrenheit, may be used in lieu of indicating thermometers.

- (3) Potentially hazardous food/time and temperature control for safety (PHF/TCS) requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of forty (40) degrees Fahrenheit (five degrees Celsius) or below. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. Potentially hazardous food/time and temperature control for safety (PHF/TCS) to be displayed for sale or service or transported shall be pre-chilled and held at a temperature of forty (40) degrees Fahrenheit, (five (5) degrees Celsius) or below.
 - (4) Potentially hazardous foods/time and temperature control for safety (PHF/TCS) shall be at a temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) when received.
 - (5) Raw shell eggs, molluscan shellfish and milk shall be received in refrigerated equipment that maintains an ambient air temperature of forty-five (45) degrees Fahrenheit (seven (7) degrees Celsius) or less.
 - (6) Frozen foods shall be kept frozen and shall be stored at a temperature of zero (0) degrees Fahrenheit (-eighteen (-18) degrees Celsius) or below.
 - (7) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.
 - (8) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.
- (c) Date marking.
- (1) Prepared on premise ready-to-eat potentially hazardous food/time and temperature control for safety (PHF/TCS) held refrigerated for more than twenty-four (24) hours in a food establishment shall be clearly ~~marked at the time of preparation to indicate the date, including the day of preparation, by which the food shall be consumed which shall be seven (7) calendar days or less from the day that the food is prepared~~ marked using calendar dates, days of the week, color coded marks, or other effective means to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified below. The day of preparation shall be counted as day 1, forty (40) degrees Fahrenheit, (five (5) degrees

Celsius) or less for a maximum of seven days; in countertop, under-counter and open-top refrigeration units located in the food preparation area and were in use prior to October 6, 2003, as specified in this chapter.

- (2) Commercially processed ready-to-eat food prepared and packaged by a food processing plant shall be clearly marked using calendar dates, days of the week, color-coded marks, or other effective means, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in this chapter. The day the original container is opened in the food establishment shall be counted as day 1; and the day or date marked by the food establishment may not exceed a manufacturers' use-by date if the manufacturer determined the use-by date based on food safety. ~~marked, at the time the original container is opened in a food establishment, to indicate the date, including the day the original container is opened, by which the food shall be consumed which is seven (7) calendar days or less after the original container is opened.~~
- (3) A refrigerated, ready-to-eat potentially hazardous food/time and temperature control for safety (PHF/TCS) that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in this chapter or by an alternative method acceptable to the regulatory authority.
- (4) Alternative date marking systems must receive prior approval from the regulatory authority.
- (5) Subsection (2) of this paragraph does not apply to the following cheeses that are maintained under refrigeration as specified in this chapter:
 - (a) hard cheeses manufactured as specified in 21 CFR §133.150, and with moisture content not exceeding 39%, such as cheddar, gruyere, parmesan, reggiano, and romano;
 - (b) semi-soft cheeses manufactured as specified in 21 CFR §133.187, and with a moisture content of more than 39% but less than 50%, such as blue, edam, gorgonzola, gouda, and Monterey jack; or
 - (c) pasteurized process cheeses manufactured as specified in 21 CFR §133.169, and labeled as containing an acidifying agent.
- (6) Subsection (2) of this paragraph does not apply to the following when the face has been cut, but the remaining portion is whole and intact:
 - (a) fermented sausages produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated" and which retain the original casing on the product;

- (b) shelf stable, dry, fermented sausages; and
 - (c) shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a federally inspected food processing plant that are not labeled “Keep Refrigerated.”
- (7) Subsection (2) of this paragraph does not apply to cultured dairy products as defined in 21 CFR §131, Milk and Cream, such as yogurt, sour cream, and buttermilk, that are maintained under refrigeration as specified in this chapter.
 - (8) Subsection (2) of this paragraph does not apply to preserved fish products, such as pickled herring, and dried or salted cod, and other acidified fish products defined in 21 CFR §114, Acidified Foods.
 - (9) A refrigerated, ready-to-eat, potentially hazardous food/time and temperature control for safety (PHF/TCS) ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food/time and temperature control for safety (PHF/TCS) that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest prepared or first-prepared ingredient.
- (d) Hot Storage.
 - (1) Conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food/time and temperature control for safety (PHF/TCS) shall be provided with a numerically scaled indicating thermometer, accurate to + +/- three (3) degrees Fahrenheit, located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to + +/- three (3) degrees Fahrenheit, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bain-maries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.
 - (2) The internal temperature of potentially hazardous foods/time and temperature control for safety (PHF/TCS) requiring hot storage shall be one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above except during necessary periods of preparation. Potentially hazardous food/time and temperature control for safety (PHF/TCS) to be transported shall be held at a temperature of one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above unless maintained in accordance with subsection (b)(2) of this subsection.

Sec. 9-24. Food Preparation.

(a) Food handling. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross contamination.

(b) Food employees may not use a utensil more than once to taste food that is to be sold or served.

(c) Food employees shall prepare ready-to-eat foods using suitable utensils, such as tissue, spatulas, tongs, single use gloves or dispensing equipment.

(1) Food employees shall wash their hands as specified under Sec. 9-32.

(2) Gloves, use limitation. Hands must be washed prior to use of gloves. If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. Slash resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified by these rules, such as frozen food or a primal cut of meat. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves are covered with a smooth, durable, and non-absorbent glove or a single-use glove. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required in these rules such as frozen food or a primal cut of meat.

(d) Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(1) Fruits and vegetables may be washed by using chemical as specified under (TFER §229.168(f)(2)).

(e) Cooking potentially hazardous foods/time and temperature control for safety (PHF/TCS). Potentially hazardous foods/time and temperature control for safety (PHF/TCS) requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred forty (140) degrees Fahrenheit, (sixty (60) degrees Celsius) except that:

(1) Poultry, poultry stuffing, stuffed meat, stuffed fish, stuffed pasta, stuffed ratites, stuffing containing meat, wild game animals and exotic animals, shall be cooked to heat all parts of the food to at least one hundred sixty-five (165) degrees Fahrenheit, (seventy-four (74) degrees Celsius) with no interruption of the cooking process.

(2) Pork and any food containing pork shall be cooked to heat all parts of the food to at least one hundred fifty (150) degrees Fahrenheit, (sixty-six (66) degrees Celsius).

(3) Rare roast beef shall be cooked to an internal temperature of at least one hundred thirty (130) degrees Fahrenheit (fifty-four (54) degrees Celsius), and rare beef steak shall be

cooked to a temperature of one hundred thirty (30) degrees Fahrenheit (fifty-four (54) degrees Celsius), unless otherwise ordered by the immediate consumer.

- (4) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham, shall be cooked in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature; and Figure 1:25 TAC §229.164(k)(1)(B)(i).

Oven type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or More
Still Dry	350° F (177° C) or more	250° F (121° C) or more
Convection	250° F (121° C) or more	250° F (121° C) or more
High Humidity ¹	250° F (121° C) or more	250° F (121° C) or more

¹ Relative humidity greater than 90% for at least 1 hour as measures in the cooking chamber or exit of the oven ; or in a moisture-impermeable bag that provides 100%.

Holding time that corresponds to that temperature. Figure 1:25 TAC §229.164(k)(1)(B)(ii)

Cooking Whole Beef or Corned Beef Roasts

Temperature (°F) (°C)	Time ¹ in Minutes	Temperature (°F) (°C+)	Time ¹ in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0
142 (61.1)	8		

144(62.2)	5		
145 (62.8)	4		
¹ Holding time may include postover heat rise.			

- (5) Reconstructed and/or ground beef products shall be cooked to an internal temperature of at least one hundred fifty-five (155) degrees Fahrenheit (sixty-eight (68) degrees Celsius) for a minimum of fifteen (15) seconds, unless otherwise ordered by the immediate consumer.

Alternatives to the 155 Degree Fahrenheit/15 second requirement.

Minimum Temperature	Minimum Time
°F (°C)	
145 (63)	3 minutes
150 (66)	1 minute
158 (70)	< 1 second (instantaneous)

(6) Plant food cooking for hot holding. Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of one hundred thirty-five (135) degrees Fahrenheit (fifty-seven (57) degrees Celsius).

(7) Consumers shall be informed by brochures, deli case menu advisories, label statements, table tents, placards, or other effective written means of the potential hazards of raw animal food such as raw marinated fish; raw molluscan shellfish; steak tartar; partially cooked food such as lightly cooked fish, rare meat and soft cooked eggs that to ensure its safety, the food should be cooked to proper temperatures.

~~(8) Food establishments which deliver shellfish to a consumer for raw consumption shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such shellfish in raw or undercooked form. The language in the advisory shall be as follows unless otherwise approved by the Retail Foods Division of the Texas Department of State Health Services in response to a written request from the food establishment: THERE IS A RISK ASSOCIATED WITH CONSUMING RAW OYSTERS OR ANY RAW ANIMAL PROTEIN. IF YOU HAVE CHRONIC ILLNESS OF THE LIVER, STOMACH, OR BLOOD, OR HAVE IMMUNE DISORDERS, YOU ARE AT THE GREATEST RISK OF ILLNESS FROM RAW OYSTERS AND SHOULD EAT OYSTERS FULLY COOKED. IF UNSURE OF YOUR RISK, CONSULT YOUR PHYSICIAN.~~

(8) Food establishments which serve or sell an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish which is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and

reminder, using brochures, deli case or menu advisories, label statements, table tents, placards or other effective written means.

(1) Disclosure shall include a description of the animal-derived foods, such as “oysters on the half shell (raw oysters)”, “raw-egg Caesar salad” and “hamburgers (can be cooked to order)” or

(a) Identification of the animal derived foods by asterisking them to a footnote that states that the items are served raw or under cooked or contain (or may contain) raw or under cooked ingredients.

(2) Reminder shall include asterisking the animal-derived food requiring disclosure to a footnote that states regarding the safety of these items, written information is available upon request;

(a) Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness or;

(b) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

(f) Parasite destruction. Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of minus four (-4) degrees Fahrenheit (minus twenty (-20) degrees Celsius) or below for 168 hours (7 days) in a freezer or (minus thirty-one (-31) degrees Fahrenheit, (minus thirty-five (-35) degrees Celsius) or below for 15 hours in a blast freezer. Records must be maintained for 90 calendar days beyond the time of service or sale of the fish. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *thunnus obesus* (Bigeye tuna) or *Thunnus thynnus* (Bluefin, Northern), the fish may be served or sold in raw, raw-marinated or partially cooked ready-to-eat form without freezing.

(1) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified may substitute for the records specified above.

(g) Dry milk and dry milk products. Reconstituted dry milk products may be used in instant desserts and whipped products or for cooking and baking purposes.

(h) Liquid, frozen, milk, dry eggs and egg products.

(1) Frozen milk products, such as ice cream, liquid, frozen, dry eggs and egg products shall be obtained pasteurized. Pasteurized liquid, frozen or dry eggs shall be substituted for raw eggs in preparation of: Caesar salad, hollandaise sauce or bernaise sauce, mayonnaise, meringue, eggnog, ice cream and egg fortified beverages.

(2) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in 21 CFR §133.

(3) Shell eggs that are broken, combined in a container, and not cooked immediately are prohibited.

(i) Reheating. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) that have been cooked and then refrigerated, shall be reheated rapidly to one hundred sixty-five (165) degrees Fahrenheit (seventy-five (75) degrees Celsius) or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bain-maries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods/time and temperature control for safety (PHF/TCS).

(1) Preparation for immediate service. Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as roast beef sandwich au jus, may be served at any temperature.

(2) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least one hundred thirty-five (135) degrees Fahrenheit (fifty-seven (57) degrees Celsius) for hot holding.

(j) Cooling. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) that have been cooked and are required to be cooled shall be rapidly cooled to forty (40) degrees Fahrenheit (five (5) degrees Celsius) or below within four (4) hours of preparation. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container.

(1) Raw shell eggs shall be received as specified in this chapter and immediately placed in refrigerated equipment that maintains an ambient air temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) or less.

(k) Product thermometers. Metal stem-type numerically scaled indicating thermometers, accurate to +/- two (2) degrees Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, ~~holding~~ holding, or refrigeration temperatures of all potentially hazardous foods/time and temperature control for safety (PHF/TCS).

(l) Thawing potentially hazardous foods/time and temperature control for safety (PHF/TCS). Potentially hazardous foods/time and temperature control for safety (PHF/TCS) shall be thawed:

(1) ~~In~~ Under refrigeration refrigerated units that maintains the food temperature at ~~not to exceed forty~~ forty (40) degrees Fahrenheit (five (5) degrees Celsius); or less as specified in this chapter.

(2) Completely submerged under running water:

(a) at a water temperature of seventy (70) degrees Fahrenheit (twenty-one (21) degrees Celsius) or below; and

(b) with sufficient water velocity to agitate and float off loose particles in an overflow; and

(c) and for a period of time that does not allow thawed portions of ready-to-eat food to rise above forty (40) degrees Fahrenheit (five (5) degrees Celsius) of this chapter; and

(d) or for a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified in this chapter to above forty (40) degrees Fahrenheit (five (5) degrees Celsius), for more than 4 hours including the time the food is exposed to the running water and the time needed for preparation for cooking; or the time it takes under refrigeration to lower the food temperature to forty (40) degrees Fahrenheit (five (5) degrees Celsius).

(3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of the continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(4) As part of the conventional cooking process. If the food that is frozen is cooked as specified in this chapter, or using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

(m) Slacking. Frozen potentially hazardous food/time and temperature control for safety (PHF/TCS) that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at ~~forty one (41)~~ forty (40) degrees Fahrenheit (five (5) degrees Celsius) or less or at any temperature if the food remains frozen.

(n) Microwave Cooking. Raw animal foods cooked or reheated in the microwave oven shall be:

(1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(2) Covered to retain surface moisture;

(3) Heated to a temperature of at least one hundred sixty-five (165) degrees Fahrenheit (seventy-four (74) degrees Celsius) in all parts of the food; and

- (4) Allowed to stand covered for two (2) minutes after cooking to obtain temperature equilibrium.

(o) Highly susceptible populations. Food establishments that serve highly susceptible populations must comply with all rules in accordance with TFER §229.164(u)(1-8) and FDA Code 3-801.11. (Food and Drug Administration)

(p) Outdoor grilling. Outdoor grilling by all permitted food establishments on a permanent basis must comply with food establishment standards in article II through article VII, including sections 9-24 through sections 9-78 of the ordinance. Outdoor grilling at temporary events must be approved and permitted by the City of Plano Health Department in accordance with temporary guidelines in Section 9-92(b)(4) of the ordinance. Outdoor grilling for personal and residential use is permitted and outside the scope of this regulation.

Sec. 9-25. Food display and service.

(a) Potentially hazardous foods/time and temperature control for safety (PHF/TCS). Potentially hazardous food/time and temperature control for safety (PHF/TCS) shall be kept at an internal temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) or below or at an internal temperature of one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above during storage, preparation, display, service and transport, except that rare roast beef shall be held for service at a temperature of at least one hundred thirty (130) degrees Fahrenheit (fifty-four (54) degrees Celsius).

(b) Time as a public health control. If time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food/time and temperature control for safety (PHF/TCS) before cooking, or for ready-to-eat potentially hazardous food/time and temperature control for safety (PHF/TCS) that is displayed or held for service for immediate consumption:

- (1) The food shall be marked, labeled, tagged or otherwise unmistakably identified to indicate the time which is four hours past the point when the food was removed from temperature control;
- (2) The food shall be cooked and served, served if a ready-to-eat food or discarded within four hours of the time at which the food was removed from temperature control;
- (3) The food in unmarked containers or packages or marked to exceed a four hour time limit shall be discarded; and
- (4) Written procedures shall be maintained in the food establishment and made available to the regulatory authority upon request, to ensure compliance.

(c) Milk and cream dispensing.

(1) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one (1) pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where it is necessary to provide individual servings under special institutional circumstances, milk and milk products may be poured from a commercially filled container provided such a procedure is authorized by the regulatory authority. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half-pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container.

(2) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than 1-inch protruding from the chilled dispensing head.

(3) Cream or half and half shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(d) Nondairy products dispensing. Nondairy cream shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(e) Condiment dispensing.

(1) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with paragraph (h) of this subsection.

(2) Condiments provided for table or counter service shall be individually portioned, except that catsup ketchup and other sauces may be served in the original container or pour type dispenser. Sugar for consumer usage shall be provided in individual packages or in pouring-type dispensers.

(f) Ice dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

(g) Dispensing utensils. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

(1) Stored in the food with the dispensing utensil handle extended out of the food; or

(2) Stored clean and dry; or

- (3) Stored in running water; or
- (4) Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts; or
- (5) In a container of water if the water is maintained at a temperature of at least one hundred thirty-five (135) degrees Fahrenheit (fifty-seven (57) degrees Celsius) and the container is cleaned at a frequency specified under TFER §229.165(n)(1)(D)(vii).

(h) Reservice. Once served to a consumer, portions of left-over food shall not be served again except that packaged food, other than potentially hazardous foods/time and temperature control for safety (PHF/TCS), that is still packaged and is still in sound condition may be served.

(i) Display equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases or by other effective means. The minimum height requirement for sneeze guards is eighteen (18) inches unless otherwise specified by the regulatory authority. Enough hot or cold food facilities shall be available to maintain the required temperatures of potentially hazardous foods/time and temperature control for safety (PHF/TCS) on display.

(j) Reuse of tableware. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

(k) Unpackaged, raw animal food such as beef, lamb, pork, poultry and fish may not be offered for consumer self-service. This does not apply to consumer self-service or ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish, or ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer cooked meats or consumer selected ingredients for Mongolian barbeque; or raw, frozen, shell-on shrimp or lobster.

- (1) A card, sign or other effective means of notification shall be displayed to notify consumers that clean tableware is to be used upon return to self-service areas such as salad bars and buffets.
- (2) Consumers self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.
- (3) A person may sell unpackaged food that is not potentially hazardous that is displayed, and sold in bulk from a self-service container if:
 - (a) The self-service container has tight-fitting lid that is securely attached to the container; and
 - (b) The container, lid and any utensil are constructed of nontoxic materials that provide for easy cleaning and proper repair.

(c) The lid of a gravity feed type container shall be kept closed except when the container is being serviced or refilled.

(d) The lid of a scoop utensil type container shall be kept closed except during customer service. The container must have a utensil, equipped with a handle, to be used in dispersing the food.

(4) The seller shall:

(a) Keep the container, lid, and any utensil sanitary to prevent spoilage and insect infestation; and

(b) Post in the immediate display area a conspicuous sign that instructs the customer on the proper procedure for dispensing the food.

Sec. 9-26. Food transportation.

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this chapter relating to food protection and food storage.

Sec. 9-27. HACCP plan requirements.

(a) When a HACCP plan is required. Before engaging in an activity that requires a HACCP plan, a food establishment shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under subsection (b) of this section and the relevant provisions of these rules if a variance is required. A food establishment shall have a properly prepared HACCP plan as specified in TFER §229.161--229.175.

(b) Contents of a HACCP plan. For a food establishment that is required under subsection (a) of this section to have a HACCP plan, the plan and specifications shall indicate:

- (1) A categorization of the types of potentially hazardous foods/time and temperature control for safety (PHF/TCS) that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the regulatory authority;

- (2) A flow diagram by specific food and category type identifying critical control points and providing information on the following:
 - (a) Ingredients, materials, and equipment used in the preparation of the food; and
 - (b) Formulation or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
- (3) Food employee and supervisory training plan for the person(s) in charge and food employee(s) pertaining to public health and the safety and integrity of food;
- (4) A statement of standard operating procedures for the plan under consideration including and clearly identifying:
 - (a) Each critical control point;
 - (b) The critical limits for each critical control point;
 - (c) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person-in-charge;
 - (d) The method and frequency for the person-in-charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;
 - (e) Action to be taken by the person-in-charge if the critical limits for each critical control point are not met; and
 - (f) Records to be maintained by the person-in-charge to demonstrate that the HACCP plan is properly operated and managed; and
- (5) Additional scientific data or other information, as requested by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

(c) Confidentiality, trade secrets. The regulatory authority shall treat as confidential in accordance with the requirements of the Public Information Act, V.T.C.A., Government Code Chapter 552, information that meets the criteria for a trade secret and is contained on inspection report forms and in the plans as specifications submitted.

Secs. 9-28--9-30. Reserved.

ARTICLE III. PERSONNEL

Sec. 9-31. **Personnel.** Employee health.

(a) No person while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) There shall be a certified food manager on duty at all times at each permitted food establishment. Certification must be obtained by passing an examination approved by the Texas Department of State Health Services and ~~meeting all requirements of HSC, Chapter 438, Subchapter G and 25 TAC §229.176 (Texas Administrative Code), relating to Certification of Food Managers~~ and approved by the regulatory authority.

(c) All food employees shall be required to successfully complete a food handler class taught by the City of Plano or from any approved city, municipality or accredited institution or other approved course within 30 days of hire. If a food employee completes a course other than with the City of Plano, they are required to obtain a food handler card from the City of Plano Health Department. Food handler cards shall be good for a period of two (2) years from the date of issue.

(d) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(e) The owner or person-in-charge shall require food employees to provide information about their health and activities as they relate to diseases that are transmissible through food.

(1) The person-in-charge shall notify the regulatory authority that a food employee is diagnosed with an illness due to Norovirus, Salmonella typhi, Shigella spp., shiga toxin-producing Escherichia coli, or hepatitis A virus.

Sec. 9-32. Personal cleanliness.

(a) ~~Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water by vigorously rubbing together the surfaces of their lathered hands and arms for at least twenty (20) seconds and thoroughly rinsing with clean water before starting work, during work as often as is necessary to keep them clean, when applying gloves or changing gloves, and after smoking, eating, drinking, or using the toilet. Food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hand or arms) for at least 20 seconds, using a cleaning compound in a lavatory that is properly equipped. Food employees shall use the following cleaning procedure:~~

- (1) Vigorous friction on the surface of the lathered fingers, finger tips, areas between the fingers, hands and arms (or vigorous rubbing the surrogate prosthetic devices for hands or arms) for at least 10 to 15 seconds followed by;
- (2) Thorough rinsing under clean, running water, and;
- (3) Immediately follow the cleaning procedure with drying of cleaned hands and arms (or surrogate prosthetic devices);
- (4) Food employees shall pay particular attention to the areas underneath the fingernails during cleaning procedures.

(b) Food employees shall keep their fingernails clean, trimmed, unpainted, filed and maintained so the edges and surfaces are not rough.

(c) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

(d) A chemical hand sanitizing solution used as a hand dip shall have active antimicrobial ingredients that are listed as safe and effective for application to human skin in accordance to TFER §229.163(j).

Sec. 9-33. Clothing.

(a) The outer clothing of all employees shall be clean.

(b) Except as provided under paragraph (c) of this subsection, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(d) Employees shall remove all jewelry from the arms and hands, which cannot be adequately sanitized during periods when food is being prepared. This does not apply to a plain ring such as a band style ring.

Sec. 9-34. Employee practices.

(a) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment washing or utensil washing or food preparation areas.

(c) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food establishment.

Sec. 9-35-9-40. Reserved.

ARTICLE IV. EQUIPMENT AND UTENSILS

Sec. 9-41. Materials.

(a) General. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Equipment, utensils, and single service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(b) Lead. Pewter alloys containing lead in excess of 0.05 percent may not be used as food contact surfaces. Solder and flux containing lead in excess of 0.2 percent may not be used as a food contact surface.

(c) Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant and comply with **International Plumbing Code**.

(d) Wood. Hard maple or equivalently nonabsorbent materials that meets the general requirements set forth in subsection (a) of this section may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used as specified in TFER §229.165(a)(9) for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances must be approved by the regulatory authority.

(e) Plastics. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion,

that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in subsection (a) of this section, are permitted for repeated use.

(f) Mollusk and crustacean shell. Mollusk and crustacean shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.

(g) Single-service. Reuse of single-service articles is prohibited.

Sec. 9-42. Design and fabrication.

(a) General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, peeling, pitting, chipping and crazing.

(b) Equipment in new or extensively remodeled establishments shall be National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the regulatory authority. The regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted:

- (1) Food contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits and similar imperfections, and free of difficult to clean internal corners and crevices.
- (2) Cast iron may be used as a food contact surface only if the surface is heated, such as in grills, griddle tops, and skillets.
- (3) Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems such threads shall be minimized.
- (4) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.
- (5) Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. Lubricants with incidental food contact shall meet the requirements specified in 21 CFR §178.3570, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.
- (6) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice, provided that such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the

ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(7) Sinks and drain boards shall be self-draining.

(c) Accessibility. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection.

(1) Without being disassembled; or

(2) By disassembling without the use of tools; or

(3) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench.

(d) In-place cleaning. Equipment intended for in-place cleaning shall be so designed and fabricated that:

(1) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(2) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(3) The system is self-draining or capable of being completely evacuated.

(4) Clean in Place (CIP) equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food contact surfaces throughout the fixed system are being effectively cleaned.

(e) Pressure spray cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

(f) Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled and accurate to \pm +/- two (2) degrees Fahrenheit.

(g) Nonfood-contact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, nonabsorbent, corrosion-resistant, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(h) Ventilation hoods design. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food contact surfaces.

- (1) Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. All ventilation hoods and related equipment must be installed accordance with the **International Mechanical Code**.
- (2) Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(i) Existing equipment. Equipment which was installed in a food establishment prior to the effective date of this chapter, and which does not ~~meet fully~~ **fully meet** all of the design and fabrication requirements of this rule, shall be deemed acceptable in that establishment as long as there is no change of ownership, in good repair and capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of this chapter shall meet the requirements of this chapter.

Sec. 9-43. Equipment installation and location.

(a) General. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

(b) Table mounted equipment.

(1) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(2) Equipment is portable within the meaning of section 9-43(b)(1) if:

(a) It is small and light enough to be moved easily by one (1) person; and

(b) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(c) Floor-mounted equipment. Floor mounted equipment, unless readily moveable, shall be:

(1) Sealed to the floor; or

(2) Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

(3) Elevated on legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor equipment if no part of the floor under the mixer is more than six (6) inches from cleaning access.

(d) Equipment is easily movable if:

(1) It is mounted on wheels or casters; and

(2) It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(3) Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units, and between it and adjacent walls, shall be closed; or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(e) Aisles and working spaces. Aisles and working spaces between units of equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

Secs. 9-44 – 9-50. Reserved.

ARTICLE V. CLEANING, SANITATION, AND STORAGE OF EQUIPMENT UTENSILS

Sec. 9-51. Equipment and utensil cleaning and sanitization.

(a) Cleaning frequency.

(1) Tableware shall be washed, rinsed, and sanitized after each use.

(2) The food contact surfaces of equipment shall be kept free of food debris and other oil accumulations. Equipment food contact surfaces and utensils shall be clean to sight and touch.

(3) Equipment food contact surfaces and utensils shall be cleaned and sanitized: before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry; each time there is a change from working with raw foods to working with ready-to-eat foods; between uses with raw fruits or vegetables and with potentially hazardous food; before using or storing a food temperature measuring device; and at any time during the operation when contamination may have occurred.

- (4) The food contact surfaces of cooking and baking equipment, similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day (or at a frequency to preclude accumulation of soil residues). Except that this shall not apply to hot oil cooking equipment and oil filtering equipment.
- (5) The food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.
- (6) The regulatory authority approves the cleaning schedule based on consideration of:
 - (a) characteristics of equipment and its use;
 - (b) the type of food involved;
 - (c) the amount of food residue accumulation, the temperature at which the food is maintained during the operation, and the potential for rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease.
- (7) Nonfood contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulations of dust, dirt, food particles, and other debris.
 - (b) Wiping cloths.
 - (1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.
 - (2) Moist cloths for wiping used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in an approved sanitizing solution and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
 - (3) Moist cloths used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed as specified in (b)(2) of this paragraph, and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
 - (4) Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.
 - (5) Working containers of sanitizing solution for storage of in-use wiping cloths may be placed above the floor and used in a manner to prevent contamination of food, equipment, utensils, linens, single-service or single-use articles.
 - (6) Sponges may only be used for scraping and scouring soiled dishware.

- (c) Manual cleaning and sanitizing.
- (1) A three (3) compartment sink shall be used for washing, rinsing and sanitizing of utensils and equipment done manually. Existing establishments not having a three (3) compartment sink that can demonstrate an acceptable procedure for washing, rinsing and sanitizing utensils and equipment may be exempt from this requirement by the regulatory authority. Sinks shall be large enough to permit the complete immersion of the utensils and equipment and each compartment sink shall be supplied with hot and cold potable running water. Suitable equipment shall be made available if washing, rinsing and sanitizing cannot be accomplished by immersion. Two (2) compartment sinks are not acceptable.
 - (2) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.
 - (3) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.
 - (4) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:
 - (a) Sinks shall be cleaned prior to use; and
 - (b) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean; and
 - (c) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
 - (d) Equipment and utensils shall be sanitized in the third compartment according to one (1) of the methods included in sub-section (5) a-e of this section.
 - (5) The food-contact surfaces of all equipment and utensils shall be sanitized by:
 - (a) Immersion for at least thirty (30) seconds in clean, hot water at a temperature of at least one hundred seventy-one (171) degrees Fahrenheit (seventy-seven (77) degrees Celsius); or
 - (b) Immersion for at least sixty (60) seconds in a clean solution containing at least fifty (50) mg/L of available chlorine as a hypochlorite and a temperature of at least seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius); or

- (c) Immersion for at least sixty (60) seconds in a clean solution containing at least twelve and one-half (12.5) mg/L of available iodine and have a pH not higher than five (5.0) and at a temperature of at least seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius); or
 - (d) Immersion in a solution of quaternary ammonia shall have a minimum temperature of seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius); have a concentration of 200 mg/L or as indicated by the manufacturer use directions included in the labeling and used in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer label.
 - (e) Immersion in a clean solution containing any other solution of chlorine, quaternary ammonia or iodine may be used if it can be demonstrated that sanitization is achieved and they are approved by the regulatory authority or other chemical sanitizers may used if approved in accordance with the manufacturers use directions included in the labeling is used, the permit holder shall demonstrate to the regulatory authority that the solution achieves sanitization.
 - (f) If a chemical sanitizer other than chlorine, iodine, quaternary ammonium compound is used, it shall meet the requirements as specified in 21 CFR §178.1010. Sanitizing Solutions are approved by the regulatory authority and applied in accordance with the manufacturers use directions included in the labeling.
 - (g) Treatment with steam, free from harmful materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
 - (h) Rinsing. Spraying or swabbing with a chemical sanitizing solution at least twice the strength required for that particular sanitizing solution under clauses (e-f) of this sub-section, in the case of equipment too large to sanitize by immersion.
- (6) When hot water is used for sanitizing, the following facilities shall be provided and used:
- (a) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of one hundred seventy-one (171) degrees Fahrenheit (seventy-seven (77) degrees Celsius); and
 - (b) A numerically scaled indicating thermometer, accurate to +/- three (3) degrees Fahrenheit, convenient to the sink for frequent checks of water temperature; and
 - (c) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

- (7) When chemicals are used for sanitization, a test kit or other device that accurately measures the milligrams per liter concentration of the solution shall be provided, available, and used.
- (d) Mechanical cleaning and sanitizing.
- (1) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machines or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with **manufactures' manufacturers'** instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agents, dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.
 - (2) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than fifteen (15) nor more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one fourth (1/4) inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.
 - (3) Machine or water line mounted numerically scaled indicating thermometers accurate to +/- three (3) degrees Fahrenheit, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.
 - (4) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with **manufactures' manufacturers'** specifications attached to the machines.
 - (5) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily moveable dish tables for the storage of soiled utensils or the use of easily moveable dish tables for the storage of clean utensils following sanitization.
 - (6) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of dishwashing machine operation. Equipment and utensils shall be placed in racks, trays or baskets, or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

- (7) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used provided that:
- (a) The temperature of the wash water shall not be less than one hundred twenty (120) degrees Fahrenheit (forty-nine (49) degrees Celsius); and
 - (b) The wash water shall be kept clean; and
 - (c) Chemicals added for sanitization purposes shall be automatically dispensed; and
 - (d) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturers' specifications for time and concentration or an exposure time of at least seven (7) seconds for a chlorine solution of fifty (50) mg/L that has a pH of ten (10) or less and a temperature of at least one hundred (100) degrees Fahrenheit, thirty-eight (38) degrees Celsius or a pH of eight (8) or less and a temperature of at least seventy-five (75) degrees Fahrenheit, twenty-four (24) degrees Celsius. An exposure time of thirty (30) seconds is required for other chemical sanitizing solutions, and
 - (e) The chemical sanitizing rinse water temperature shall not be less than seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius) nor less than the temperature specified by the machine's manufacturer, and
 - (f) Chemical sanitizers used shall be approved and a test kit or device that accurately measures the milligrams per liter concentration of the solution shall be available and used.
- (8) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained not less than the temperatures stated below:
- (a) Single-tank, stationary-rack, dual-temperature machine:

Wash temperature	150°F (66°C)
Final rinse temperature	180°F (82°C)
 - (b) Single-tank, stationary-rack single-temperature machine:

Wash temperature	165°F (74°C)
Final rinse temperature	165°F (74°C)
 - (c) Single-tank, conveyor machine:

Wash temperature	160°F (71°C)
Final rinse temperature	180°F (82°C)
 - (d) Multi-tank, conveyor machine:

Wash temperature	150°F (66°C)
Pumped rinse temperature	160°F (71°C)

Final rinse temperature 180°F (82°C)

(e) Single-tank, pot, pan, and utensil washer (either stationary or moving rack):

Wash temperature 140°F (60°C)

Final rinse temperature 180°F (82°C)

(9) All dishwashing machines shall be thoroughly cleaned once a day, or more often when necessary to maintain them in a satisfactory operating condition.

(10) A warewashing machine that is installed after adoption of these rules by the regulatory authority, shall be equipped to:

(a) automatically dispense detergents and sanitizers; and

(b) incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergent and sanitizers are not delivered to the respective washing and sanitizing cycles.

(e) Drying. After sanitization, all equipment and utensils shall be air-dried. The use of towels is prohibited.

Sec. 9-52. Equipment and Utensil Storage.

(a) Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the users' mouth.

(b) Storage.

(1) Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(2) Utensils shall be air dried before being stored or shall be stored in a self-draining position.

(3) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, whenever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations, shall protect these articles from contamination and present the handle of the utensil to the consumer.

- (4) If presenting if practiced, all unprotected, unused, preset tableware shall be collected for washing and sanitizing after the meal period; and after any place at a table or counter is occupied.

(c) Single-service articles.

- (1) Single-service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.
- (2) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.
- (3) Single-service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks, and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination, and present the handle of the utensil to the consumer.

(d) Prohibited Storage Area. The storage of food, equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

Secs. 9-53-9-60. Reserved.

ARTICLE VI. SANITARY FACILITIES AND CONTROLS

Sec. 9-61. Water supply.

(a) General. Enough potable water for the needs of the food **service** establishment shall be provided from a source constructed and operated according to law.

(b) Transportation. All potable water not provided directly by pipe to the food **service** establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these systems shall be constructed and operated according to law.

(c) Bottled water. Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(d) Water under pressure. Water under pressure at the required temperatures shall be provided at all fixtures and equipment that use water.

(e) Hot Water. Hot water generation and distribution systems shall be sufficient to meet peak hot water demands throughout the food establishment. Water under pressure at the required minimum temperature of ~~one hundred ten (110) degrees Fahrenheit~~ ~~one hundred (100) degrees Fahrenheit~~ (forty-five (45) degrees Celsius) must be provided.

(f) Steam. Steam used in contact with food or food-contact surfaces shall be free from any harmful materials or additives.

Sec. 9-62. Sewage.

All sewage, including liquid waste, shall be disposed of by a public sewage system. Nonwater carried sewage disposal facilities are prohibited, except as permitted by Article IX, Section 9-92(i) of this chapter (relating to temporary food establishments) or as permitted by the regulatory authority as approved in chapter 21 of this code.

Sec. 9-63. Plumbing.

(a) General. Plumbing shall be sized, installed and maintained in accordance with the current plumbing code as adopted and enforced by the City of Plano Building Inspection Department. There shall be no cross-connection between the potable water supply and any nonpotable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(b) Non-potable water system. A non-potable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment, that contacts food, or utensils. The piping of any nonpotable water system shall be ~~durable~~ **durably** identified so that it is readily distinguishable from piping that carries potable water.

(c) Backflow.

(1) The potable water system shall be installed to preclude the possibility of backflow. A backflow or backsiphon prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection and testing for that specific application and type of device.

(2) An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 1-inch (25 millimeters). **Air gaps shall comply with ASME 112.1.2.**

- (3) A backflow prevention device shall be located so that it may be serviced and maintained.
- (4) A hose shall not be attached to a faucet unless a backflow prevention device is installed.
- (d) Grease traps.
 - (1) Grease traps shall be required and located to be easily accessible for cleaning.
 - (2) Shall be located outside the food preparation area unless otherwise approved by the regulatory authority.
 - (3) If located inside the food preparation area, the lid must be flush to the floor.
- (e) Garbage grinders. If used, garbage grinders shall be installed and maintained according to law.
- (f) Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. Floor drains must be properly covered with drain grates. When a dishwashing machine is located within five (5) feet of a trapped floor drain, the dishwasher waste outlet may be connected as in section 9-63(c) to a properly vented floor drained trap if permitted by the **International Plumbing Code**.

Sec 9-64. Toilet facilities.

(a) Toilet installation. Toilet facilities shall be installed, shall be the number required in accordance with **International Plumbing Code**, shall be conveniently located, and shall be accessible to employees at all times. At least one (1) restroom is required for employee use. When four (4) or more employees of different sex are employed, two (2) restrooms are required. Two (2) restrooms are required with on-premise consumption at any food establishment. Restrooms must be accessible to the public in establishments with on-site consumption.

(b) Toilet design. Toilets and urinals shall be designed to be easily cleanable.

(c) Toilet rooms. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance.

(d) Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one (1) covered waste receptacle.

Sec 9-65. Lavatory facilities.

(a) Lavatory installation. Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in food

preparation areas and utensil-washing areas. Lavatories shall be accessible to employees at all times. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

(b) Handsinks. A separate sink assigned for handwashing provided with hot and cold running water tempered through a mixing valve shall be located to be accessible to each food preparation and utensil washing area. As a general rule, a handsink shall be located within twenty-five (25) linear feet of food preparation and utensil washing areas so it is convenient for employees to wash hands. Floor pedals, knee pedals, electronic eye and metered faucets are allowable. A liquid soap dispenser and individual sanitary hand towels are required. Blow dryers are not allowed in food preparation areas.

(c) Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

(d) Lavatory supplies. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

(e) Lavatory maintenance. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

Sec 9-66. Garbage and refuse.

(a) Containers.

- (1) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof, and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers, and they may be used for storage inside the food **service** establishment.
- (2) Containers used in food preparation and utensil-washing areas shall be kept covered except when actually in use.
- (3) Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.
- (4) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate. The regulatory authority may require additional service, dumpsters or

larger dumpsters to accommodate the garbage and refuse that accumulates at the food establishment.

- (5) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas.
 - (6) Suitable facilities, including hot water and detergent or steam shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. Power washing and contracted cleaning services shall be performed according to applicable law.
- (b) Storage.
- (1) Garbage and refuse on the premises shall be stored in a manner to make it inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited.
 - (2) Cardboard or other packaging materials that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside in a covered receptacle if it is stored so that it does not create a rodent harborage problem.
 - (3) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.
 - (4) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material, such as concrete, or machine-laid asphalt, that is kept clean and maintained in good repair.
- (c) Disposal.
- (1) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.
 - (2) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with law. Areas around incineration facilities shall be kept clean and orderly.

Sec 9-67. Insect and rodent control.

(a) General. Effective measures intended to prevent the presence of rodents, flies, cockroaches and other insects on the premises shall be utilized as determined by the regulatory authority. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(b) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device. Insect control devices shall be installed so that the devices are not located over food preparation area; and dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) Preventive application for insect and rodent control shall be performed by a certified pest control operator.

(d) Opening to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than sixteen-(16) mesh to the inch.

Sec. 9-68-9-70. Reserved.**ARTICLE VII. CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES****Sec 9-71. Floors.**

(a) Floor construction. Floors and floor coverings of all food preparation, food service, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as stainless steel, terrazzo, ceramic or quarry tile, or the equivalent as approved by the regulatory authority and shall be maintained in good repair. Sealed concrete and VCT (vinyl composite tile) are not acceptable as a floor surface for areas mentioned above.

(b) Durable grades of sheet vinyl may be used in dry storage areas. Sealed concrete may be used in walk-in freezer units maintaining a temperature of zero (0) degrees Fahrenheit or below. Nothing in this rule shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(c) Floor carpeting. A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to grease, moisture, flushing, or spray cleaning

methods. If carpeting is installed as a floor covering in areas other than those specified above, it shall be: securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and install tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and the edges of the carpet secured by metal stripping or some other means.

(d) Prohibited floor covering. The use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited.

(e) Floor drains. Proper installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains are required in all restrooms. Such floor drains shall be constructed of stainless steel, terrazzo, ceramic or quarry tile or similar material and shall be graded to drain.

(f) Mats and duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

(g) Floor junctures. In all new or extensively remodeled establishments utilizing stainless steel, terrazzo, ceramic or quarry tile or similar materials, and where water flush cleaning methods are used, the junctures between walls and floors shall be of the same material.

(h) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

Sec 9-72. Walls and ceilings.

(a) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be clean and maintained in good repair.

(b) Construction. The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment-washing and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable such as FRP (fiberglass reinforced paneling), stainless steel ceramic, quarry or terrazzo tile or equivalent approved by the regulatory authority.

(c) Exposed construction. Studs, joists, and rafters shall not be exposed in those areas listed in subsection (b) of this section. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

(d) Utility line installation. Exposed utility service lines and pipes shall be installed in away that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and

pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in subsection (b) of section 9-72 of this rule.

(e) Attachments. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to the walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(f) Covering material installation. Wall and ceiling materials shall be attached and sealed so as to be easily cleanable.

Sec 9-73. Cleaning physical facilities.

(a) General. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Cleanings of floors and walls, except emergency cleaning of floors, shall be done during periods when least amount of food is exposed, such as after closing or between meals. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust arresting sweep compounds with brooms.

(b) Utility facility. In new or extensively remodeled establishments at least one (1) utility sink or curbed cleaning facility with a floor drain shall be installed and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil-washing or equipment-washing or food preparation sinks for this purpose is prohibited.

Sec 9-74. Lighting.

(a) General. At least fifty (50) foot candles of light shall be provided to all working surfaces and at least thirty (30) foot candles of light shall be provided to all other surfaces and equipment in food preparation, utensil-washing, and handwashing areas, and in toilet rooms. At least twenty (20) foot-candles of light at a distance of thirty (30) inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.

(b) All light fixtures must be maintained clean, operational, and in good repair.

(c) Protective shielding.

(1) Shielding to protect against broken glass falling onto food shall be provided and maintained in good repair for all artificial lighting fixtures located over, by, or within food storage, food preparation, food service, and food display facilities, and facilities where utensils and equipment are cleaned and stored.

(2) Infra-red or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. Teflon coated safety bulbs are allowed.

Sec. 9-75. Ventilation.

(a) General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law, kept clean, maintained in good repair, vented to the outside, and shall not create an unsightly, harmful or unlawful discharge.

(b) Special ventilation.

- (1) Intake and exhaust air-ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.
- (2) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.
- (3) Ventilation hoods are required for any cooking, grilling, baking, and frying areas or as required by the latest edition of the **International Mechanical Code**.

Sec. 9-76. Dressing rooms and locker room areas.

(a) Dressing rooms and areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

(b) Locker area. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

(c) Personal items. Personal items shall not be stored in food storage, food preparation or food service areas.

Sec. 9-77. Poisonous or toxic materials.

(a) Materials permitted. Only those poisonous or toxic materials necessary for the maintenance of the establishment, cleaning or sanitizing of equipment and utensils, and the control of insects and rodents shall be present in food **service** establishment.

(b) Labeling of materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

(c) Storage of materials.

(1) Poisonous or toxic materials consist of the following three (3) categories:

(a) Insecticides and rodenticides;

(b) Detergents, sanitizers, and related cleaning or drying agents;

(c) Caustics, acids, polishes, and other chemicals.

(2) Each of these categories shall be stored and located to be physically separated from each other. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils, or single-service articles, except that this requirement does not prohibit the convenient availability of detergent or sanitizers at utensil or dishwashing stations.

(d) Use of Materials.

(1) Bactericides, cleaning compounds or other compounds intended for use on food contact surfaces, shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.

(2) Poisonous or toxic material shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

(e) Personal medications.

(1) Only those medications that are necessary for the health of employees shall be allowed in the food establishment. This section does not apply to medicines that are stored or displayed for retail sale.

(2) Medicines that are in a food establishment for the employee's use shall be labeled and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(3) Refrigerated Medicines, Storage. Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be stored in a package or container and kept inside a covered, leak proof container that is identified for the storage of medicines; and located so that they are inaccessible to children.

(f) First aid supplies. First aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

Sec. 9-78. Premises.

(a) General.

- (1) Food establishments and all parts of the property used in connection with operations of the establishment shall be kept free of litter.
- (2) The walking and driving surfaces of all exterior areas of food establishments shall be surfaced with concrete or asphalt or with gravel or similar materials and minimize dust. These surfaces shall be graded to prevent pooling and kept free of litter.
- (3) Only articles necessary for the operation and maintenance of the food establishment shall be stored on the premises.
- (4) The traffic of unnecessary or unauthorized persons through the food preparation and utensil-washing areas is prohibited.
- (5) **Posters-Signs** depicting the Heimlich maneuver for dislodging an obstruction from a choking person shall be in all food **service** establishments and shall be in a place conspicuous to employees or customers. **The poster-sign** must meet all requirements of TFER §229.173(c)(1-6).

(b) Living areas. Living or sleeping quarters within a food establishment is prohibited.

(c) Laundry facilities.

- (1) Laundry facilities in a food establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric, gas, or steam dryer shall be provided and used.
- (2) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(d) Linens and clothes storage.

- (1) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.
- (2) Soiled clothes and linens shall be stored outside the food preparation area in nonabsorbent containers or washable laundry bags until removed for laundering.

(e) Cleaning equipment storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

~~(f) Animals. Live animals, including birds and turtles shall be excluded from within the food service operational premises and from immediately adjacent areas under the control of the food service establishment. This exclusion does not apply to shellfish or to fish in aquariums. Live fish tanks are subject to removal by the regulatory authority if not maintain in clean, sanitary conditions. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind persons shall be permitted in dining areas. Animals.~~

(1) Except as specified in subparagraphs two (2) of this paragraph, live animals may not be allowed on the premises of a food establishment and in areas immediately adjacent under the control of the food establishment.

(2) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:

(a) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems. Livefish tanks are subject to removal by regulatory authority if not maintained in clean sanitizing condition.

(b) patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(c) in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, or service animals in training when accompanied by an approved trainer, if a health or safety hazard will not result from the presence or activities of the service animal;

(3) Pets are allowed in the common dining areas of institutional care facilities if:

(a) effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(b) condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(c) dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

Sec. 9-79-9-80. Reserved.**ARTICLE VIII. MOBILE FOOD UNITS****Sec. 9-81. Mobile food service.**

(a) General. Mobile food units shall comply with the requirements of this chapter, except as otherwise provided in ~~this subsection and in subsection (b) of this section~~ section 9-81(b). The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the food establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food/time and temperature control for safety (PHF/TCS), and when no health hazard will result, may waive or modify requirements ~~in this rule of subsections (d) and (e) of this section, subsection 9-82(a) of this article and subsections 9-83(a) and (b) of this article~~ of this chapter relating to physical facilities, except those requirements in section 9-81(d-e), section 9-82(a) and section 9-83(a-b) of this article.

(1) The regulatory authority may require a mobile food establishment operator to demonstrate that the unit is “readily moveable”. The regulatory authority may prohibit alteration, removal, attachments, placement or change in, under, or upon the mobile food establishment that would prevent or otherwise reduce ready mobility. A regulatory authority may require a mobile food establishment to come, on an annual basis, to a location designated by the regulatory authority as proof that the mobile food establishment is readily moveable. A regulatory authority may require that mobile food establishments that violate this section go for re-inspection to a location designated by the regulatory authority.

(b) Restricted Operations. Mobile food units that serve only food that is prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of those sections, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this chapter pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization ~~exists~~ exists at its commissary.

(1) Pushcarts shall be limited to pre-packaged ice cream or pre-packaged non-potentially hazardous food as approved by the regulatory authority.

(2) Food prepared in a private home may not be used or offered for human consumption from a mobile unit. Food must comply with all labeling laws.

(3) Food temperatures. All food temperature requirements shall be met as contained in this chapter.

(c) Single service articles. Mobile food units shall provide only single-service articles for use by the consumer.

(d) **Mobile water system materials, design, and operation.** A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing and hand washing, in accordance with the requirements of this chapter. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped when not being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this chapter.

(e) **Waste retention.** If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is at least fifteen (15) percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All liquid waste shall be disposed of in compliance with all existing laws to include chapter 21 of this code. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of different size and type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

(1) **Mobile food establishment water and wastewater exemption.** A mobile food vendor that sells only prepackaged food is exempt from these rules pertaining to water and wastewater.

(2) **Vehicle identification.** Mobile food units shall identify the vehicle with characters three inches high on both exterior sides of the unit stating the name of the company.

(3) **Registration.** Mobile food units must comply with all state and local laws pertaining to registration of the vehicle.

(f) **Existing refrigeration equipment.** Existing refrigeration equipment must maintain food at the required temperatures as specified in this chapter.

Sec. 9-82. Commissary; base of operations.

(a) Mobile food units shall operate from a commissary or other fixed food establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations. A **current** letter from the commissary is required at the time of permit application and at each renewal of the permit.

(b) The commissary or other fixed food establishment, used as a base of operation for mobile food units, shall be constructed and operated in compliance with the requirements of this chapter or by the approval of the regulatory authority.

Sec. 9-83. Servicing area and operations.

(a) Serving area.

- (1) A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or where mobile food units do not contain waste retention tanks.
- (2) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt, and shall be maintained in good repair, kept clean, and be graded to drain.
- (3) The construction of the walls and ceilings of the servicing area is exempt from the provisions of Article VII, section 9-72 of this chapter (relating to construction and maintenance of physical facilities).

(b) Serving operations.

- (1) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.
- (2) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary **sewerage** sewage disposal system in accordance with Article VI of this chapter (relating to sanitary facilities and controls).

Sec. 9-84. Catering Services.

(a) A person shall not engage in a catering service unless the service is affiliated with a food establishment operating from a fixed facility that is permitted by the regulatory authority.

(b) A catering service shall comply with the requirements of this chapter as the regulatory authority determines is necessary to protect public health and safety.

Secs. 9-85-9-90. Reserved.

ARTICLE IX. TEMPORARY FOOD SERVICE

Sec. 9-91. General.

- (a) A temporary or seasonal food **service** establishment shall comply with the requirements of this chapter except as otherwise provided in this rule. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food **service** establishment, may prohibit the sale of some or all potentially hazardous foods/**time and temperature control for safety (PHF/TCS)**, and when no health hazard will result, may waive or modify requirements of this chapter.
- (1) The operation of a temporary food **service** establishment may not exceed fourteen (14) consecutive days per event and must be in conjunction with a special event or celebration as approved by the **health department regulatory authority**. A limit of **six (6) eight (8)** temporary permits per calendar year per vendor, group or organization will be enforced. Vendors with multiple booths at a single event will be recorded as participating in one (1) event towards **the six (6) eight (8)** maximum allowed per calendar year.
- (2) The operation of a seasonal food establishment is greater than fourteen (14) days but less than forty-five (45) consecutive days per event per vendor. Seasonal permits are limited to three (3) per calendar year per vendor per location. **Fees for all permits are included in a separate fees ordinance as approved by Council.**
- (b) If the temporary food establishment is outdoors, every food preparation and serving area must have a fire resistant overhead covering that protects the interior of the facility from the weather. Floors must be constructed of concrete, asphalt, tight wood or other similar easily cleanable material, and kept in good repair.
- (c) All food shall be prepared in a permitted food establishment or on the premises. No food or beverage stored or prepared in a private home may be offered for sale, sold or given away from a temporary or seasonal food facility.
- (d) All food and beverages shall be protected at all times from unnecessary handling and shall be stored, displayed and served so as to be protected from contamination.
- (e) The regulatory authority may establish additional structural or operational requirements as necessary to ensure that food is of safe and sanitary quality.

Sec. 9-92. Restricted operations.

- (a) These provisions are applicable whenever a temporary food **service** establishment is permitted, under the provisions of section 9-91 of this article, to operate without complying with all the requirements of this rule.

- (b) Potentially hazardous foods/time and temperature control for safety PHF/TCS. Temporary Permits Only.
- (1) Only those PHF/TCS requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served unless otherwise approved by the ~~health authority~~ regulatory authority. ~~No slicing, dicing or cutting of food products onsite (hamburgers and fajitas may be sliced on the cooking surface).~~ PHF/TCS will be limited to three (3) types per ~~event~~ food booth. PHF/TCS include meats, eggs, dairy products, rice, beans, potatoes, chili, etc. The preparation or service of other PHF/TCS, including pastries filled with cream or synthetic cream, custards, and similar products, ~~and salads or sandwiches containing meat, poultry, eggs or fish~~ is prohibited. This prohibition does not apply, however, to any PHF/TCS that has been prepared or packaged under conditions meeting the requirements of this chapter, is obtained in individual servings, is stored at a temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) or below, or at a temperature of one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above, in facilities that meet the requirements of this chapter, ~~prepared the same day as the special event~~ and is served directly in the unopened container in which it was packaged.
- (2) Raw seafood and poultry are only allowed under two conditions:
- (a) product must be pre-cut, ~~breaded~~ and frozen, to go from the freezer to the fryer or;
 - (b) the product must be pre-cooked.
- (3) PHF/TCS allowed to be cooked on-site from a raw state are those which are fast cooking such as:
- (a) pre-formed hamburger patties
 - (b) beef/chicken fajitas
 - (c) ~~pre-cooked~~ sausage and hot dogs
- (4) ~~Outdoor grilling during temporary events must adhere to section 9-107(e)(1) (temporary permits) of this Code prior to conducting the outdoor grilling. "Temporary event" is defined as traveling fairs, carnivals, multicultural celebrations, special interest fundraisers, restaurant food shows, grand openings, customer appreciation days, athletic competition, and other transitory gatherings. Outdoor grilling during temporary events must adhere to the City of Plano Fire Department Ordinance 2008-5-23 and the policies and procedures outlined in the "Temporary Events Procedures" document and is subject to approval by the regulatory authority. Outdoor grilling for personal or residential use is permitted and outside the scope of this regulation.~~
- (5) Food Temperatures. All food temperature requirements shall be met as contained in this chapter.

(c) Seasonal Permits. Seasonal permittees may serve ~~only~~ non-potentially hazardous food products ~~to include but are not limited to~~ snowcones, packaged chips, candy, pickles and canned or bottled drinks.

(d) Ice. Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of TFER §164(c)(6). The ice shall be obtained only in chipped, crushed, or cubed form and in a single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

(e) Equipment.

(1) Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(2) Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for such equipment shall be provided.

(f) Single-service articles. All temporary food establishments shall provide only single-service articles for use by the consumer.

(g) Water. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment and for handwashing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided.

(h) Wet storage. The storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

(i) Waste. All sewage, including liquid waste, shall be disposed of according to law. All refuse shall be disposed of in a manner approved by the regulatory authority.

(j) Handwashing. A convenient handwashing facility shall be available for employee handwashing. This facility shall consist of ~~at least warm running water, soap, and individual paper towels~~ an insulated container with a spigot that can be turned on to allow potable, clean, warm water to flow for hand washing; a wastewater container; soap; disposable towels; and waste receptacle.

(k) Floors. Floors shall be constructed of concrete, asphalt, tight wood or other similar cleanable material, and kept in good repair.

(l) Walls and ceiling of food preparation areas.

- (1) Ceilings shall be made of wood, canvas, or other materials that protect the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects and rodents. Doors of food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors or windows shall be at least 16 mesh to the inch-1 inch (16 mesh to 25.4 millimeters); or other effective means.

~~(2) Counter service openings shall not be larger than is necessary for the particular operation conducted. These openings shall be provided with tight fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Counter service openings shall be kept closed, except when in actual use.~~

Secs. 9-93, 9-94. Reserved.

ARTICLE X. BED AND BREAKFAST EXTENDED ESTABLISHMENTS

Section 9-95. Requirements.

(a) General. Bed and breakfast extended establishments shall comply with the minimum requirements of this section.

(b) Food supplies. Food shall be obtained from approved sources, shall be in sound condition, and be safe for human consumption.

(c) Food preparation and protection.

(1) Food shall be prepared and protected in accordance with these rules.

(2) All food temperature and date marking requirements shall be met in accordance with these rules.

(d) Cleaning and sanitizing.

(1) Manual. A three compartment sink shall be used if washing, rinsing and sanitizing of utensils and equipment is done manually; or a two compartment sink may be utilized if single service tableware is provided, and if an approved detergent sanitizer is used.

(2) Mechanical. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils either by chemical or mechanical sanitization.

(e) Personal hygiene. Employees shall conform to good hygienic practices as required in these rules.

(f) Employee restrooms. A restroom shall be available for use by employees.

(g) Equipment and utensil design and construction. All equipment and utensils shall be constructed of safe materials and maintained in good repair.

(h) Handsinks.

(1) Location. An accessible and conveniently located handsink shall be provided in or immediately adjacent to food preparation areas.

(2) Intended use. Handsink(s) shall be used for no other purpose other than handwashing.

(i) Food contact surfaces. All food contact surfaces, counters, or work surfaces in the establishment shall be smooth, non-absorbent and easily cleanable.

(j) Insect proof/rodent proof.

(1) Food service preparation and storage areas shall be constructed and maintained to prevent the entry of pests and other vermin.

(2) Pesticides and rodenticides shall be applied according to law.

(k) Equipment shall be provided to maintain potentially hazardous food/time and temperature control for safety (PHF/TCS) at the temperatures required by these rules.

(l) Garbage receptacles. Impervious receptacles shall be provided for storage of garbage and refuse.

(m) Sewage. Sewage shall be disposed through an approved facility that is:

(1) a public sewage treatment plant; or

(2) an individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

(n) Water supply. Hot and cold water under pressure shall be provided and shall be from an approved source.

Sec. 9-96-9-100. Reserved.

ARTICLE XI. INSPECTION AND ENFORCEMENT

Sec. 9-101. Authority.

(a) The provisions of this chapter shall be enforced by the director of health and his/her representatives. The director of health and his/her representatives have the authority to issue citations to persons violating the provisions of this chapter. It shall be unlawful for any person to interfere with a health specialist, director of health or designee in the performance of his/her duties as prescribed in this chapter.

(1) Variance. A variance may be granted by the regulatory authority if the applicant is in compliance with TFER §229.171(c-d).

Sec. 9-102. Access.

Agents of the regulatory authority, after proper identification, shall be permitted to enter any food establishment at any reasonable time, for the purpose of making inspections to determine compliance with this chapter. The agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.

Sec. 9-103. Report of inspections.

(a) Whenever an inspection is made of a food establishment, the findings shall be recorded on the inspection report form provided by the regulatory authority. The original of the inspection report form shall be furnished to the owner or person-in-charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of this chapter. The completed form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(b) Additional requirements, preventing health hazards, provision for conditions not addressed.

(1) If necessary to protect against public health hazards or nuisances, the regulatory authority may impose specific requirements in addition to the requirements contained in these rules that are authorized by law.

(2) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the regulatory authority's file for the food establishment.

Sec. 9-104. Correction of violations.

The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (1) ~~If an imminent health hazard exists, such as complete lack of sanitization, refrigeration, or sewage backup into the establishment, the establishment shall immediately cease food operations. Operations shall not be resumed until authorized by the regulatory authority.~~ A food establishment shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.
- (2) All violation of critical items shall be corrected within a time specified by the regulatory authority, but in any event, not to exceed ten days.
- (3) All non-critical items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection, but not to exceed 90 days.
- (4) When the establishment receives a failing score; the establishment shall cease operations immediately. The establishment shall remain closed until re-opened by the regulatory authority.
- (5) In the case of temporary food establishments, all violations shall be corrected immediately.

Sec. 9-105. Examination and condemnation of food.

(a) The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of this chapter.

(b) The regulatory authority shall, upon written notice to the owner or person-in-charge specifying the reason, ~~condemn, denature or destroy or~~ place under detention any food, which it has probable cause to believe, is ~~unapproved,~~ adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the regulatory authority, and neither food nor the containers shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without the permission of the regulatory authority.

(c) After the owner or person-in-charge has been afforded a hearing as provided for in section 9-107(g) of this article and on the basis of evidence produced at such hearing, or on the basis of examination in the event a written request is not received within 10 days the regulatory

authority may cancel the hold order or may oversee the disposal of the food placed under the hold order or direct the owner or person-in-charge to bring it into compliance with the provisions of this chapter.

Sec. 9-106. Procedure when infection is suspected.

(a) When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food ~~service establishment~~ employee, it may secure a morbidity history of the ~~suspected~~ food employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- (1) The immediate exclusion of the **food** employee from all food establishments;
- ~~(2) The immediate closing of the food establishment **concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists; by summarily suspending a permit to operate in accordance with law.**~~
- (3) Restriction of the **food** employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) Adequate medical and laboratory examination of the **food** employee, of other employees and of his and their body discharges;

(b) Exclusions and Restrictions. The person in charge shall:

- (1) Exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent such as: Salmonella typhi, Shigella ~~ssp., spp.~~, **shiga toxin-producing Escherichia coli, Norovirus**, or Hepatitis A virus.
- (2) Restrict a food employee from working with exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles, in a food establishment if the food employee is suffering from a symptom of diarrhea, fever, vomiting, jaundice, sore throat with fever, not experiencing a symptom of acute gastroenteritis specified but has a stool that yields a specimen culture that is positive for **Norovirus, Salmonella typhi, Shigella ~~ssp., spp.~~, or shiga toxin-producing Escherichia coli**; or has a lesion containing pus such as a boil or infected wound that is open or **draining and is not covered with an impermeable cover.**
- (3) If the population served is a highly susceptible population, exclusion of food employees must adhere to all laws in accordance with **TFER §229.163(d)(2)(D)(i-iii) and FDA Food Code 2-201.12(c).**
- (4) For a food employee who is jaundiced:
 - (a) If the onset of jaundice occurred within the last seven (7) calendar days, exclude the food employee from the food establishment or
 - (b) If the onset of jaundice occurred more than seven (7) calendar days before, food employees must be excluded from food establishments serving highly susceptible

populations or restrict food employees activities specified under (b)(2) of this section if the food employee does not serve highly susceptible populations.

Sec. 9-107. Permit.

(a) Required; transferability. It shall be unlawful for any person to operate a food service or food-processing establishment within the City of Plano or its police jurisdiction, who does not possess a valid permit issued by the regulatory authority. Only a person who complies with the requirements of this chapter shall be entitled to receive and retain such a permit. Permits shall not be transferable from one (1) person to another person or place. A valid permit shall be posted in every establishment. Permits for temporary establishments shall be issued for a period of time not to exceed fourteen (14) calendar days. Seasonal permits may be issued for a period not to exceed forty-five (45) calendar days.

(b) Review of plans. Whenever a food service or food processing establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food service operation, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this ordinance. No food service or food processing establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority. A preoperational inspection will be conducted in each food establishment or food processing establishment prior to the start of operations to determine compliance with approved plans and with the requirements of this chapter.

(1) The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership; or the facilities and equipment are replaced in the normal course of operation.

(c) Application. Any person desiring to operate a food service or food processing establishment shall make written application and pay the appropriate fee for a permit provided by the regulatory authority. Such application shall include the applicant's full name, ~~and post office address~~ ~~business address~~ and whether such applicant is an individual, firm, or corporation, and if a partnership, the name of the partners, together with their addresses shall be included; the location and type of the proposed establishment; and the signature of the applicant or applicants.

(1) Temporary Permits.

(a) Application and fees must be submitted at least two (2) working days prior to the event, or fourteen (14) working days prior to the event if five (5) or more booths are permitted for the same vendor. Applications received after these deadlines will be subject to a ~~fifty dollar (\$50)~~ an administrative fee.

- (b) Large events where vendors have more than one booth will be charged ~~seventy five dollars (\$75.00) for the first booth and twenty five dollars (\$25.00) for each additional booth~~ an initial fee for the first booth and subsequent fees for each additional booth. Participation in large events with multiple booths will count as only one (1) permit towards the annual limit of ~~six (6)~~ eight (8) temporary permits for the same vendor.
 - (c) Fees are non-refundable and applications will not be accepted after 4 p.m. on Friday immediately preceding the event.
 - (d) Establishments with a valid City of Plano Health Permit must apply for a temporary permit ~~if~~ when participating in an event ~~off the permitted property~~. ~~There is a twenty dollar (\$20.00) processing and inspection fee. An administrative fee will apply.~~
 - (e) A permit ~~fee of seventy five dollars (\$75.00) may be waived~~ waiver ~~may be obtained~~ if proof of charitable, non-profitable status, i.e. church, school district, charity, government agency, etc. is submitted with the permit application; ~~This waiver is applicable to the permit fee only; a twenty dollar (\$20.00) processing fee will be charged~~ however, a processing fee will be charged.
 - (f) Out of town vendors must submit a copy of the current local permit and a copy of the ~~current~~ most recent health inspection report conducted by their local regulatory authority.
 - (g) Food manufacturers must submit a copy of the state manufacturer' license with their application.
- (2) Seasonal Permits.
- (a) Seasonal permit applications must be submitted at least two (2) ~~working~~ days prior to the start date. Applications submitted less than two ~~working~~ days prior to the start date will be subject to ~~a fifty dollar (\$50.00) administrative fee.~~
 - (b) ~~NO~~ Applications will ~~be~~ not be accepted after 4 p.m. on Friday immediately preceding the event.
 - (c) Vendors with seasonal permits may not operate at the same location for more than forty-five (45) days during the same calendar year.
- (3) Annual Permits.
- (a) Fees. Food establishment annual permit fees shall be reviewed, set, and adopted by ordinance of the city council of the city on a regular basis.
 - (b) Inspection; issuance of permit. Upon receipt of such an application, the regulatory authority shall make an inspection of the establishment to determine compliance with

the provisions of the article. When inspection reveals that the applicable requirements of this article have been met, a permit shall be issued to the applicant by the regulatory authority.

- (c) Suspension of permits. Permits may be suspended temporarily by the regulatory authority for failure of the holder to comply with the requirements of this article.

Whenever a permit holder or operator has failed to comply with any notice issue under the provisions of this division, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the permit holder within five (5) days.

Notwithstanding the other provisions of this chapter, whenever the regulatory authority finds unsanitary or other conditions in the operation of the establishment which in his judgement constitutes a substantial hazard to the public health, he may without warning, notice or hearing, issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended, and all food operations are immediately to be suspended. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the regulatory authority, shall be afforded a hearing as soon as possible.

- (d) Reinstatement of suspended permits. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of the reinstatement of the permit. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the condition causing the suspension of the permit has been corrected, the regulatory authority shall make a reinspection. If the applicant is complying with the requirements of this article, the permit shall be reinstated.
- (e) Revocation. For serious or repeated violations of any of the requirements of this article, or for interference with the regulatory authority in the performance of his duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the regulatory authority. Prior to such action, the regulatory authority shall notify the permit holder in writing, stating the reasons for which the permit shall be permanently revoked at the end of five (5) days following service of this notice, unless a request for a hearing is filed with the regulatory authority, by the permit holder within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- (f) Penalty. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in section 1-4(a) of the Code of Ordinances of the City of Plano. Additionally, the city shall be entitled to pursue other civil and criminal remedies to which it is entitled under law.

- (g) Hearings. The hearing provided for in this section shall be conducted by a permit appeals committee at a time and place designated by the regulatory authority. The permit holder shall be notified of such hearing no less than five (5) days prior to the hearing date. The permit appeals committee shall be appointed by the regulatory authority and be comprised of the city health specialist, the city chief building official and one (1) other member engaged in food establishment work, i.e. restaurant owner, cafeteria manager, grocery store operator, etc. The regulatory authority shall maintain a list of such persons, from which members to the permit appeals committee, may be appointed on a rotating basis. Based upon the record of such hearing, the regulatory authority shall, upon the affirmative vote of the majority, make a finding to sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the regulatory authority within five (5) days after the date of the hearing.”

Section III. All provisions of the 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 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 IV. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

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

Section VI. Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and, upon conviction in the Municipal Court, shall be subject to a fine not to exceed **TWO THOUSAND AND 00/100 DOLLARS (\$2,000.00)** for each offense. Each and every violation shall be deemed to constitute a separate offense.

Section VII. This Ordinance shall become effective from and after its passage and publication as required by law.

DULY PASSED AND APPROVED this the _____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NOS. 99-9-1, 99-9-5, 2002-9-11, 2003-3-4, 2004-12-15 AND 2004-12-16 CODIFIED AS CHAPTER 9, FOOD CODE OF THE CODE OF ORDINANCES OF THE CITY OF PLANO AND REPLACING THEM WITH A NEW CHAPTER 9, FOOD CODE; AND PROVIDING A PENALTY CLAUSE; A REPEALER CLAUSE; A SEVERABILITY CLAUSE; A SAVINGS CLAUSE; A PUBLICATION CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano has previously enacted ordinances for Food and Food Establishments and those ordinances are codified as Chapter 9, Food Code, of the Code of Ordinances of the City of Plano; and

WHEREAS, upon review of the existing ordinances as well as current state and federal laws and regulations governing food and food establishments, staff recommends the repeal of Chapter 9, Food Code, of the Code of Ordinances of the City and to replace it with a new Chapter 9, Food Code, of the Code of Ordinances of the City of Plano in order to conform with current state and federal laws and regulations; and

WHEREAS, the City Council of the City of Plano, Texas determines it is necessary for public health and safety to provide regulations for food and food establishments within the City of Plano; and

WHEREAS, the City Council determines that it is in the public interest to repeal the current Chapter 9, Food Code, of the Code of Ordinances of the City of Plano, and enact this new Chapter 9, Food Code, of the Code of Ordinances of the City of Plano to conform with current state laws and regulations; and

WHEREAS, the City Council of the City of Plano, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended changes are in the best interest of the City and its citizens and will promote the health, safety and welfare of the citizens of Plano and the general public.

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

Section I. Ordinance nos. 99-9-1, 99-9-5, 2002-9-11, 2003-3-4, 2004-12-15 and 2004-12-16, codified as Chapter 9 Food Code, of the Code of Ordinances of the City of Plano are hereby repealed and replaced with this new Chapter 9, Food Code, to read in its entirety as set forth below:

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“ARTICLE I. GENERAL PROVISIONS

Sec. 9-1. Purpose.

The function of this chapter is to protect the public health by establishing uniform requirements for food service operations.

The regulatory authority may also enforce state, federal statute or regulation applicable to a food establishment operating within the city.

Sec. 9-2. Definitions.

[The following words, terms, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:]

(1) Adulterated food. A food shall be deemed to be adulterated as specified in the Texas Health and Safety Code, Chapter 431, §431.081.

(2) Approved. Acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

(3) Base of operation. An operating base to which a mobile food establishment vehicle returns as needed for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(4) Bed & breakfast. An establishment with rooms for rent that serves only breakfast to over-night guests. The establishment is not a retail food establishment and the owner or manager shall successfully complete an accredited food manager's certification course.

(5) Bed & breakfast food establishment. An establishment that provides food service other than to its overnight guests. The establishment must meet the rules and regulations applicable to retail food establishments.

(6) Beverage. A liquid for drinking, including water.

(7) Child care center. Any facility licensed by the regulatory authority to receive thirteen (13) or more children for child care which prepares food for on-site consumption.

(8) Cleaned in place. The circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. The term does not include the cleaning of equipment such as band saws, slicers or mixers that are subject to in-place manual cleaning without the use of a CIP system.

(9) Code of Federal Regulation (CFR). The compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

(10) Commissary. Means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

(11) Common dining area. A central location in a group residence where people gather to eat at mealtime. The term does not apply to a kitchenette or dining area located within a resident's private living quarters.

(12) Confirmed disease outbreak. A foodborne illness outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

(13) Consumer. A person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

(14) Corrosion-resistant material. A material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

(15) Critical control point. A point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

(16) Critical item. A provision of these rules that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, injury, or environmental health hazard.

(17) Critical limit. The maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(18) Dry storage area. A room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

(19) Easily cleanable. A characteristic of a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; and varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose and use.

(20) Employee. The permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

(21) Equipment. An article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, steam table, temperature measuring device for ambient air, vending machine, warewashing machine, and similar items other than utensils, used in the operation of a food establishment.

(22) Fish. Fish means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals), other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(23) Food. A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

(24) Foodborne disease outbreak. The occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

(25) Food-contact surface. A surface of equipment or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

(26) Food employee. An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(27) Food establishment. An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a restaurant; retail food store; food bank, pre-packaged non-PHF, produce stand, satellite or catered feeding location; catering operation; market; remote catered operations; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders; restaurant take-out orders; or where consumption is on or off the premises; and regardless of whether there is a charge for the food. The term does not include: a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as a religious or charitable organization's bake sale; bed & breakfast limited facility as defined in these rules; or a private home that receives catered or home-delivered food.

(28) Food processing plant. A commercial operation that manufacturers, packages, labels or stores food for human consumption and does not provide food directly to a consumer. The term does not include a food establishment as previously defined.

(29) Game animal. An animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine, poultry, or fish as defined under paragraph 22 of

this section. Game animal includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes and does not include ratites such as ostrich, emu, and rhea.

(30) Hazard. A biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(31) Hazard analysis critical control point (HACCP). A systematic approach to the hazard identification, evaluation, and control of food safety hazards.

(32) HACCP plan. A written document that delineates the formal procedures for following the HACCP principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

(33) Hermetically sealed container. A container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

(34) Highly susceptible population. A group of persons who are more likely than other populations to experience foodborne disease because they are immunocompromised or older adults; and in a facility that provides health care or assisted living services, such as a hospital or nursing home; adult day care or senior center; or preschool age children in a facility that provides custodial care, such as a child care center.

(35) Imminent health hazard. A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.

(36) Kitchenware. All multi-use utensils other than tableware.

(37) Law. Federal, state, and local statutes, ordinances, and regulations.

(38) Linens. Fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

(39) Mobile food establishment. A self-propelled vehicle mounted food establishment designed to be readily moveable. This includes vehicles which prepare food on site within the vehicle. The vehicle is equipped with food preparation equipment and must meet regulations applicable to a fixed food establishment.

(40) Molluscan shellfish. Any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(41) Packaged. Bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. The term does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(42) Permit. The document issued by the regulatory authority that authorizes a person to operate a food establishment.

(43) Person in charge. The individual present in a food establishment who is responsible for the operation at the time of inspection.

(44) Personal care items. Items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. The term includes such items as medicines; first-aid supplies; and other items such as cosmetics and toiletries such as toothpaste and mouthwash.

(45) Personal items. Articles belonging to employees.

(46) Poisonous or toxic materials. Substances that are not intended for ingestion including cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes and other chemicals; pesticides and rodenticides; and substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health.

(47) Potable. Suitable or safe for drinking.

(48) Potable water. Water that is fit for drinking.

(49) Potentially hazardous food (PHF). A food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does include fresh shell eggs, which is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth. This term does not include: an air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable Salmonellae; a food, in an unopened commercially hermetically sealed container, that is shelf stable; a food for which a product assessment including laboratory evidence, demonstrates that time and temperature control for safety is not required and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or a food that does not support the growth of microorganisms as specified even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

(50) Poultry. Any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead and any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or guinea, or pigeon or squab, whether live or dead. Poultry does not include ratites.

(51) Premises. The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

(52) Pushcart. A non self-propelled mobile food unit limited to serving only prepackaged, nonpotentially, hazardous food or prepackaged ice cream. A pushcart is classified as a mobile food unit.

(53) Ready-to-eat food. Food that is in a form that is edible without additional preparation to achieve food safety; is raw or partially cooked animal food and the consumer is advised. The term includes raw, washed, cut fruits and vegetables; whole, raw fruits and vegetables; all potentially hazardous food that is cooked to the temperature and time required for the specified food. The term also includes plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shell, if naturally present are removed; substances derived from plants such as spices, seasonings, and sugar; bakery item such as bread, cakes, pies, fillings or icing for which further cooking is not required for food safety; the following products that are produced with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks.

(54) Refuse. Solid waste not carried by water through the sewage system.

(55) Regulatory authority. The director of health of the City of Plano, or his designated representative.

(56) Safe material. An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in Chapter 431 of the Texas Health and Safety Code; or other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

(57) Sanitization. The application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of five (5) logs, which is equal to a 99.999% reduction of representative disease microorganisms of public health importance.

(58) Sealed. Free of cracks or other openings that allow the entry or passage of moisture.

(59) Seasonal food establishment. A food establishment that operates at a fixed location for a period greater than fourteen (14) consecutive days, but less than forty-five (45) consecutive days in conjunction with a single event or celebration.

(60) Sewage. Liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(61) Single-service articles. Cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one-person use and then discarded.

(62) Single-use articles. Tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

(63) Slacking. The process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of minus ten (-10) degrees Fahrenheit (minus twenty-three (-23) degrees Celsius) to twenty-five (25) degrees Fahrenheit (minus four (-4) degrees Celsius) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

(64) Smooth. A food contact surface free of pits and inclusions, a non-food contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

(65) Sound condition. Free from defect, decay or damage; healthy.

(66) Sufficient size. As much as is needed; adequate to contain all materials.

(67) Temporary food establishment. A food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(68) Temporary event. Temporary events are defined as, but not limited to traveling fairs, carnivals, multicultural celebrations, special interest fundraisers, restaurant food shows, grand openings, customer appreciation days, athletic competition, and other transitory gatherings.

(69) TCS. Time and temperature controlled for safety.

(70) Utensil. Any implement used in the storage, preparation, transportation, or service of food.

(71) Vending machine. A self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(72) Vending machine location. The room, enclosure, space or area where one or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used to service and maintain the vending machines.

(73) Warewashing. The cleaning and sanitizing of food-contact surfaces of equipment and utensils.

(74) Wholesome. In good, sound condition; free from contamination or adulteration, healthy.

Secs. 9-3--9-20. Reserved.

ARTICLE II. FOOD CARE

Sec. 9-21. Food supplies.

(a) General. Food shall be safe, unadulterated and honestly presented. Food shall be obtained from sources that comply with all laws relating to food labeling. The use of food in hermetically sealed containers that was not prepared in a food-processing establishment is prohibited.

- (1) Food establishment or manufacturers' dating information on food may not be concealed or altered.
- (2) Food prepared in a private home may not be used or offered for human consumption.
- (3) Potentially hazardous foods/time and temperature control for safety (PHF/TCS) can only be sold from a permitted food establishment.

(b) Special requirements.

- (1) Fluid milk and fluid milk products used, served, or commercially sold shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.
- (2) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they are received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.
 - (a) Shellstock tags shall remain attached to the container in which they are received until the container is empty and shall be maintained at facility for 90 calendar days from the date the container is emptied by using an approved record keeping system that

keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served.

- (b) If shellstock are removed from their tagged or labeled container preserve, source identification by using a record keeping system and ensuring that shellstock from one tagged or labeled container is not commingled with shellstock from another container with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label.
- (3) Only clean whole eggs, with shell intact and without cracks or checks or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard boiled, peeled eggs, commercially prepared and packaged, may be used. Shell eggs that have not been specifically treated to destroy all viable Salmonella shall be labeled to include safe handling instructions as specified in law, including 21 CFR §101.17(h) (Code of Federal Regulations).
- (4) Prepackaged juice shall be obtained from a processor with a HACCP system as specified in 21 CFR §120, be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR §120.24 or bear a warning label as specified in 21 CFR §101.17(g).
- (5) Donation of Foods. Foods which are considered distressed, such as foods which have been subjected to fire, flooding, excessive heat, smoke, radiation or other environmental contamination or prolonged storage shall not be directly donated for consumption by the consumer. Foods may be sold or donated to a licensed food salvage establishment under the provisions of the Texas Food Establishment Rules (TFER §229.164 (v)(1) thru (6)).
- (a) Foods which have been previously served to a consumer may not be donated.
 - (b) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in law, including 9 CFR §317.2(1) and 9 CFR §381.125(b).
 - (c) A potentially hazardous food/time and temperature control for safety (PFH/TCS) may be donated if:
 - (1) The food has been kept at one hundred forty (140) degrees Fahrenheit during hot holding and service and subsequently refrigerated to meet the time and temperature requirements under section 9-23(b)(3).
 - (2) The donor can substantiate that the food recipient has the facilities to meet transportation, storage and reheating requirements.
 - (3) The temperature of the food is at or below forty (40) degrees Fahrenheit at the time of donation and is protected from contamination.

(c) Game animals. Game animals must be from a source approved by the regulatory authority and must be commercially processed. No game animal may be received for sale or service if it is listed in 50 CFR §17, (TFER §229.164)(b)(7)(B)(i-iv). Approved sources include:

- (1) As allowed by law, commercially raised indigenous game animals;
- (2) Indigenous game animals harvested under the authority of the Texas Parks and Wildlife Department, which are wholesome at the time of delivery to a commercial processor.

(d) Fish.

(1) Fish that are received for sale or service shall be commercially and legally caught or harvested; or approved for sale or service.

(2) Molluscan shellfish that are recreationally caught may not be received for sale or service. Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. Molluscan shellfish received in the interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(e) Wild mushrooms. Mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert. (TFER §229.164(b)(6)(A)).

(f) Bottled water. Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR §129 (Processing and Bottling of Bottled Drinking Water).

Sec. 9-22. Food protection.

(a) General. At all times including while being stored, prepared, displayed, served or transported, food shall be protected from potential contamination. Potential contamination to food includes but is not limited to: dust, insects, rodents, unclean equipment and utensils, unnecessary handling by the use of sanitary disposable gloves, coughs and sneezes, flooding, drainage, and overhead drippage from condensation.

(b) Emergency occurrences. In the event of an occurrence, such as a fire, flood, extended power outage of thirty (30) to forty-five (45) minutes, or similar event which might result in the contamination of food, or which might prevent potentially hazardous foods/time and temperature control for safety (PHF/TCS) from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary to protect the public health.

(c) Specialized processing methods. A food establishment shall obtain a variance as specified in TFER §229.171 (1) and (2) (relating to compliance and enforcement) before smoking or curing food; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food non-potentially hazardous; using a reduced oxygen method of packaging food, except as specified in paragraph (2) of this subsection where a barrier to *Clostridium botulinum* in addition to refrigeration exists; or preparing food by another method that is determined by the regulatory authority to require a variance. A food establishment that packages food using a reduced oxygen packaging method shall have a HACCP Plan that contains information in accordance with the Texas Food Establishment Rules.

(d) Protection from unapproved additives.

(1) A food shall be protected from contamination that may result from the addition of:

(a) Unsafe or unapproved food or color additives; and

(b) Unsafe or unapproved levels of approved and color additives.

(2) A food employee may not apply sulfating agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1 or serve or sell food specified in paragraph (1) above that is treated with sulfating agents before receipt by the food establishment, except that grapes need not meet this subparagraph.

(e) Treating juice. Juice packaged in a food establishment shall be:

(1) Treated under a HACCP plan as specified in TFER §229.171(d)(2)(B)-(D) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

(2) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:

(a) As specified under TFER §164(r)(1)(A)-(B); and

(b) As specified in 21 CFR §101.17(g) with the phrase, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with a weakened immune system."

Sec. 9-23. Food storage.

- (a) General.
 - (1) Food, whether raw or prepared, if removed from the container or package in which it was obtained shall be stored in a clean covered container intended for food storage except during necessary periods of preparation or service. Container covers shall be impervious and non-absorbent except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.
 - (2) Containers of food shall be stored a minimum of six (6) inches above the floor in the manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area except that:
 - (a) Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and
 - (b) Containers may be stored on dollies or racks, provided such equipment is easily moveable.
 - (3) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.
 - (4) Food shall be protected from cross contamination by separating raw animal food during storage, preparation, holding and display from:
 - (a) raw, ready-to-eat food including other raw animal food such as fish, sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables and,
 - (b) cooked ready-to-eat food.
 - (5) Except when combined as ingredients, separating types of raw animal foods from each other during storage, preparation, holding and display from:
 - (a) using separate equipment for each type; or
 - (b) arranging each type of food in equipment so that cross contamination of one type with another is prevented; and
 - (c) preparing each type of food at different times or in separate areas.

- (6) Packaged food may not be stored in direct contact with ice or water if the food is subject to entry of water because of the nature of its packaging, wrapping, or container or its position in the ice or water. Unpackaged food may not be stored in direct contact with undrained ice with the exception of whole, raw fruits and vegetables; cut, raw vegetables and tofu may be immersed in ice or water. Raw chicken and raw fish that are received immersed in ice in shipping container may remain in that condition while awaiting preparation, display, service or sale.
 - (7) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.
 - (8) Proper separation and identification of employee's or personal food and items must be stored in a manner that will prevent contamination of items intended for public consumption.
- (b) Refrigerated storage.
- (1) Conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of all potentially hazardous food/time and temperature control for safety (PHF/TCS) at required temperatures during storage.
 - (2) Each mechanically refrigerated facility storing potentially hazardous food/time and temperature control for safety (PHF/TCS) shall be provided with a numerically scaled indicating thermometer, accurate to +/- 3 degrees Fahrenheit, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to +/- 3 degrees Fahrenheit, may be used in lieu of indicating thermometers.
 - (3) Potentially hazardous food/time and temperature control for safety (PHF/TCS) requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of forty (40) degrees Fahrenheit (five degrees Celsius) or below. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. Potentially hazardous food/time and temperature control for safety (PHF/TCS) to be displayed for sale or service or transported shall be pre-chilled and held at a temperature of forty (40) degrees Fahrenheit, (five (5) degrees Celsius) or below.
 - (4) Potentially hazardous foods/time and temperature control for safety (PHF/TCS) shall be at a temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) when received.

- (5) Raw shell eggs, molluscan shellfish and milk shall be received in refrigerated equipment that maintains an ambient air temperature of forty-five (45) degrees Fahrenheit (seven (7) degrees Celsius) or less.
 - (6) Frozen foods shall be kept frozen and shall be stored at a temperature of zero (0) degrees Fahrenheit (-eighteen (-18) degrees Celsius) or below.
 - (7) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.
 - (8) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.
- (c) Date marking.
- (1) Prepared on premise ready-to-eat potentially hazardous food/time and temperature control for safety (PHF/TCS) held refrigerated for more than twenty-four (24) hours in a food establishment shall be clearly marked using calendar dates, days of the week, color coded marks, or other effective means to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified below. The day of preparation shall be counted as day 1, forty (40) degrees Fahrenheit, (five (5) degrees Celsius) or less for a maximum of seven days; in countertop, under-counter and open-top refrigeration units located in the food preparation area and were in use prior to October 6, 2003, as specified in this chapter.
 - (2) Commercially processed ready-to-eat food prepared and packaged by a food processing plant shall be clearly marked using calendar dates, days of the week, color-coded marks, or other effective means, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in this chapter. The day the original container is opened in the food establishment shall be counted as day 1; and the day or date marked by the food establishment may not exceed a manufacturers' use-by date if the manufacturer determined the use-by date based on food safety.
 - (3) A refrigerated, ready-to-eat potentially hazardous food/time and temperature control for safety (PHF/TCS) that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in this chapter or by an alternative method acceptable to the regulatory authority.
 - (4) Alternative date marking systems must receive prior approval from the regulatory authority.

- (5) Subsection (2) of this paragraph does not apply to the following cheeses that are maintained under refrigeration as specified in this chapter:
- (a) hard cheeses manufactured as specified in 21 CFR §133.150, and with moisture content not exceeding 39%, such as cheddar, gruyere, parmesan, reggiano, and romano;
 - (b) semi-soft cheeses manufactured as specified in 21 CFR §133.187, and with a moisture content of more than 39% but less than 50%, such as blue, edam, gorgonzola, gouda, and Monterey jack; or
 - (c) pasteurized process cheeses manufactured as specified in 21 CFR §133.169, and labeled as containing an acidifying agent.
- (6) Subsection (2) of this paragraph does not apply to the following when the face has been cut, but the remaining portion is whole and intact:
- (a) fermented sausages produced in a federally inspected food processing plant that are not labeled “Keep Refrigerated” and which retain the original casing on the product;
 - (b) shelf stable, dry, fermented sausages; and
 - (c) shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a federally inspected food processing plant that are not labeled “Keep Refrigerated.”
- (7) Subsection (2) of this paragraph does not apply to cultured dairy products as defined in 21 CFR §131, Milk and Cream, such as yogurt, sour cream, and buttermilk, that are maintained under refrigeration as specified in this chapter.
- (8) Subsection (2) of this paragraph does not apply to preserved fish products, such as pickled herring, and dried or salted cod, and other acidified fish products defined in 21 CFR §114, Acidified Foods.
- (9) A refrigerated, ready-to-eat, potentially hazardous food/time and temperature control for safety (PHF/TCS) ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food/time and temperature control for safety (PHF/TCS) that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest prepared or first-prepared ingredient.
- (d) Hot Storage.
- (1) Conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility

storing potentially hazardous food/time and temperature control for safety (PHF/TCS) shall be provided with a numerically scaled indicating thermometer, accurate to +/- three (3) degrees Fahrenheit, located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to +/- three (3) degrees Fahrenheit, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bain-maries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

- (2) The internal temperature of potentially hazardous foods/time and temperature control for safety (PHF/TCS) requiring hot storage shall be one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above except during necessary periods of preparation. Potentially hazardous food/time and temperature control for safety (PHF/TCS) to be transported shall be held at a temperature of one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above unless maintained in accordance with subsection (b)(2) of this subsection.

Sec. 9-24. Food Preparation.

(a) Food handling. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross contamination.

(b) Food employees may not use a utensil more than once to taste food that is to be sold or served.

(c) Food employees shall prepare ready-to-eat foods using suitable utensils, such as tissue, spatulas, tongs, single use gloves or dispensing equipment.

- (1) Food employees shall wash their hands as specified under Sec. 9-32.

- (2) Gloves, use limitation. Hands must be washed prior to use of gloves. If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. Slash resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified by these rules, such as frozen food or a primal cut of meat. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves are covered with a smooth, durable, and non-absorbent glove or a single-use glove. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required in these rules such as frozen food or a primal cut of meat.

(d) Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(1) Fruits and vegetables may be washed by using chemical as specified under (TFER §229.168(f)(2)).

(e) Cooking potentially hazardous foods/time and temperature control for safety (PHF/TCS). Potentially hazardous foods/time and temperature control for safety (PHF/TCS) requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred forty (140) degrees Fahrenheit, (sixty (60) degrees Celsius) except that:

- (1) Poultry, poultry stuffing, stuffed meat, stuffed fish, stuffed pasta, stuffed ratites, stuffing containing meat, wild game animals and exotic animals, shall be cooked to heat all parts of the food to at least one hundred sixty-five (165) degrees Fahrenheit, (seventy-four (74) degrees Celsius) with no interruption of the cooking process.
- (2) Pork and any food containing pork shall be cooked to heat all parts of the food to at least one hundred fifty (150) degrees Fahrenheit, (sixty-six (66) degrees Celsius).
- (3) Rare roast beef shall be cooked to an internal temperature of at least one hundred thirty (130) degrees Fahrenheit (fifty-four (54) degrees Celsius), and rare beef steak shall be cooked to a temperature of one hundred thirty (30) degrees Fahrenheit (fifty-four (54) degrees Celsius), unless otherwise ordered by the immediate consumer.
- (4) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham, shall be cooked in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature; and Figure 1:25 TAC §229.164(k)(1)(B)(i).

Oven type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or More
Still Dry	350° F (177° C) or more	250° F (121° C) or more
Convection	250° F (121° C) or more	250° F (121° C) or more
High Humidity ¹	250° F (121° C) or more	250° F (121° C) or more

¹ Relative humidity greater than 90% for at least 1 hour as measures in the cooking chamber or exit of the oven ; or in a moisture-impermeable bag that provides 100%.

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Holding time that corresponds to that temperature. Figure 1:25 TAC §229.164(k)(1)(B)(ii)

Cooking Whole Beef or Corned Beef Roasts

Temperature (°F) (°C)	Time ¹ in Minutes	Temperature (°F) (°C+)	Time ¹ in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0
142 (61.1)	8		
144(62.2)	5		
145 (62.8)	4		
¹ Holding time may include postover heat rise.			

- (5) Reconstructed and/or ground beef products shall be cooked to an internal temperature of at least one hundred fifty-five (155) degrees Fahrenheit (sixty-eight (68) degrees Celsius) for a minimum of fifteen (15) seconds, unless otherwise ordered by the immediate consumer.

Alternatives to the 155 Degree Fahrenheit/15 second requirement.

Minimum Temperature °F (°C)	Minimum Time
145 (63)	3 minutes

150 (66)	1 minute
158 (70)	< 1 second (instantaneous)

- (6) Plant food cooking for hot holding. Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of one hundred thirty-five (135) degrees Fahrenheit (fifty-seven (57) degrees Celsius).
- (7) Consumers shall be informed by brochures, deli case menu advisories, label statements, table tents, placards, or other effective written means of the potential hazards of raw animal food such as raw marinated fish; raw molluscan shellfish; steak tartar; partially cooked food such as lightly cooked fish, rare meat and soft cooked eggs that to ensure its safety, the food should be cooked to proper temperatures.
- (8) Food establishments which serve or sell an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish which is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, using brochures, deli case or menu advisories, label statements, table tents, placards or other effective written means.
 - (1) Disclosure shall include a description of the animal-derived foods, such as “oysters on the half shell (raw oysters)”, “raw-egg Caesar salad” and “hamburgers (can be cooked to order)” or
 - (a) Identification of the animal derived foods by asterisking them to a footnote that states that the items are served raw or under cooked or contain (or may contain) raw or under cooked ingredients.
 - (2) Reminder shall include asterisking the animal-derived food requiring disclosure to a footnote that states regarding the safety of these items, written information is available upon request;
 - (a) Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness or;
 - (b) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.
- (f) Parasite destruction. Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked or marinated-partially cooked fish other than molluscan shellfish shall be frozen

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throughout to a temperature of minus four (-4) degrees Fahrenheit (minus twenty (-20) degrees Celsius) or below for 168 hours (7 days) in a freezer or (minus thirty-one (-31) degrees Fahrenheit, (minus thirty-five (-35) degrees Celsius) or below for 15 hours in a blast freezer. Records must be maintained for 90 calendar days beyond the time of service or sale of the fish. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *thunnus obesus* (Bigeye tuna) or *Thunnus thynnus* (Bluefin, Northern), the fish may be served or sold in raw, raw-marinated or partially cooked ready-to-eat form without freezing.

- (1) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified may substitute for the records specified above.
- (g) Dry milk and dry milk products. Reconstituted dry milk products may be used in instant desserts and whipped products or for cooking and baking purposes.
- (h) Liquid, frozen, milk, dry eggs and egg products.
 - (1) Frozen milk products, such as ice cream, liquid, frozen, dry eggs and egg products shall be obtained pasteurized. Pasteurized liquid, frozen or dry eggs shall be substituted for raw eggs in preparation of: Caesar salad, hollandaise sauce or bernaise sauce, mayonnaise, meringue, eggnog, ice cream and egg fortified beverages.
 - (2) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in 21 CFR §133.
 - (3) Shell eggs that are broken, combined in a container, and not cooked immediately are prohibited.
- (i) Reheating. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) that have been cooked and then refrigerated, shall be reheated rapidly to one hundred sixty-five (165) degrees Fahrenheit (seventy-five (75) degrees Celsius) or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bain-maries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods/time and temperature control for safety (PHF/TCS).
 - (1) Preparation for immediate service. Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as roast beef sandwich au jus, may be served at any temperature.
 - (2) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least one hundred thirty-five (135) degrees Fahrenheit (fifty-seven (57) degrees Celsius) for hot holding.

(j) Cooling. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) that have been cooked and are required to be cooled shall be rapidly cooled to forty (40) degrees Fahrenheit (five (5) degrees Celsius) or below within four (4) hours of preparation. Potentially hazardous foods/time and temperature control for safety (PHF/TCS) shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container.

(1) Raw shell eggs shall be received as specified in this chapter and immediately placed in refrigerated equipment that maintains an ambient air temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) or less.

(k) Product thermometers. Metal stem-type numerically scaled indicating thermometers, accurate to +/- two (2) degrees Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods/time and temperature control for safety (PHF/TCS).

(l) Thawing potentially hazardous foods/time and temperature control for safety (PHF/TCS). Potentially hazardous foods/time and temperature control for safety (PHF/TCS) shall be thawed:

(1) Under refrigeration that maintains the food temperature at (40) degrees Fahrenheit (five (5) degrees Celsius); or less as specified in this chapter.

(2) Completely submerged under running water:

(a) at a water temperature of seventy (70) degrees Fahrenheit (twenty-one (21) degrees Celsius) or below; and

(b) with sufficient water velocity to agitate and float off loose particles in an overflow; and

(c) and for a period of time that does not allow thawed portions of ready-to-eat food to rise above forty (40) degrees Fahrenheit (five (5) degrees Celsius) of this chapter; and

(d) or for a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified in this chapter to above forty (40) degrees Fahrenheit (five (5) degrees Celsius), for more than 4 hours including the time the food is exposed to the running water and the time needed for preparation for cooking; or the time it takes under refrigeration to lower the food temperature to forty (40) degrees Fahrenheit (five (5) degrees Celsius).

(3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of the continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

- (4) As part of the conventional cooking process. If the food that is frozen is cooked as specified in this chapter, or using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

(m) Slacking. Frozen potentially hazardous food/time and temperature control for safety (PHF/TCS) that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at forty (40) degrees Fahrenheit (five (5) degrees Celsius) or less or at any temperature if the food remains frozen.

(n) Microwave Cooking. Raw animal foods cooked or reheated in the microwave oven shall be:

- (1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- (2) Covered to retain surface moisture;
- (3) Heated to a temperature of at least one hundred sixty-five (165) degrees Fahrenheit (seventy-four (74) degrees Celsius) in all parts of the food; and
- (4) Allowed to stand covered for two (2) minutes after cooking to obtain temperature equilibrium.

(o) Highly susceptible populations. Food establishments that serve highly susceptible populations must comply with all rules in accordance with TFER §229.164(u)(1-8), and FDA Code 3-801.11. (Food and Drug Administration)

(p) Outdoor grilling. Outdoor grilling by all permitted food establishments on a permanent basis must comply with food establishment standards in article II through article VII, including sections 9-24 through sections 9-78 of the ordinance. Outdoor grilling at temporary events must be approved and permitted by the City of Plano Health Department in accordance with temporary guidelines in Section 9-92(b)(4) of the ordinance. Outdoor grilling for personal and residential use is permitted and outside the scope of this regulation.

Sec. 9-25. Food display and service.

(a) Potentially hazardous foods/time and temperature control for safety (PHF/TCS). Potentially hazardous foods/time and temperature control for safety (PHF/TCS) shall be kept at an internal temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) or below or at an internal temperature of one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above during storage, preparation, display, service and transport, except that rare roast beef shall be held for service at a temperature of at least one hundred thirty (130) degrees Fahrenheit (fifty-four (54) degrees Celsius).

(b) Time as a public health control. If time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous foods/time and temperature control for safety (PHF/TCS) before cooking, or for ready-to-eat potentially hazardous foods/time and temperature control for safety (PHF/TCS) that is displayed or held for service for immediate consumption:

- (1) The food shall be marked, labeled, tagged or otherwise unmistakably identified to indicate the time which is four hours past the point when the food was removed from temperature control;
- (2) The food shall be cooked and served, served if a ready-to-eat food or discarded within four hours of the time at which the food was removed from temperature control;
- (3) The food in unmarked containers or packages or marked to exceed a four hour time limit shall be discarded; and
- (4) Written procedures shall be maintained in the food establishment and made available to the regulatory authority upon request, to ensure compliance.

(c) Milk and cream dispensing.

- (1) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one (1) pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where it is necessary to provide individual servings under special institutional circumstances, milk and milk products may be poured from a commercially filled container provided such a procedure is authorized by the regulatory authority. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half-pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container.
- (2) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than 1-inch protruding from the chilled dispensing head.
- (3) Cream or half and half shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(d) Nondairy products dispensing. Nondairy cream shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(e) Condiment dispensing.

- (1) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with paragraph (h) of this subsection.

- (2) Condiments provided for table or counter service shall be individually portioned, except that ketchup and other sauces may be served in the original container or pour type dispenser. Sugar for consumer usage shall be provided in individual packages or in pouring-type dispensers.

(f) Ice dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

(g) Dispensing utensils. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

- (1) Stored in the food with the dispensing utensil handle extended out of the food; or
- (2) Stored clean and dry; or
- (3) Stored in running water; or
- (4) Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts; or
- (5) In a container of water if the water is maintained at a temperature of at least one hundred thirty-five (135) degrees Fahrenheit (fifty-seven (57) degrees Celsius) and the container is cleaned at a frequency specified under TFER §229.165(n)(1)(D)(vii).

(h) Reservice. Once served to a consumer, portions of left-over food shall not be served again except that packaged food, other than potentially hazardous foods/time and temperature control for safety (PHF/TCS), that is still packaged and is still in sound condition may be served.

(i) Display equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases or by other effective means. The minimum height requirement for sneeze guards is eighteen (18) inches unless otherwise specified by the regulatory authority. Enough hot or cold food facilities shall be available to maintain the required temperatures of potentially hazardous foods/time and temperature control for safety (PHF/TCS) on display.

(j) Reuse of tableware. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

(k) Unpackaged, raw animal food such as beef, lamb, pork, poultry and fish may not be offered for consumer self-service. This does not apply to consumer self-service or ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish, or ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer cooked meats or consumer selected ingredients for Mongolian barbeque; or raw, frozen, shell-on shrimp or lobster.

- (1) A card, sign or other effective means of notification shall be displayed to notify consumers that clean tableware is to be used upon return to self-service areas such as salad bars and buffets.
- (2) Consumers self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.
- (3) A person may sell unpackaged food that is not potentially hazardous that is displayed, and sold in bulk from a self-service container if:
 - (a) The self-service container has tight-fitting lid that is securely attached to the container; and
 - (b) The container, lid and any utensil are constructed of nontoxic materials that provide for easy cleaning and proper repair.
 - (c) The lid of a gravity feed type container shall be kept closed except when the container is being serviced or refilled.
 - (d) The lid of a scoop utensil type container shall be kept closed except during customer service. The container must have a utensil, equipped with a handle, to be used in dispensing the food.
- (4) The seller shall:
 - (a) Keep the container, lid, and any utensil sanitary to prevent spoilage and insect infestation; and
 - (b) Post in the immediate display area a conspicuous sign that instructs the customer on the proper procedure for dispensing the food.

Sec. 9-26. Food transportation.

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this chapter relating to food protection and food storage.

Sec. 9-27. HACCP plan requirements.

(a) When a HACCP plan is required. Before engaging in an activity that requires a HACCP plan, a food establishment shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under subsection (b) of this section and the relevant provisions of these rules if a variance is required. A food establishment shall have a properly prepared HACCP plan as specified in TFER §229.161--229.175.

(b) Contents of a HACCP plan. For a food establishment that is required under subsection (a) of this section to have a HACCP plan, the plan and specifications shall indicate:

- (1) A categorization of the types of potentially hazardous foods/time and temperature control for safety (PHF/TCS) that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the regulatory authority;
- (2) A flow diagram by specific food and category type identifying critical control points and providing information on the following:
 - (a) Ingredients, materials, and equipment used in the preparation of the food; and
 - (b) Formulation or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
- (3) Food employee and supervisory training plan for the person(s) in charge and food employee(s) pertaining to public health and the safety and integrity of food;
- (4) A statement of standard operating procedures for the plan under consideration including and clearly identifying:
 - (a) Each critical control point;
 - (b) The critical limits for each critical control point;
 - (c) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person-in-charge;
 - (d) The method and frequency for the person-in-charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;
 - (e) Action to be taken by the person-in-charge if the critical limits for each critical control point are not met; and

(f) Records to be maintained by the person-in-charge to demonstrate that the HACCP plan is properly operated and managed; and

(5) Additional scientific data or other information, as requested by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

(c) Confidentiality, trade secrets. The regulatory authority shall treat as confidential in accordance with the requirements of the Public Information Act, V.T.C.A., Government Code Chapter 552, information that meets the criteria for a trade secret and is contained on inspection report forms and in the plans as specifications submitted.

Secs. 9-28--9-30. Reserved.

ARTICLE III. PERSONNEL

Sec. 9-31. Employee health.

(a) No person while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) There shall be a certified food manager on duty at all times at each permitted food establishment. Certification must be obtained by passing an examination approved by the Texas Department of State Health Services and the regulatory authority.

(c) All food employees shall be required to successfully complete a food handler class taught by the City of Plano or from any approved city, municipality or accredited institution or other approved course within 30 days of hire. If a food employee completes a course other than with the City of Plano, they are required to obtain a food handler card from the City of Plano Health Department. Food handler cards shall be good for a period of two (2) years from the date of issue.

(d) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(e) The owner or person-in-charge shall require food employees to provide information about their health and activities as they relate to diseases that are transmissible through food.

(1) The person-in-charge shall notify the regulatory authority that a food employee is diagnosed with an illness due to Norovirus, Salmonella typhi, Shigella spp., shiga toxin-producing Escherichia coli, or hepatitis A virus.

Sec. 9-32. Personal cleanliness.

(a) Food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hand or arms) for at least 20 seconds, using a cleaning compound in a lavatory that is properly equipped. Food employees shall use the following cleaning procedure:

- (1) Vigorous friction on the surface of the lathered fingers, finger tips, areas between the fingers, hands and arms (or vigorous rubbing the surrogate prosthetic devices for hands or arms) for at least 10 to 15 seconds followed by;
- (2) Thorough rinsing under clean, running water, and;
- (3) Immediately follow the cleaning procedure with drying of cleaned hands and arms (or surrogate prosthetic devices);
- (4) Food employees shall pay particular attention to the areas underneath the fingernails during cleaning procedures.

(b) Food employees shall keep their fingernails clean, trimmed, unpainted, filed and maintained so the edges and surfaces are not rough.

(c) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

(d) A chemical hand sanitizing solution used as a hand dip shall have active antimicrobial ingredients that are listed as safe and effective for application to human skin in accordance to TFER §229.163(j).

Sec. 9-33. Clothing.

(a) The outer clothing of all employees shall be clean.

(b) Except as provided under paragraph (c) of this subsection, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(d) Employees shall remove all jewelry from the arms and hands, which cannot be adequately sanitized during periods when food is being prepared. This does not apply to a plain ring such as a band style ring.

Sec. 9-34. Employee practices.

(a) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment washing or utensil washing or food preparation areas.

(c) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food establishment.

Sec. 9-35-9-40. Reserved.**ARTICLE IV. EQUIPMENT AND UTENSILS****Sec. 9-41. Materials.**

(a) General. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Equipment, utensils, and single service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(b) Lead. Pewter alloys containing lead in excess of 0.05 percent may not be used as food contact surfaces. Solder and flux containing lead in excess of 0.2 percent may not be used as a food contact surface.

(c) Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant and comply with International Plumbing Code.

(d) Wood. Hard maple or equivalently nonabsorbent materials that meets the general requirements set forth in subsection (a) of this section may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used as specified in TFER §229.165(a)(9) for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances must be approved by the regulatory authority.

(e) Plastics. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in subsection (a) of this section, are permitted for repeated use.

(f) Mollusk and crustacean shell. Mollusk and crustacean shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.

(g) Single-service. Reuse of single-service articles is prohibited.

Sec. 9-42. Design and fabrication.

(a) General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, peeling, pitting, chipping and crazing.

(b) Equipment in new or extensively remodeled establishments shall be National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the regulatory authority. The regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted:

- (1) Food contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits and similar imperfections, and free of difficult to clean internal corners and crevices.
- (2) Cast iron may be used as a food contact surface only if the surface is heated, such as in grills, griddle tops, and skillets.
- (3) Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems such threads shall be minimized.
- (4) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.
- (5) Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. Lubricants with incidental food contact shall meet the requirements specified in 21 CFR §178.3570, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.
- (6) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice, provided that such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(7) Sinks and drain boards shall be self-draining.

(c) Accessibility. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection.

(1) Without being disassembled; or

(2) By disassembling without the use of tools; or

(3) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench.

(d) In-place cleaning. Equipment intended for in-place cleaning shall be so designed and fabricated that:

(1) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(2) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(3) The system is self-draining or capable of being completely evacuated.

(4) Clean in Place (CIP) equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food contact surfaces throughout the fixed system are being effectively cleaned.

(e) Pressure spray cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

(f) Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled and accurate to +/- two (2) degrees Fahrenheit.

(g) Nonfood-contact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, nonabsorbent, corrosion-resistant, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(h) Ventilation hoods design. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food contact surfaces.

- (1) Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. All ventilation hoods and related equipment must be installed accordance with the International Mechanical Code.
- (2) Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(i) Existing equipment. Equipment which was installed in a food establishment prior to the effective date of this chapter, and which does not fully meet all of the design and fabrication requirements of this rule, shall be deemed acceptable in that establishment as long as there is no change of ownership, in good repair and capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of this chapter shall meet the requirements of this chapter.

Sec. 9-43. Equipment installation and location.

(a) General. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

(b) Table mounted equipment.

(1) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(2) Equipment is portable within the meaning of section 9-43(b)(1) if:

(a) It is small and light enough to be moved easily by one (1) person; and

(b) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(c) Floor-mounted equipment. Floor mounted equipment, unless readily moveable, shall be:

(1) Sealed to the floor; or

(2) Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

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(3) Elevated on legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor equipment if no part of the floor under the mixer is more than six (6) inches from cleaning access.

(d) Equipment is easily movable if:

(1) It is mounted on wheels or casters; and

(2) It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(3) Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units, and between it and adjacent walls, shall be closed; or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(e) Aisles and working spaces. Aisles and working spaces between units of equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

Secs. 9-44 – 9-50. Reserved.

ARTICLE V. CLEANING, SANITATION, AND STORAGE OF EQUIPMENT UTENSILS

Sec. 9-51. Equipment and utensil cleaning and sanitization.

(a) Cleaning frequency.

(1) Tableware shall be washed, rinsed, and sanitized after each use.

(2) The food contact surfaces of equipment shall be kept free of food debris and other oil accumulations. Equipment food contact surfaces and utensils shall be clean to sight and touch.

(3) Equipment food contact surfaces and utensils shall be cleaned and sanitized: before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry; each time there is a change from working with raw foods to working with ready-to-eat foods; between uses with raw fruits or vegetables and with potentially hazardous food; before using or storing a food temperature measuring device; and at any time during the operation when contamination may have occurred.

- (4) The food contact surfaces of cooking and baking equipment, similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day (or at a frequency to preclude accumulation of soil residues). Except that this shall not apply to hot oil cooking equipment and oil filtering equipment.
- (5) The food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.
- (6) The regulatory authority approves the cleaning schedule based on consideration of:
 - (a) characteristics of equipment and its use;
 - (b) the type of food involved;
 - (c) the amount of food residue accumulation, the temperature at which the food is maintained during the operation, and the potential for rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease.
- (7) Nonfood contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulations of dust, dirt, food particles, and other debris.
 - (b) Wiping cloths.
 - (1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.
 - (2) Moist cloths for wiping used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in an approved sanitizing solution and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
 - (3) Moist cloths used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed as specified in (b)(2) of this paragraph, and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
 - (4) Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.
 - (5) Working containers of sanitizing solution for storage of in-use wiping cloths may be placed above the floor and used in a manner to prevent contamination of food, equipment, utensils, linens, single-service or single-use articles.
 - (6) Sponges may only be used for scraping and scouring soiled dishware.

- (c) Manual cleaning and sanitizing.
- (1) A three (3) compartment sink shall be used for washing, rinsing and sanitizing of utensils and equipment done manually. Existing establishments not having a three (3) compartment sink that can demonstrate an acceptable procedure for washing, rinsing and sanitizing utensils and equipment may be exempt from this requirement by the regulatory authority. Sinks shall be large enough to permit the complete immersion of the utensils and equipment and each compartment sink shall be supplied with hot and cold potable running water. Suitable equipment shall be made available if washing, rinsing and sanitizing cannot be accomplished by immersion. Two (2) compartment sinks are not acceptable.
 - (2) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.
 - (3) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.
 - (4) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:
 - (a) Sinks shall be cleaned prior to use; and
 - (b) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean; and
 - (c) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
 - (d) Equipment and utensils shall be sanitized in the third compartment according to one (1) of the methods included in sub-section (5) a-e of this section.
 - (5) The food-contact surfaces of all equipment and utensils shall be sanitized by:
 - (a) Immersion for at least thirty (30) seconds in clean, hot water at a temperature of at least one hundred seventy-one (171) degrees Fahrenheit (seventy-seven (77) degrees Celsius); or
 - (b) Immersion for at least sixty (60) seconds in a clean solution containing at least fifty (50) mg/L of available chlorine as a hypochlorite and a temperature of at least seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius); or
 - (c) Immersion for at least sixty (60) seconds in a clean solution containing at least twelve and one-half (12.5) mg/L of available iodine and have a pH not higher than

five (5.0) and at a temperature of at least seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius); or

- (d) Immersion in a solution of quaternary ammonia shall have a minimum temperature of seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius); have a concentration of 200 mg/L or as indicated by the manufacturer use directions included in the labeling and used in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer label.
 - (e) If immersion in a clean solution containing any other solution of chlorine, quaternary ammonia or iodine is used, the permit holder shall demonstrate to the regulatory authority that the solution achieves sanitization.
 - (f) If a chemical sanitizer other than chlorine, iodine, quaternary ammonium compound is used, it shall meet the requirements as specified in 21 CFR §178.1010. Sanitizing Solutions are approved by the regulatory authority and applied in accordance with the manufacturers use directions included in the labeling.
 - (g) Treatment with steam, free from harmful materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
 - (h) Rinsing. Spraying or swabbing with a chemical sanitizing solution at least twice the strength required for that particular sanitizing solution under clauses (e-f) of this sub-section, in the case of equipment too large to sanitize by immersion.
- (6) When hot water is used for sanitizing, the following facilities shall be provided and used:
- (a) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of one hundred seventy-one (171) degrees Fahrenheit (seventy-seven (77) degrees Celsius); and
 - (b) A numerically scaled indicating thermometer, accurate to +/- three (3) degrees Fahrenheit, convenient to the sink for frequent checks of water temperature; and
 - (c) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.
- (7) When chemicals are used for sanitization, a test kit or other device that accurately measures the milligrams per liter concentration of the solution shall be provided, available, and used.

(d) Mechanical cleaning and sanitizing.

- (1) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machines or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agents, dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.
- (2) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than fifteen (15) nor more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one fourth (1/4) inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.
- (3) Machine or water line mounted numerically scaled indicating thermometers accurate to +/- three (3) degrees Fahrenheit, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.
- (4) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.
- (5) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily moveable dish tables for the storage of soiled utensils or the use of easily moveable dish tables for the storage of clean utensils following sanitization.
- (6) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of dishwashing machine operation. Equipment and utensils shall be placed in racks, trays or baskets, or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

- (7) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used provided that:
- (a) The temperature of the wash water shall not be less than one hundred twenty (120) degrees Fahrenheit (forty-nine (49) degrees Celsius); and
 - (b) The wash water shall be kept clean; and
 - (c) Chemicals added for sanitization purposes shall be automatically dispensed; and
 - (d) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturers' specifications for time and concentration or an exposure time of at least seven (7) seconds for a chlorine solution of fifty (50) mg/L that has a pH of ten (10) or less and a temperature of at least one hundred (100) degrees Fahrenheit, thirty-eight (38) degrees Celsius or a pH of eight (8) or less and a temperature of at least seventy-five (75) degrees Fahrenheit, twenty-four (24) degrees Celsius. An exposure time of thirty (30) seconds is required for other chemical sanitizing solutions, and
 - (e) The chemical sanitizing rinse water temperature shall not be less than seventy-five (75) degrees Fahrenheit (twenty-four (24) degrees Celsius) nor less than the temperature specified by the machine's manufacturer, and
 - (f) Chemical sanitizers used shall be approved and a test kit or device that accurately measures the milligrams per liter concentration of the solution shall be available and used.
- (8) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained not less than the temperatures stated below:
- (a) Single-tank, stationary-rack, dual-temperature machine:

Wash temperature	150°F (66°C)
Final rinse temperature	180°F (82°C)
 - (b) Single-tank, stationary-rack single-temperature machine:

Wash temperature	165°F (74°C)
Final rinse temperature	165°F (74°C)
 - (c) Single-tank, conveyor machine:

Wash temperature	160°F (71°C)
Final rinse temperature	180°F (82°C)
 - (d) Multi-tank, conveyor machine:

Wash temperature	150°F (66°C)
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Pumped rinse temperature	160°F (71°C)
Final rinse temperature	180°F (82°C)

(e) Single-tank, pot, pan, and utensil washer (either stationary or moving rack):

Wash temperature	140°F (60°C)
Final rinse temperature	180°F (82°C)

(9) All dishwashing machines shall be thoroughly cleaned once a day, or more often when necessary to maintain them in a satisfactory operating condition.

(10) A warewashing machine that is installed after adoption of these rules by the regulatory authority, shall be equipped to:

(a) automatically dispense detergents and sanitizers; and

(b) incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergent and sanitizers are not delivered to the respective washing and sanitizing cycles.

(e) Drying. After sanitization, all equipment and utensils shall be air-dried. The use of towels is prohibited.

Sec. 9-52. Equipment and Utensil Storage.

(a) Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the users' mouth.

(b) Storage.

(1) Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(2) Utensils shall be air dried before being stored or shall be stored in a self-draining position.

(3) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, whenever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations,

shall protect these articles from contamination and present the handle of the utensil to the consumer.

- (4) If presenting if practiced, all unprotected, unused, preset tableware shall be collected for washing and sanitizing after the meal period; and after any place at a table or counter is occupied.

(c) Single service articles.

- (1) Single-service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.
- (2) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.
- (3) Single-service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks, and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination, and present the handle of the utensil to the consumer.

(d) Prohibited Storage Area. The storage of food, equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

Secs. 9-53-9-60. Reserved.

ARTICLE VI. SANITARY FACILITIES AND CONTROLS

Sec. 9-61. Water supply.

(a) General. Enough potable water for the needs of the food establishment shall be provided from a source constructed and operated according to law.

(b) Transportation. All potable water not provided directly by pipe to the food establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these systems shall be constructed and operated according to law.

(c) Bottled water. Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(d) Water under pressure. Water under pressure at the required temperatures shall be provided at all fixtures and equipment that use water.

(e) Hot Water. Hot water generation and distribution systems shall be sufficient to meet peak hot water demands throughout the food establishment. Water under pressure at the required minimum temperature of one hundred (100) degrees Fahrenheit (forty-five (45) degrees Celsius) must be provided.

(f) Steam. Steam used in contact with food or food-contact surfaces shall be free from any harmful materials or additives.

Sec. 9-62. Sewage.

All sewage, including liquid waste, shall be disposed of by a public sewage system. Nonwater carried sewage disposal facilities are prohibited, except as permitted by Article IX, Section 9-92(i) of this chapter (relating to temporary food establishments) or as permitted by the regulatory authority as provided in chapter 21 of this code.

Sec. 9-63. Plumbing.

(a) General. Plumbing shall be sized, installed and maintained in accordance with the current plumbing code as adopted and enforced by the City of Plano Building Inspection Department. There shall be no cross-connection between the potable water supply and any nonpotable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(b) Non-potable water system. A non-potable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment, that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(c) Backflow.

(1) The potable water system shall be installed to preclude the possibility of backflow. A backflow or backsiphon prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection and testing for that specific application and type of device.

(2) An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 1-inch (25 millimeters). Air gaps shall comply with ASME 112.1.2.

- (3) A backflow prevention device shall be located so that it may be serviced and maintained.
- (4) A hose shall not be attached to a faucet unless a backflow prevention device is installed.
- (d) Grease traps.
 - (1) Grease traps shall be required and located to be easily accessible for cleaning.
 - (2) Shall be located outside the food preparation area unless otherwise approved by the regulatory authority.
 - (3) If located inside the food preparation area, the lid must be flush to the floor.
- (e) Garbage grinders. If used, garbage grinders shall be installed and maintained according to law.
- (f) Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. Floor drains must be properly covered with drain grates. When a dishwashing machine is located within five (5) feet of a trapped floor drain, the dishwasher waste outlet may be connected as in section 9-63(c) to a properly vented floor drained trap if permitted by the International Plumbing Code.

Sec 9-64. Toilet facilities.

(a) Toilet installation. Toilet facilities shall be installed, shall be the number required in accordance with International Plumbing Code, shall be conveniently located, and shall be accessible to employees at all times. At least one (1) restroom is required for employee use. When four (4) or more employees of different sex are employed, two (2) restrooms are required. Two (2) restrooms are required with on-premise consumption at any food establishment. Restrooms must be accessible to the public in establishments with on-site consumption.

(b) Toilet design. Toilets and urinals shall be designed to be easily cleanable.

(c) Toilet rooms. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance.

(d) Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one (1) covered waste receptacle.

Sec 9-65. Lavatory facilities.

(a) Lavatory installation. Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in food

preparation areas and utensil-washing areas. Lavatories shall be accessible to employees at all times. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

(b) Handsinks. A separate sink assigned for handwashing provided with hot and cold running water tempered through a mixing valve shall be located to be accessible to each food preparation and utensil washing area. As a general rule, a handsink shall be located within twenty-five (25) linear feet of food preparation and utensil washing areas so it is convenient for employees to wash hands. Floor pedals, knee pedals, electronic eye and metered faucets are allowable. A liquid soap dispenser and individual sanitary hand towels are required. Blow dryers are not allowed in food preparation areas.

(c) Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

(d) Lavatory supplies. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

(e) Lavatory maintenance. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

Sec 9-66. Garbage and refuse.

(a) Containers.

- (1) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof, and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers, and they may be used for storage inside the food establishment.
- (2) Containers used in food preparation and utensil-washing areas shall be kept covered except when actually in use.
- (3) Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.
- (4) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate. The regulatory authority may require additional service, dumpsters or

larger dumpsters to accommodate the garbage and refuse that accumulates at the food establishment.

- (5) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas.
 - (6) Suitable facilities, including hot water and detergent or steam shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. Power washing and contracted cleaning services shall be performed according to applicable law.
- (b) Storage.
- (1) Garbage and refuse on the premises shall be stored in a manner to make it inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited.
 - (2) Cardboard or other packaging materials that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside in a covered receptacle if it is stored so that it does not create a rodent harborage problem.
 - (3) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.
 - (4) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material, such as concrete, or machine-laid asphalt, that is kept clean and maintained in good repair.
- (c) Disposal.
- (1) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.
 - (2) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with law. Areas around incineration facilities shall be kept clean and orderly.

Sec 9-67. Insect and rodent control.

(a) General. Effective measures intended to prevent the presence of rodents, flies, cockroaches and other insects on the premises shall be utilized as determined by the regulatory authority. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(b) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device. Insect control devices shall be installed so that the devices are not located over food preparation area; and dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) Preventive application for insect and rodent control shall be performed by a certified pest control operator.

(d) Opening to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than sixteen-(16) mesh to the inch.

Sec. 9-68-9-70. Reserved.**ARTICLE VII. CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES****Sec 9-71. Floors.**

(a) Floor construction. Floors and floor coverings of all food preparation, food service, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as stainless steel, terrazzo, ceramic or quarry tile, or the equivalent as approved by the regulatory authority and shall be maintained in good repair. Sealed concrete and VCT (vinyl composite tile) are not acceptable as a floor surface for areas mentioned above.

(b) Durable grades of sheet vinyl may be used in dry storage areas. Sealed concrete may be used in walk-in freezer units maintaining a temperature of zero (0) degrees Fahrenheit or below. Nothing in this rule shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(c) Floor carpeting. A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to grease, moisture, flushing, or spray cleaning

methods. If carpeting is installed as a floor covering in areas other than those specified above, it shall be: securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and install tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and the edges of the carpet secured by metal stripping or some other means.

(d) Prohibited floor covering. The use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited.

(e) Floor drains. Properly installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains are required in all restrooms. Such floor drains shall be constructed of stainless steel, terrazzo, ceramic or quarry tile or similar material and shall be graded to drain.

(f) Mats and duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

(g) Floor junctures. In all new or extensively remodeled establishments utilizing stainless steel, terrazzo, ceramic or quarry tile or similar materials, and where water flush cleaning methods are used, the junctures between walls and floors shall be of the same material.

(h) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

Sec 9-72. Walls and ceilings.

(a) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be clean and maintained in good repair.

(b) Construction. The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment-washing and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable such as FRP (fiberglass reinforced paneling), stainless steel ceramic, quarry or terrazzo tile or equivalent approved by the regulatory authority.

(c) Exposed construction. Studs, joists, and rafters shall not be exposed in those areas listed in subsection (b) of this section. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

(d) Utility line installation. Exposed utility service lines and pipes shall be installed in away that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and

pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in subsection (b) of section 9-72 of this rule.

(e) Attachments. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to the walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(f) Covering material installation. Wall and ceiling materials shall be attached and sealed so as to be easily cleanable.

Sec 9-73. Cleaning physical facilities.

(a) General. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Cleanings of floors and walls, except emergency cleaning of floors, shall be done during periods when least amount of food is exposed, such as after closing or between meals. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust arresting sweep compounds with brooms.

(b) Utility facility. In new or extensively remodeled establishments at least one (1) utility sink or curbed cleaning facility with a floor drain shall be installed and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil-washing or equipment-washing or food preparation sinks for this purpose is prohibited.

Sec 9-74. Lighting.

(a) General. At least fifty (50) foot candles of light shall be provided to all working surfaces and at least thirty (30) foot candles of light shall be provided to all other surfaces and equipment in food preparation, utensil-washing, and handwashing areas, and in toilet rooms. At least twenty (20) foot-candles of light at a distance of thirty (30) inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.

(b) All light fixtures must be maintained clean, operational, and in good repair.

(c) Protective shielding.

(1) Shielding to protect against broken glass falling onto food shall be provided and maintained in good repair for all artificial lighting fixtures located over, by, or within food storage, food preparation, food service, and food display facilities, and facilities where utensils and equipment are cleaned and stored.

(2) Infra-red or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. Teflon coated safety bulbs are allowed.

Sec. 9-75. Ventilation.

(a) General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law, kept clean, maintained in good repair, vented to the outside, and shall not create an unsightly, harmful or unlawful discharge.

(b) Special ventilation.

- (1) Intake and exhaust air-ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.
- (2) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.
- (3) Ventilation hoods are required for any cooking, grilling, baking, and frying areas or as required by the latest edition of the International Mechanical Code.

Sec. 9-76. Dressing rooms and locker room areas.

(a) Dressing rooms and areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

(b) Locker area. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

(c) Personal items. Personal items shall not be stored in food storage, food preparation or food service areas.

Sec. 9-77. Poisonous or toxic materials.

(a) Materials permitted. Only those poisonous or toxic materials necessary for the maintenance of the establishment, cleaning or sanitizing of equipment and utensils, and the control of insects and rodents shall be present in food establishment.

(b) Labeling of materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

(c) Storage of materials.

(1) Poisonous or toxic materials consist of the following three (3) categories:

(a) Insecticides and rodenticides;

(b) Detergents, sanitizers, and related cleaning or drying agents;

(c) Caustics, acids, polishes, and other chemicals.

(2) Each of these categories shall be stored and located to be physically separated from each other. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils, or single-service articles, except that this requirement does not prohibit the convenient availability of detergent or sanitizers at utensil or dishwashing stations.

(d) Use of Materials.

(1) Bactericides, cleaning compounds or other compounds intended for use on food contact surfaces, shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.

(2) Poisonous or toxic material shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

(e) Personal medications.

(1) Only those medications that are necessary for the health of employees shall be allowed in the food establishment. This section does not apply to medicines that are stored or displayed for retail sale.

(2) Medicines that are in a food establishment for the employee's use shall be labeled and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(3) Refrigerated Medicines, Storage. Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be stored in a package or container and kept inside a covered, leak proof container that is identified for the storage of medicines; and located so that they are inaccessible to children.

(f) First aid supplies. First aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

Sec. 9-78. Premises.

(a) General.

- (1) Food establishments and all parts of the property used in connection with operations of the establishment shall be kept free of litter.
- (2) The walking and driving surfaces of all exterior areas of food establishments shall be surfaced with concrete or asphalt or with gravel or similar materials and minimize dust. These surfaces shall be graded to prevent pooling and kept free of litter.
- (3) Only articles necessary for the operation and maintenance of the food establishment shall be stored on the premises.
- (4) The traffic of unnecessary or unauthorized persons through the food preparation and utensil-washing areas is prohibited.
- (5) Signs depicting the Heimlich maneuver for dislodging an obstruction from a choking person shall be in all food establishments and shall be in a place conspicuous to employees or customers. The sign must meet all requirements of TFER §229.173(c)(1-6).

(b) Living areas. Living or sleeping quarters within a food establishment is prohibited.

(c) Laundry facilities.

- (1) Laundry facilities in a food establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric, gas, or steam dryer shall be provided and used.
- (2) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(d) Linens and clothes storage.

- (1) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.
- (2) Soiled clothes and linens shall be stored outside the food preparation area in nonabsorbent containers or washable laundry bags until removed for laundering.

(e) Cleaning equipment storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

(f) Animals.

(1) Except as specified in subparagraphs two (2) of this paragraph, live animals may not be allowed on the premises of a food establishment and in areas immediately adjacent under the control of the food establishment.

(2) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:

(a) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems. Livefish tanks are subject to removal by regulatory authority if not maintained in clean sanitizing condition.

(b) patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(c) in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, or service animals in training when accompanied by an approved trainer, if a health or safety hazard will not result from the presence or activities of the service animal;

(3) Pets are allowed in the common dining areas of institutional care facilities if:

(a) effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(b) condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(c) dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

Sec. 9-79-9-80. Reserved.

ARTICLE VIII. MOBILE FOOD UNITS

Sec. 9-81. Mobile food service.

(a) General. Mobile food units shall comply with the requirements of this chapter, except as otherwise provided in section 9-81(b). The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the food establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous foods/time and temperature control for safety (PHF/TCS), and when no health hazard will result, may waive or modify requirements of this chapter relating to physical facilities, except those requirements in section 9-81(d-e), section 9-82(a) and section 9-83(a-b) of this article.

- (1) The regulatory authority may require a mobile food establishment operator to demonstrate that the unit is “readily moveable”. The regulatory authority may prohibit alteration, removal, attachments, placement or change in, under, or upon the mobile food establishment that would prevent or otherwise reduce ready mobility. A regulatory authority may require a mobile food establishment to come, on an annual basis, to a location designated by the regulatory authority as proof that the mobile food establishment is readily moveable. A regulatory authority may require that mobile food establishments that violate this section go for re-inspection to a location designated by the regulatory authority.

(b) Restricted Operations. Mobile food units that serve only food that is prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of those sections, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this chapter pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary.

- (1) Pushcarts shall be limited to pre-packaged ice cream or pre-packaged non-potentially hazardous food as approved by the regulatory authority.
- (2) Food prepared in a private home may not be used or offered for human consumption from a mobile unit. Food must comply with all labeling laws.
- (3) Food temperatures. All food temperature requirements shall be met as contained in this chapter.

(c) Single service articles. Mobile food units shall provide only single-service articles for use by the consumer.

(d) Mobile water system materials, design, and operation. A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient

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capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing and hand washing, in accordance with the requirements of this chapter. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped when not being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this chapter.

(e) Waste retention. If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is at least fifteen (15) percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All liquid waste shall be disposed of in compliance with all existing laws to include chapter 21 of this code. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of different size and type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

- (1) Mobile food establishment water and wastewater exemption. A mobile food vendor that sells only prepackaged food is exempt from these rules pertaining to water and wastewater.
- (2) Vehicle identification. Mobile food units shall identify the vehicle with characters three inches high on both exterior sides of the unit stating the name of the company.
- (3) Registration. Mobile food units must comply with all state and local laws pertaining to registration of the vehicle.

(f) Existing refrigeration equipment. Existing refrigeration equipment must maintain food at the required temperatures as specified in this chapter.

Sec. 9-82. Commissary; base of operations.

(a) Mobile food units shall operate from a commissary or other fixed food establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations. A current letter from the commissary is required at the time of permit application and at each renewal of the permit.

(b) The commissary or other fixed food establishment, used as a base of operation for mobile food units, shall be constructed and operated in compliance with the requirements of this chapter or by the approval of the regulatory authority.

Sec. 9-83. Servicing area and operations.

- (a) Serving area.
 - (1) A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or where mobile food units do not contain waste retention tanks.
 - (2) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt, and shall be maintained in good repair, kept clean, and be graded to drain.
 - (3) The construction of the walls and ceilings of the servicing area is exempt from the provisions of Article VII, section 9-72 of this chapter (relating to construction and maintenance of physical facilities).
- (b) Serving operations.
 - (1) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.
 - (2) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with Article VI of this chapter (relating to sanitary facilities and controls).

Sec. 9-84. Catering Services.

- (a) A person shall not engage in a catering service unless the service is affiliated with a food establishment operating from a fixed facility that is permitted by the regulatory authority.
- (b) A catering service shall comply with the requirements of this chapter as the regulatory authority determines is necessary to protect public health and safety.

Secs. 9-85-9-90. Reserved.

ARTICLE IX. TEMPORARY FOOD SERVICE

Sec. 9-91. General.

- (a) A temporary or seasonal food establishment shall comply with the requirements of this chapter except as otherwise provided in this rule. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment, may prohibit the sale of some or all potentially hazardous foods/time and temperature control for safety (PHF/TCS), and when no health hazard will result, may waive or modify requirements of this chapter.
- (1) The operation of a temporary food establishment may not exceed fourteen (14) consecutive days per event and must be in conjunction with a special event or celebration as approved by the regulatory authority. A limit of eight (8) temporary permits per calendar year per vendor, group or organization will be enforced. Vendors with multiple booths at a single event will be recorded as participating in one (1) event towards the eight (8) maximum allowed per calendar year.
- (2) The operation of a seasonal food establishment is greater than fourteen (14) days but less than forty-five (45) consecutive days per event per vendor. Seasonal permits are limited to three (3) per calendar year per vendor per location. Fees for all permits are included in a separate fees ordinance as approved by Council.
- (b) If the temporary food establishment is outdoors, every food preparation and serving area must have a fire resistant overhead covering that protects the interior of the facility from the weather. Floors must be constructed of concrete, asphalt, tight wood or other similar easily cleanable material, and kept in good repair.
- (c) All food shall be prepared in a permitted food establishment or on the premises. No food or beverage stored or prepared in a private home may be offered for sale, sold or given away from a temporary or seasonal food facility.
- (d) All food and beverages shall be protected at all times from unnecessary handling and shall be stored, displayed and served so as to be protected from contamination.
- (e) The regulatory authority may establish additional structural or operational requirements as necessary to ensure that food is of safe and sanitary quality.

Sec. 9-92. Restricted operations.

- (a) These provisions are applicable whenever a temporary food establishment is permitted, under the provisions of section 9-91 of this article, to operate without complying with all the requirements of this rule.
- (b) Potentially hazardous foods/time and temperature control for safety (PHF/TCS).
Temporary Permits Only.

- (1) Only those PHF/TCS requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served unless otherwise approved by the regulatory authority. PHF/TCS will be limited to three (3) types per food booth. PHF/TCS include meats, eggs, dairy products, rice, beans, potatoes, chili, etc. The preparation or service of other PHF/TCS, including pastries filled with cream or synthetic cream, custards, and similar products, is prohibited. This prohibition does not apply, however, to any PHF/TCS that has been prepared or packaged under conditions meeting the requirements of this chapter, is obtained in individual servings, is stored at a temperature of forty (40) degrees Fahrenheit (five (5) degrees Celsius) or below, or at a temperature of one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) or above, in facilities that meet the requirements of this chapter, prepared the same day as the special event and is served directly in the unopened container in which it was packaged.
- (2) Raw seafood and poultry are only allowed under two conditions:
 - (a) product must be pre-cut, and frozen, to go from the freezer to the fryer or;
 - (b) the product must be pre-cooked.
- (3) PHF/TCS allowed to be cooked on-site from a raw state are those which are fast cooking such as:
 - (a) pre-formed hamburger patties
 - (b) beef/chicken fajitas
 - (c) pre-cooked sausage and hot dogs
- (4) Outdoor grilling during temporary events must adhere to the City of Plano Fire Department Ordinance 2008-5-23 and the policies and procedures outlined in the "Temporary Events Procedures" document and is subject to approval by the regulatory authority. Outdoor grilling for personal or residential use is permitted and outside the scope of this regulation.
- (5) Food Temperatures. All food temperature requirements shall be met as contained in this chapter.
 - (c) Seasonal Permits. Seasonal permittees may serve non-potentially hazardous food products to include but are not limited to snowcones, packaged chips, candy, pickles and canned or bottled drinks.
 - (d) Ice. Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of TFER §164(c)(6). The ice shall be obtained only in chipped, crushed, or cubed form and in a single-use safe plastic or wet-strength paper bags filled and

sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

(e) Equipment.

(1) Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(2) Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for such equipment shall be provided.

(f) Single-service articles. All temporary food establishments shall provide only single-service articles for use by the consumer.

(g) Water. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment and for handwashing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided.

(h) Wet storage. The storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

(i) Waste. All sewage, including liquid waste, shall be disposed of according to law. All refuse shall be disposed of in a manner approved by the regulatory authority.

(j) Handwashing. A convenient handwashing facility shall be available for employee handwashing. This facility shall consist of an insulated container with a spigot that can be turned on to allow potable, clean, warm water to flow for hand washing; a wastewater container; soap; disposable towels; and waste receptacle.

(k) Floors. Floors shall be constructed of concrete, asphalt, tight wood or other similar cleanable material, and kept in good repair.

(l) Walls and ceiling of food preparation areas.

(1) Ceilings shall be made of wood, canvas, or other materials that protect the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects and rodents. Doors of food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors or windows shall be at least 16 mesh to 1 inch (16 mesh to 25.4 millimeters); or other effective means.

Secs. 9-93, 9-94. Reserved.

ARTICLE X. BED AND BREAKFAST EXTENDED ESTABLISHMENTS**Section 9-95. Requirements.**

(a) General. Bed and breakfast extended establishments shall comply with the minimum requirements of this section.

(b) Food supplies. Food shall be obtained from approved sources, shall be in sound condition, and be safe for human consumption.

(c) Food preparation and protection.

(1) Food shall be prepared and protected in accordance with these rules.

(2) All food temperature and date marking requirements shall be met in accordance with these rules.

(d) Cleaning and sanitizing.

(1) Manual. A three compartment sink shall be used if washing, rinsing and sanitizing of utensils and equipment is done manually; or a two compartment sink may be utilized if single service tableware is provided, and if an approved detergent sanitizer is used.

(2) Mechanical. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils either by chemical or mechanical sanitization.

(e) Personal hygiene. Employees shall conform to good hygienic practices as required in these rules.

(f) Employee restrooms. A restroom shall be available for use by employees.

(g) Equipment and utensil design and construction. All equipment and utensils shall be constructed of safe materials and maintained in good repair.

(h) Handsinks.

(1) Location. An accessible and conveniently located handsink shall be provided in or immediately adjacent to food preparation areas.

(2) Intended use. Handsink(s) shall be used for no other purpose other than handwashing.

(i) Food contact surfaces. All food contact surfaces, counters, or work surfaces in the establishment shall be smooth, non-absorbent and easily cleanable.

(j) Insect proof/rodent proof.

(1) Food service preparation and storage areas shall be constructed and maintained to prevent the entry of pests and other vermin.

(2) Pesticides and rodenticides shall be applied according to law.

(k) Equipment shall be provided to maintain potentially hazardous food/time and temperature control for safety (PHF/TCS) at the temperatures required by these rules.

(l) Garbage receptacles. Impervious receptacles shall be provided for storage of garbage and refuse.

(m) Sewage. Sewage shall be disposed through an approved facility that is:

(1) a public sewage treatment plant; or

(2) an individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

(n) Water supply. Hot and cold water under pressure shall be provided and shall be from an approved source.

Sec. 9-96-9-100. Reserved.

ARTICLE XI. INSPECTION AND ENFORCEMENT

Sec. 9-101. Authority.

(a) The provisions of this chapter shall be enforced by the director of health and his/her representatives. The director of health and his/her representatives have the authority to issue citations to persons violating the provisions of this chapter. It shall be unlawful for any person to interfere with a health specialist, director of health or designee in the performance of his/her duties as prescribed in this chapter.

(1) Variance. A variance may be granted by the regulatory authority if the applicant is in compliance with TFER §229.171(c-d).

Sec. 9-102. Access.

Agents of the regulatory authority, after proper identification, shall be permitted to enter any food establishment at any reasonable time, for the purpose of making inspections to determine compliance with this chapter. The agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.

Sec. 9-103. Report of inspections.

(a) Whenever an inspection is made of a food establishment, the findings shall be recorded on the inspection report form provided by the regulatory authority. The original of the inspection report form shall be furnished to the owner or person-in-charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of this chapter. The completed form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(b) Additional requirements, preventing health hazards, provision for conditions not addressed.

- (1) If necessary to protect against public health hazards or nuisances, the regulatory authority may impose specific requirements in addition to the requirements contained in these rules that are authorized by law.
- (2) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the regulatory authority's file for the food establishment.

Sec. 9-104. Correction of violations.

The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (1) A food establishment shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.
- (2) All violation of critical items shall be corrected within a time specified by the regulatory authority, but in any event, not to exceed ten days.
- (3) All non-critical items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection, but not to exceed 90 days.
- (4) When the establishment receives a failing score; the establishment shall cease operations immediately. The establishment shall remain closed until re-opened by the regulatory authority.

- (5) In the case of temporary food establishments, all violations shall be corrected immediately.

Sec. 9-105. Examination and condemnation of food.

(a) The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of this chapter.

(b) The regulatory authority shall, upon written notice to the owner or person-in-charge specifying the reason, condemn, denature or destroy or place under detention any food, which it has probable cause to believe, is unapproved, adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the regulatory authority, and neither food nor the containers shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without the permission of the regulatory authority.

(c) After the owner or person-in-charge has been afforded a hearing as provided for in section 9-107(g) of this article and on the basis of evidence produced at such hearing, or on the basis of examination in the event a written request is not received within 10 days the regulatory authority may cancel the hold order or may oversee the disposal of the food placed under the hold order or direct the owner or person-in-charge to bring it into compliance with the provisions of this chapter.

Sec. 9-106. Procedure when infection is suspected.

(a) When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food employee, it may secure a morbidity history of the food employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- (1) The immediate exclusion of the food employee from all food establishments;
- (2) The immediate closing of the food establishment by summarily suspending a permit to operate in accordance with law.
- (3) Restriction of the food employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) Adequate medical and laboratory examination of the food employee, of other employees and of his and their body discharges;

(b) Exclusions and Restrictions. The person in charge shall:

- (1) Exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent such as: *Salmonella typhi*, *Shigella* spp., shiga toxin-producing *Escherichia coli*, Norovirus, or Hepatitis A virus.

- (2) Restrict a food employee from working with exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles, in a food establishment if the food employee is suffering from a symptom of diarrhea, fever, vomiting, jaundice, sore throat with fever, not experiencing a symptom of acute gastroenteritis specified but has a stool that yields a specimen culture that is positive for Norovirus, Salmonella typhi, Shigella spp., or shiga toxin-producing Escherichia coli; or has a lesion containing pus such as a boil or infected wound that is open or draining and is not covered with an impermeable cover.
- (3) If the population served is a highly susceptible population, exclusion of food employees must adhere to all laws in accordance with TFER §229.163(d)(2)(D)(i-iii) and FDA Food Code 2-201.12(c).
- (4) For a food employee who is jaundiced:
 - (a) If the onset of jaundice occurred within the last seven (7) calendar days, exclude the food employee from the food establishment or
 - (b) If the onset of jaundice occurred more than seven (7) calendar days before, food employees must be excluded from food establishments serving highly susceptible populations or restrict food employees activities specified under (b)(2) of this section if the food employee does not serve highly susceptible populations.

Sec. 9-107. Permit.

(a) Required; transferability. It shall be unlawful for any person to operate a food service or food-processing establishment within the City of Plano or its police jurisdiction, who does not possess a valid permit issued by the regulatory authority. Only a person who complies with the requirements of this chapter shall be entitled to receive and retain such a permit. Permits shall not be transferable from one (1) person to another person or place. A valid permit shall be posted in every establishment. Permits for temporary establishments shall be issued for a period of time not to exceed fourteen (14) calendar days. Seasonal permits may be issued for a period not to exceed forty-five (45) calendar days.

(b) Review of plans. Whenever a food service or food processing establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food service operation, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this ordinance. No food service or food processing establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority. A preoperational inspection will be conducted in each food establishment or food processing establishment prior

to the start of operations to determine compliance with approved plans and with the requirements of this chapter.

- (1) The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership; or the facilities and equipment are replaced in the normal course of operation.

(c) Application. Any person desiring to operate a food service or food processing establishment shall make written application and pay the appropriate fee for a permit provided by the regulatory authority. Such application shall include the applicant's full name, business address and whether such applicant is an individual, firm, or corporation, and if a partnership, the name of the partners, together with their addresses shall be included; the location and type of the proposed establishment; and the signature of the applicant or applicants.

(1) Temporary Permits.

- (a) Application and fees must be submitted at least two (2) working days prior to the event, or fourteen (14) working days prior to the event if five (5) or more booths are permitted for the same vendor. Applications received after these deadlines will be subject to an administrative fee.
- (b) Large events where vendors have more than one booth will be charged an initial fee for the first booth and subsequent fees for each additional booth. Participation in large events with multiple booths will count as only one (1) permit towards the annual limit of eight (8) temporary permits for the same vendor.
- (c) Fees are non-refundable and applications will not be accepted after 4 p.m. on Friday immediately preceding the event.
- (d) Establishments with a valid City of Plano Health Permit must apply for a temporary permit when participating in an event. An administrative fee will apply.
- (e) A permit waiver may be obtained if proof of charitable, non-profitable status, i.e. church, school district, charity, government agency, etc. is submitted with application; however, a processing fee will be charged.
- (f) Out of town vendors must submit a copy of the current local permit and a copy of the most recent health inspection report conducted by their local regulatory authority.
- (g) Food manufacturers must submit a copy of the state manufacturer' license with their application.

(2) Seasonal Permits.

- (a) Seasonal permit applications must be submitted at least two (2) working days prior to the start date. Applications submitted less than two working days prior to the start date will be subject to an administrative fee.
- (b) Applications will not be accepted after 4 p.m. on Friday immediately preceding the event.
- (c) Vendors with seasonal permits may not operate at the same location for more than forty-five (45) days during the same calendar year.

(3) Annual Permits.

- (a) Fees. Food establishment annual permit fees shall be reviewed, set, and adopted by ordinance of the city council of the city on a regular basis.
- (b) Inspection; issuance of permit. Upon receipt of such an application, the regulatory authority shall make an inspection of the establishment to determine compliance with the provisions of the article. When inspection reveals that the applicable requirements of this article have been met, a permit shall be issued to the applicant by the regulatory authority.
- (c) Suspension of permits. Permits may be suspended temporarily by the regulatory authority for failure of the holder to comply with the requirements of this article.

Whenever a permit holder or operator has failed to comply with any notice issue under the provisions of this division, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the permit holder within five (5) days.

Notwithstanding the other provisions of this chapter, whenever the regulatory authority finds unsanitary or other conditions in the operation of the establishment which in his judgement constitutes a substantial hazard to the public health, he may without warning, notice or hearing, issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended, and all food operations are immediately to be suspended. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the regulatory authority, shall be afforded a hearing as soon as possible.

- (d) Reinstatement of suspended permits. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of the reinstatement of the permit. Within ten (10) days following receipt of a written request,

including a statement signed by the applicant that in his opinion the condition causing the suspension of the permit has been corrected, the regulatory authority shall make a reinspection. If the applicant is complying with the requirements of this article, the permit shall be reinstated.

- (e) Revocation. For serious or repeated violations of any of the requirements of this article, or for interference with the regulatory authority in the performance of his duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the regulatory authority. Prior to such action, the regulatory authority shall notify the permit holder in writing, stating the reasons for which the permit shall be permanently revoked at the end of five (5) days following service of this notice, unless a request for a hearing is filed with the regulatory authority, by the permit holder within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- (f) Penalty. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in section 1-4(a) of the Code of Ordinances of the City of Plano. Additionally, the city shall be entitled to pursue other civil and criminal remedies to which it is entitled under law.
- (g) Hearings. The hearing provided for in this section shall be conducted by a permit appeals committee at a time and place designated by the regulatory authority. The permit holder shall be notified of such hearing no less than five (5) days prior to the hearing date. The permit appeals committee shall be appointed by the regulatory authority and be comprised of the city health specialist, the city chief building official and one (1) other member engaged in food establishment work, i.e. restaurant owner, cafeteria manager, grocery store operator, etc. The regulatory authority shall maintain a list of such persons, from which members to the permit appeals committee, may be appointed on a rotating basis. Based upon the record of such hearing, the regulatory authority shall, upon the affirmative vote of the majority, make a finding to sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the regulatory authority within five (5) days after the date of the hearing.”

Section III. All provisions of the 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 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 IV. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section V. The repeal of any Ordinance or part of Ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue

of such Ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any Ordinances at the time of passage of this Ordinance.

Section VI. Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and, upon conviction in the Municipal Court, shall be subject to a fine not to exceed **TWO THOUSAND AND 00/100 DOLLARS (\$2,000.00)** for each offense. Each and every violation shall be deemed to constitute a separate offense.

Section VII. This Ordinance shall become effective from and after its passage and publication as required by law.

DULY PASSED AND APPROVED this the _____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

bb-139



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Development Business Center			Initials	Date
Department Head	Frank F. Turner	Executive Director	<i>[Signature]</i>		<i>11/4/08</i>
Dept Signature:		City Manager	<i>[Signature]</i>		<i>11/10/08</i>
Agenda Coordinator (include phone #): Sherry Jackson - Ext. 7122					

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS AMENDING SECTION 19-1(A) OF CHAPTER 19, STREETS AND SIDEWALKS, OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, PROVIDING AN EXCEPTION TO THE PROHIBITION OF THE OBSTRUCTION OF STREETS, ALLEYS, SIDEWALKS, PARKWAY AREAS, OR PUBLIC GROUNDS; PROVIDING A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(s):

COMMENTS:

SUMMARY OF ITEM

ORDINANCE PROVIDES EXCEPTION TO PROHIBITION OF OBSTRUCTION OF STREETS, ALLEYS, SIDEWALKS, PARKWAY AREAS AND/OR PUBLIC GROUNDS.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS AMENDING SECTION 19-1(A) OF CHAPTER 19, STREETS AND SIDEWALKS, OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, PROVIDING AN EXCEPTION TO THE PROHIBITION OF THE OBSTRUCTION OF STREETS, ALLEYS, SIDEWALKS, PARKWAY AREAS, OR PUBLIC GROUNDS; PROVIDING A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, Section 19-1(a) of Chapter 19 of the Code of Ordinances of the City of Plano, Texas, prohibits the obstruction of streets, alleys, sidewalks, parkway areas, or public grounds; and

WHEREAS, the City Council deems it necessary to amend Section 19-1(a) of the Code of Ordinances to provide an exception to the prohibition of the obstruction of streets, alleys, sidewalks, parkway areas, or public grounds; and

WHEREAS, such exceptions will be enumerated in the newly created Section 19-2 of the Code of Ordinances.

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

Section I. Section 19-1(a) of Chapter 19 Streets and Sidewalks of the Code of Ordinances of the City of Plano is hereby amended to read in its entirety as follows:

“(a). It shall be unlawful for any person to obstruct or encumber, entirely or in part, any portion of any public street, alley, sidewalk, parkway area, or public property in the city with any item, whether temporary or permanent, including, but not limited to, lumber, boxes, firewood, posts, fences, and vehicles, except as provided in Section 19-2 below and unless expressly authorized by city ordinance. Exempt from this prohibition are trees, shrubs, landscaping and mailboxes located in the parkway area that are maintained in compliance with other city ordinances, rules and regulations. The parkway area is that area lying between the street right-of-way line of any public street and/or alley, and the curb line of the street and/or alley; or if there is no curb line, the paved portion of the street and/or alley.”

Section II. All provisions of the 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 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 III. 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 provision of any Ordinances at the time of passage of this Ordinance.

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

Section V. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal <i>PM</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Development Business Center		Initials	Date
Department Head	Frank F. Turner	Executive Director	<i>[Signature]</i>	11/9/08
Dept Signature:		City Manager	<i>[Signature]</i>	11/10/08
Agenda Coordinator (include phone #): Sherry Jackson - Ext. 7122				
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS AMENDING ARTICLE 1, CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, TEXAS ENTITLED "STREETS AND SIDEWALKS", ADOPTING AND ESTABLISHING SECTION 19.2 ENTITLED "VALET PARKING" TO PROVIDE FOR LICENSING AND REGULATION OF VALET PARKING OPERATIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
ORDINANCE ADOPTS AND ESTABLISHES A NEW SECTION 19.2 "VALET PARKING", PROVIDING LICENSING AND REGULATION OF OPERATIONS.				
List of Supporting Documents: SAMPLE VP LICENSE APPLICATION & AGREEMENT		Other Departments, Boards, Commissions or Agencies		



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Fax (972) 941-0099
www.plano.gov

MEMORANDUM

DATE: November 10, 2008
TO: Thomas H. Muehlenbeck, City Manager
FROM: Frank F. Turner, Executive Director 
SUBJECT: Valet Parking

Staff has prepared an ordinance for City Council's consideration that would regulate valet parking operations that use public right-of-way and parking. There are only two (2) areas where valet parking operations are likely to fall under the proposed regulations – downtown Plano and The Shops at Legacy. There is general agreement that valet parking benefits the public and businesses in these areas. The purpose of the regulations is to ensure valet parking does not adversely impact traffic flow or pedestrian movement.

With input from property owners and businesses in both areas, staff has prepared a draft ordinance regulating valet parking operations that use right-of-way and parking. The ordinance would not apply to valet parking operations located entirely on private property, such as a shopping center, mall or country club.

In general, the proposed regulations are intended to accomplish the following:

- Require a license agreement for the use of public right-of-way and parking for valet operations.
- Require a plan specifying the location and operation on the valet stand and remote parking.
- Provide standards for the location and size of a valet stand and the number of spaces used for dropping off and picking up of vehicles.
- Provide that any valet operation must be non-exclusive and provide service to any person irrespective of their business destination or purpose.
- Provide that valet operators may not charge a direct fee from the public for the service, but may accept gratuities.
- Provide that the valet operators may not use on-street public parking for parking of vehicles.
- Provide for the periodic renewal of license agreements, while retaining the city's ability to temporarily or permanently terminate valet operations.

The proposed ordinance limits the issuance of licenses to businesses with the consent of the property owner. Notice of the application for a valet license must be posted on the property and sent to the owners of property within 100 feet of the business where the valet stand will be

located. Applications meeting the terms of the ordinance may be approved by staff; however, the action of staff may be appealed to the City Council for further consideration. Termination of license by staff may be also appealed to Council.

The draft ordinance does not license or permit valet service companies. It is the responsibility of the license holder to provide or secure the valet service and to manage its operation as specified by the license agreement. Presumably the license holder will pay a fee to secure the services of an independent valet service. The draft does not regulate this contractual relationship or address multiple businesses sharing the cost of providing valet parking.

It is important to note that some of the license agreement requirements conflict with current practices for valet parking at Legacy Town Center such as charging for valet parking, restriction on location from intersections/traffic devices, and use of on-street parking spaces for vehicles parked by the valet. However, we have not received comments opposing the proposed regulations. Furthermore, it will be difficult to criminally enforce the ordinance against business owners as they most likely will not actually operate the valet operation. However, we will have the remedy of revoking the license if they violate any provisions of the ordinance or agreement.

If the Council adopts the proposed ordinance, existing valet operations will have 120 days to comply.

**SAMPLE
VALET PARKING
LICENSE APPLICATION**

Valet Parking License Application

I. General Information:

BUSINESS NAME: _____

BUSINESS ADDRESS: _____

BUSINESS PHONE: _____

BUSINESS CONTACT: _____

PROJECTED NUMBER OF VALET STANDS ON SITE: _____

II. VALET SITE MAP: Please provide a detailed description of the site. Include street name(s), amount of curb in feet, block number, stand locations, off street parking locations for vehicles in custody of valet, days and hours of operation: Attach detailed scaled site map on a separate sheet.

III. APPLICANT SIGNATURE: _____

IV. PROPERTY OWNER SIGNATURE (this must be the owner of the business location if different from the applicant and not the lessee.)

PROPERTY OWNER SIGNATURE: _____

V. PROOF OF WRITTEN NOTICE TO SURROUNDING PROPERTY OWNERS:

A signed, sworn statement by the applicant that they gave written notice to all property owners and businesses within 100 feet of the proposed valet operation must be submitted to the City.

VI. PROOF OF NOTICE BY SIGN: A signed, sworn statement by the applicant that they posted notice by sign of the proposed valet operation at the host business location in compliance with the requirements of Section 19.2 (2)(d) of the City of Plano Code of Ordinances.

Submit completed application with the \$25 non-refundable application processing fee (check payable to the City of Plano) to:

Traffic Engineering Manager, P.O. Box 860358, Plano, Texas 75086-0358.

Do not begin valet parking until an approved license agreement is received in conformity with the Valet Parking Ordinance.

**SAMPLE
VALET PARKING
LICENSE AGREEMENT**

VALET PARKING LICENSE AGREEMENT

STATE OF TEXAS

§

COUNTY OF COLLIN

§

§

KNOW ALL MEN BY THESE PRESENTS:

THIS LICENSE AGREEMENT is made and entered into by and between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter called Licensor and _____, hereinafter called Licensee. In consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, Licensor does hereby grant to Licensee, a revocable nonexclusive license to operate a valet parking service in the area of the public right-of way designated on the attached site map, attached as Exhibit "A", directly in front of the business, located at _____, Plano, Texas 750__.

This License is granted subject to the terms and conditions set out below:

1. License Term. The term of this License shall continue in force for a period of one (1) year from the date of execution of this Agreement.

2. Permitted Use. Licensee's use of the Premises is limited to valet parking service, applicable zoning regulations, applicable City ordinances and permits and all State and Federal laws and regulations. Licensee shall:

(a) allow only employees and independent contractors who hold a valid state driver's license, and who are covered by Licensee's insurance to operate any vehicle in connection with the valet parking service;

(b) require valet operators to provide service to any person irrespective of their business destination or purpose;

(c) operate the valet parking service in a manner that does not:

(i) use or occupy more of the public right-of-way than is shown on the attached site map, attached as Exhibit "A";

(ii) obstruct a pedestrian's use of a sidewalk;

(iii) obstruct a public street other than for loading and unloading passengers and in no event violate the provisions

of Chapter 12, Article V of the City of Plano Code of Ordinances; or

- (iv) injure, damage, or create a hazard to persons or property;
- (d) place valet parking services stand on public right-of-way only as indicated in Exhibit "A". A valet parking service stand shall:
 - (i) not occupy an area of the street and shall not occupy any area of the sidewalk exceeding four feet in width and four feet in depth;
 - (ii) not be affixed to the public right-of-way in any manner;
 - (iii) be easily moveable by one person; be removed from the public right-of-way when the valet parking service is not being operated; and identify the valet parking service only by name and logo for the sole purpose of identifying the valet parking service. The sign identification of the valet parking service shall not have dimensions greater than 24" X 24"; shall not be placed on more than two sides of the valet parking service stand.
- (e) not place or allow the placement of a freestanding sign advertising the valet parking service in the public right-of-way;
- (f) limit valet parking service to hours of operation as indicated in Exhibit "A";
- (g) only use authorized private property off-street parking location to park a vehicle accepted for valet parking service and shall not park the vehicle on public right-of-way or on city owned property unless expressly authorized by the city in writing to do so.
- (h) use no more than two on-street spaces for drop-off of vehicles for valet service.
- (i) only accept gratuities from valet customers for valet parking service. Licensee, its employees, agents, and/or independent contractors shall not charge a fee for valet parking service at any time.

3. LOCATION OF A VALET PARKING SERVICE.

- (a) Spaces and stands for a valet parking service may not:
- (1) be within eighteen feet of a crosswalk, intersection, traffic control device or stop sign;
 - (2) be within forty feet of another valet stand location or valet operation;
 - (3) be within ten feet of a fire hydrant, fire call box, police or other emergency facility;
 - (4) be within five feet of a driveway; or
 - (5) reduce the unobstructed space for the passage of pedestrians to less than four feet.

4. Nonexclusive License. This License is nonexclusive and is subject to (i) any existing utility, drainage, or communication facility located in, under, or upon the Premises; (ii) to any existing license, easement or other similar interest in the Premises granted by Licensor to any individual, corporation or other entity, public or private; and (iii) all other matters of record.

5. Superior Right. This License is subject and subordinate to the prior and continuing right of Licensor, its successors and assigns to use all of the public property for the public benefit. Licensor, for itself and other permitted users, reserves full rights, consistent with the rights herein granted to construct, reconstruct, locate, relocate, maintain and operate existing and additional facilities upon, across, over and beneath the Premises.

6. Revocable. This License is revocable and may be terminated by either party for any reason upon thirty (30) days written notice. The City of Plano may, at any time, unconditionally revoke a valet parking service license agreement. The City of Plano may temporarily suspend the operations of a valet parking service if the public right-of-way reserved by the valet parking service is needed for an emergency or temporary use, including, but not limited to, the construction, maintenance, or repair of a street or utility. The City of Plano may temporarily suspend the operations of a valet parking service for a city-sponsored special event. The City of Plano may, at its sole discretion, refund a part of the annual license fee, prorated according to the duration of the suspension, unless the conditions necessitating the suspension were caused by the valet parking service.

7. License Fee. Licensee shall pay Licensor the sum of **TWO HUNDRED AND FIFTY NO/100 DOLLARS (\$250.00)** per year. The first payment shall be due and payable within ten (10) days of Licensee executing this Agreement, and with all subsequent payments being due and payable on or before _____ of each succeeding year subject to the license agreement being renewed by City Council pursuant to the valet parking ordinance.

All annual license payments shall reference this License Agreement on the check and shall be paid to Licensor at the following address:

City of Plano, Texas
Attention: Transportation Engineering Manager
P. O. Box 860358
Plano, TX 75086-0358

Annual License payments unpaid for thirty (30) days after their due date shall bear interest at the rate of eighteen percent (18%) per annum.

8. Liability Insurance. During the license term Licensee shall maintain a policy of general liability insurance at Licensee's expense insuring Licensee against liability assumed by Licensee hereunder and insuring Licensee and Licensor against liability arising out of or in any way incident to ownership, use, occupancy or maintenance of the Premises made the subject of this License. Such policy or policies shall also provide that the policy is primary and shall apply without regard to other policies separately carried. The initial amount of required insurance shall be at least \$1,000,000.00 Combined Single Limit for Personal Injury, Bodily Injury including death and Property Damage and shall be subject to period increases based upon inflation, recommendation of professional insurance advisors, and other relevant factors. Licensee shall also maintain worker's compensation insurance in the amounts required by law. A copy of Licensee's Insurance Policy is attached hereto as Exhibit "C."

Licensor, its elected officials, officers, agents and employees must be named as an additional insured under all liability insurance policies required by this Agreement. All policies shall be endorsed to provide a waiver of subrogation in favor of the Licensor. All policies shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, nonrenewal, material change, or reduction in coverage until ten (10) days prior written notice has been given to the City Manager of the City of Plano." The Insurance carrier must be authorized to do business in the State of Texas and the City prefers that the insurance company be rated B VII or better by AM Best rating. A certificate of insurance reflecting the required coverage shall be presented to Licensor prior

to Licensor's execution of this Agreement. Subsequent certificates of insurance shall be provided to Licensor whenever Licensee renews, changes or amends their insurance policies or upon request by Licensor.

9. **Indemnity.** Licensee shall defend, indemnify, protect and hold Licensor, its officers, directors, parents, subsidiaries, affiliates, agents, servants and employees harmless from and against any and all claims, expenses (including but not limited to attorney's fees), demands, judgments and causes of action of every kind and character, including but not limited to claims in contract, tort, including negligence, or strict liability arising in favor of any person (including but not limited to employees, servants, agents, customers or invitees of Licensee) or entity for personal injury, bodily injury, including death, or damage to property whether or not arising from the sole or concurrent negligence or fault of Licensor or employees or independent contractors directly responsible to Licensor arising out of, incident to, or in anyway connected with Licensee's exercise of rights herein granted or obligations pursuant thereto, including but not limited to separate operations being performed on the property or any condition of the property.

10. **Compliance With Law.** Licensee shall, at its own cost and expense, comply with all applicable laws, including but not limited to existing zoning ordinances, governmental rules and regulations enacted or promulgated by any governmental authority and shall promptly execute and fulfill all orders and requirements imposed by such governmental authorities for the correction, prevention and abatement of nuisances in or upon or connected with said premises because of Licensee's use thereof. Licensee shall also comply with all laws and regulations pertaining to hazardous waste, hazardous materials and the environment.

11. **Condition Upon Termination.** Upon termination or revocation of this Agreement, Licensee shall immediately vacate the subject premises, removing all improvements and personal property so as to return the Premises to the condition in which they existed on the date this Agreement was executed. All personal property not removed at Licensor's request shall become Licensor's property at no cost or expense to Licensor.

12. **Assignment and Subletting.** This Agreement is personal to Licensee and may not be sold, transferred, assigned or sublet without prior written approval by an authorized representative of Licensor.

13. **Maintenance of Property.** Licensee, at its own cost and expense, shall at all times during the term of this Agreement keep clean and maintain or cause to be kept clean and maintained, the Premises and all property which may

be placed on the Premises by Licensee with Licensor's consent, in a good state of appearance and repair.

14. Notices. All written notices required under this License must be hand delivered or sent by certified mail, return receipt requested, and addressed to the proper party at the following addresses:

LICENSOR

City of Plano, Texas
Attention: City Manager
P. O. Box 860358
Plano, TX 75086-0358

with copy to:

City of Plano, Texas
Attention: City Attorney
P. O. Box 860358
Plano, TX 75086-0358

LICENSEE

Each party may change the address to which notices are to be sent by giving the other party written notice, within ten (10) days, of the new address in the manner provided by this paragraph.

15. Default. It is understood and agreed that, in case of default by Licensee in any of the terms and conditions herein stated and such default continues for a period of ten (10) calendar days after Licensor notifies Licensee of such default, Licensor may, at its election, terminate this Agreement and upon such termination all rights of the Licensee hereunder shall cease and come to an end. If such termination results from Licensee's default there shall be no prorated refund to Licensee of the unearned portion of the license fee for the then current term; however, in the event that termination of this Agreement is for the convenience of Licensor, Licensor shall refund to Licensee the prorated portion of the rental fee for the then current term.

16. Prior Agreements. This Agreement constitutes the sole and only Agreement of the parties to the License and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this License.

17. Texas Law. This Agreement shall be construed under, and in accordance with, the laws of the State of Texas. Venue shall lie in Collin County, Texas.

18. Amendment. No amendment, modification, or alteration of the terms of this License shall be binding unless it is in writing, dated subsequent to this License, and duly executed by the parties to this License.

EXECUTED as of the _____ day of _____, 20____.

LICENSOR

CITY OF PLANO, TEXAS
a home-rule municipal corporation

By: _____
Thomas H. Muehlenbeck
CITY MANAGER

LICENSEE

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 20____, by **Thomas H. Muehlenbeck**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal 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 _____, 20____, by _____, _____ of _____, a _____, on behalf of said _____.

Notary Public, State of Texas

EXHIBIT "A"
Site Map

EXHIBIT "B"
Property Description of Area of Valet Parking

EXHIBIT "C"
Insurance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS AMENDING ARTICLE 1, CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, TEXAS ENTITLED "STREETS AND SIDEWALKS", ADOPTING AND ESTABLISHING SECTION 19-2 ENTITLED "VALET PARKING" TO PROVIDE FOR LICENSING AND REGULATION OF VALET PARKING OPERATIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, valet parking benefits businesses and their patrons by helping alleviate perceived parking deficiencies, enhancing customer service, and encouraging maximum use of less accessible parking spaces; and

WHEREAS, unregulated valet parking may cause traffic flow stoppages, unanticipated traffic movements, parking violations and unauthorized use of public areas and private parking spaces; and

WHEREAS, adjacent property owners/businesses can best use and manage public right-of-way for valet service operations by minimizing impact to public areas and surrounding property, maximizing parking efficiency, improving safety and providing other public benefit; and

WHEREAS, existing valet parking operations which would be regulated by this ordinance shall have ninety days in which to apply for and obtain a valet parking license agreement or they shall be in violation of this ordinance.

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

Section I. Article 1, Chapter 19 of the Code of Ordinances of the City of Plano, Texas is amended by adding a new Section 19-2 to read as follows:

"Section 19-2. VALET PARKING.

(1) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

(a) *Director* means the director of the department designated by the city manager to enforce and administer this division, or the director's designated representative.

(b) *Host Business* means a real property owner or lessee of real property at which a business is operated that intends to provide valet parking service adjacent to its real property. A host business does not include a business whose primary purpose is providing valet service operations. A host business must be an owner or lessee of real property immediately adjacent to the valet parking service area designated on the site map provided with the license application.

(c) *Valet parking service* means accepting possession of a vehicle on the right-of-way for the purpose of parking the vehicle for the valet operator or retrieving a parked vehicle and returning it to the valet operator on the right-of-way, regardless of whether a fee is charged.

(2) Licenses.

(a) *License application.* An application for a valet parking license shall be made by a Host Business in writing on a form prescribed by the Director. A nonrefundable application fee of \$25 must accompany each application for a valet parking service license. All information requested from the valet operator in the application must be provided for an application to be considered complete. Only completed applications shall be processed by the Director.

(b) *Property Owner Permission Required.* An applicant that is a lessee of the Host Business property shall obtain written permission of the property owner to apply for a valet parking operation license.

(c) *Written Notice to Surrounding Property Owners Required.* A Host Business shall give written notice to all property owners and businesses within one hundred (100) feet of the host business property as a requirement for obtaining a license agreement from the city.

(d) *Notice By Sign.* An applicant for a license issued under this code for a location not previously licensed for valet parking service shall, not later than the 15th day before the date the application is filed, prominently post an outdoor sign at the host business location stating that valet parking service is intended to be operated on the premises, and the name and business address of the applicant. The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size.

(e) *License Agreement required.* A written license agreement between the city and the Host Business is required to operate a valet parking service and the Host Business and its employees, contractors and agents operating the valet service shall comply at all times with the terms contained in the agreement.

(f) *Approval.* No written license agreement shall be valid unless approved by the Director. The Director shall take into consideration the following factors: the valet site map provided by applicant and the extent to which the valet parking service might unreasonably disrupt the flow of pedestrian and vehicular traffic, including the location of the proposed valet parking service in relationship to traffic control devices, crosswalks, intersections and stop signs; the extent to which the valet parking service might unreasonably interfere with or impinge upon on-street parking; the proximity of traditional on-street and off-street parking to the business to be served by the valet parking service; the proximity and relationship to any other previously permitted valet parking service; and any other relevant evidence or information submitted by the applicant.

(g) *Fee.* A permit shall not be valid until the Host Business has paid a right-of-way use fee of \$250.00. The fee shall be paid annually and failure to pay the fee shall result in revocation of the license agreement.

(h) *Modification and revocation.* The Director may, at any time and for any reason, modify the terms of or revoke a valet parking service license issued pursuant to this division.

(i) *Temporary suspension.* The Director may temporarily suspend the operations of a valet parking service if the public right-of-way reserved by the valet parking service is needed for an emergency or temporary use, including, but not limited to city-sponsored special events and the construction, maintenance, or repair of a street or utility.

(j) *Expiration of license.* A valet parking service license expires one (1) year from the date of issuance, unless sooner terminated by the Director. A valet parking service license may be renewed by making application pursuant to this chapter at least thirty (30) days before expiration of the license.

(k) Temporary Licenses for Valet Parking Operations. Temporary licenses for valet parking service that are no longer than three consecutive days in duration and which will occur no more than five times in a consecutive 365 day time frame on the same property, may be approved or denied by the Director. A temporary valet parking license shall comply with all the standard requirements for licenses in this section with the exception that notice to surrounding property owners and by sign shall not be required, the right-of-way use fee for a temporary valet parking license fee shall be \$50.00, and the license shall expire as established by the Director in the license agreement based on the short term duration of the valet parking service.

(l) Appeals. Any person aggrieved by a decision of the Director under this provision may appeal the decision to City Council by filing a notice of written appeal to the Director within ten (10) days of the Director's decision.

(m) No rights established. Nothing in this article is intended to establish any legal real property interest in operating a valet parking service or any legal property interest in a valet parking license agreement.

(3) Violations.

(a) It shall be unlawful for any person, firm or corporation to provide or engage in valet parking service without a valid valet parking license agreement issued pursuant to this article. A valet parking license agreement that has expired or that has been suspended or revoked is not a valid license agreement.

(b) It shall be unlawful for a valet parking operator to stop or direct traffic.

(c) Existing valet parking operations which would be regulated by this ordinance shall have ninety days in which to apply for and obtain a valet parking license agreement or they shall be in violation of this ordinance.

(4) Enforcement.

(a) Any person, firm or corporation violating any of the provisions or terms of this section shall be deemed guilty of an offense and

upon conviction thereof shall be fined in accordance with the provisions of Section 1-4(b) of the city code of ordinances. Each and every day a violation continues shall constitute a separate offense.”

Section II. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance, and all other provisions of the 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 III. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

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

DULY PASSED AND APPROVED this ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/08		Reviewed by Legal	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Finance		Initials	Date
Department Head	Denise Tacke	Executive Director		
Dept Signature:		City Manager		
Agenda Coordinator (include phone #):		Katherine Crumbley x-7479		
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE PROJECT AND FINANCE PLAN FOR TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER TWO TO INCLUDE ADDITIONAL PROPERTY WITHIN THE ZONE; FUND THE PURCHASE AND IMPROVEMENT OF PROPERTY WITHIN THE ZONE; ORDAIN OTHER MATTERS RELATING THERETO; AND PROVIDE A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
THIS AMENDMENT ALLOWS FOR THE INCLUSION OF NEW PROPERTY INTO TIF #2 AND ADDITIONAL FUNDING FOR FACILIITIES, LAND ACQUISITION, PUBLIC INFRASTRUCTURE, DEMOLITION AND ABATEMENT, CHAPTER 380 GRANTS, MAINENANCE COSTS, AND ADMINISTRATIVE COSTS NECESSARY TO ADMINISTER THE PROGRAM AND ACTIVITIES OF TIF #2.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Ordinance				

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE PROJECT AND FINANCE PLAN FOR TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER TWO TO INCLUDE ADDITIONAL PROPERTY WITHIN THE ZONE; FUND THE PURCHASE AND IMPROVEMENT OF PROPERTY WITHIN THE ZONE; ORDAIN OTHER MATTERS RELATING THERETO; AND PROVIDE A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, on April 26, 1999, by Ordinance Number 99-4-23, the City Council of The City of Plano established Tax Increment Financing Reinvestment Zone Number Two (“TIF#2”); and

WHEREAS, on August 23, 1999, by Ordinance Number 99-8-28, the City Council of the City of Plano adopted the Project and Financial Plan (“Plan”) for TIF #2; and

WHEREAS, on February 23, 2004, by Ordinance Number 2004-2-15, the City Council of the City of Plano amended the Project and Financial Plan to increase the funding for the Cox Administration Building renovation program as well as reimbursement to the City and Plano Independent School District for renovation of the Courtyard Theater; and

WHEREAS, the City Council wishes to amend Exhibit “A” of Ordinance Number 99-4-23 so as to add additional property within TIF #2 as shown on the map attached hereto as Exhibit “A”; and

WHEREAS, the City Council wishes to further amend the TIF #2 Project and Financial Plan to include additional funding for various projects, land acquisition, public infrastructure improvements, demolition and abatement, Chapter 380 grants, maintenance costs, and administrative costs; and

WHEREAS, the Tax Increment Financing Zone #2 Board met on October 29, 2008, and unanimously approved a recommendation to the City Council to amend TIF #2 to add new property to the zone and to approve the proposed amendments to the Project and Financing Plan; and

WHEREAS, a public hearing was held to receive public comments on the addition of new property to TIF #2 and adoption of the proposed amendments to the Plan.

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

Section I. The City of Plano Ordinance No. 99-4-23 is hereby amended to include new property within Tax Increment Financing Reinvestment Zone Number Two as shown on Exhibit “A” attached hereto.

Section II. The City of Plano Ordinance No. 99-8-28 as previously amended is hereby further amended to revise the TIF #2 Project and Financing Plan as follows:

“REVISED PROGRAM

Facilities

- ***Courtyard Theater*** – The Plano Courtyard theater is an adaptive reuse project that restored and transformed a 1930s school gymnasium into a 325-seat, flexible format performing arts theater.
- ***Cox Building*** – The Cox Building project is an adaptive reuse project that restored and enlarged a 1920s school building into PISD administrative offices and adjunct support facilities to complement the adjacent Plano Courtyard Theater.
- ***PISD Service Center*** – The PISD service center is an adaptive reuse project that converted a former church into a multi-purpose administrative and support center for the PISD.
- ***Art Center*** – This allocation of funding was set aside in the initial TIF program to provide assistance to the development and enlargement of art facilities within the district.
- ***Other*** – This allocation is proposed for the development or enlargement of other public facilities within the district, including facilities serving non-profit organizations that provide a service or activity that would complement community reinvestment.

Land Acquisition

The category of funding provides for the acquisition of sites and other real property, including right-of-way and easements as may be required for redevelopment, open space, transportation, parking and the development of public facilities. Land acquisition may also include the purchase of public properties as may be required to facilitate reinvestment objectives.

Public Infrastructure

- ***Streets, Alleys and Bike/Pedestrian Ways*** – Includes projects to construct, reconstruct and modify streets, alleys, bike and pedestrian ways within the district. Expenditures may include providing funds in support of projects constructed by other public agencies or the reimbursement of funds to private developers making improvements to be dedicated for public use.
- ***Water, Sewer and Drainage*** - Includes projects to construct, reconstruct and modify water, sewer, drainage utilities and other improvements within the district. Expenditures may include providing funds in support of projects constructed by other public agencies or the reimbursement of funds to private developers making improvements to be dedicated for public use.
- ***Parking*** – Includes projects to build, reconstruct and modify parking facilities, including public, restricted use and shared parking within the district. Expenditures may include providing funds in support of projects constructed by other public agencies or the reimbursement of funds to private developers making improvements to be dedicated for public use.

- **Streetscaping, Landscaping and Open Space** - Includes projects to construct, reconstruct and modify public streetscaping, landscaping and open space within the district. Expenditures may include providing funds in support of projects constructed by other public agencies or the reimbursement of funds to private developers making improvements to be dedicated for public use.

Demolition and Abatement

This category includes projects and expenditures related to the demolition and clearance of buildings and other improvements, environmental remediation, and site grading and stabilization as required for its reuse.

Chapter 380 Grants

Grants given to non-governmental entities pursuant to Chapter 380, Texas Local Government Code for the purpose of stimulating economic development and reinvestment.

Maintenance Costs

This category includes expenditures required to maintain public facilities and assets developed with tax increment finance funds.

Administrative Costs

This category includes expenditures necessary to administer the program and activities of the TIF program, including expenses related to finance, accounting and legal services.

Category/Project	Current Budget	Expenditures/Obligations	Proposed Budget
Facilities:			
Courtyard Theater	\$4,600,000.00	\$6,848,408.02 a	\$6,848,408.02
Cox Building	\$7,100,000.00	\$6,721,690.00	\$6,721,690.00
PISD Service Center	\$1,500,000.00	\$1,500,000.00	\$1,500,000.00
Art Center	\$500,000.00	\$0.00	\$0.00
Other Educational Fac	\$0.00	\$0.00	\$1,500,000.00
Land Acquisition	\$0.00	\$0.00	\$0.00
Public Infrastructure	\$18,425,000.00	\$1,436,783.00 b	\$4,046,783.00c
Demolition and Abatement	\$0.00	\$0.00	\$250,000.00
Section 380 Grants	\$0.00	\$0.00	\$0.00
Maintenance Costs	\$0.00	\$0.00	\$0.00
Administrative Costs	\$150,000.00	\$80,000.00	\$150,000.00
Unallocated Reserve			\$26,553,217.0
Totals	\$32,275,000.00	\$16,586,881.02	\$47,570,098.02

Notes: a – There was a \$2,113,806.00 transfer from the General Fund to cover the expenditures for the Courtyard Theatre. b – There are obligations for \$31,420.50 for the 15th Street Village infrastructure as well as \$1,312,786.00 for 15th Street construction from G to I. c- includes b and tentative obligations to Pinnacle for \$1,000,000, \$260,000 for Police parking

facility, Holt Lunsford for \$550,000, 15th Street Village for \$100,000, \$500,000 for underground utilities on 15th Street from G to US 75, and \$200,000 for underground utilities along 18th Street west of G Ave.”

Section III. All provisions of the 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 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 IV. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section V. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the _____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

City of Plano

Proposed Additions to TIF# 2

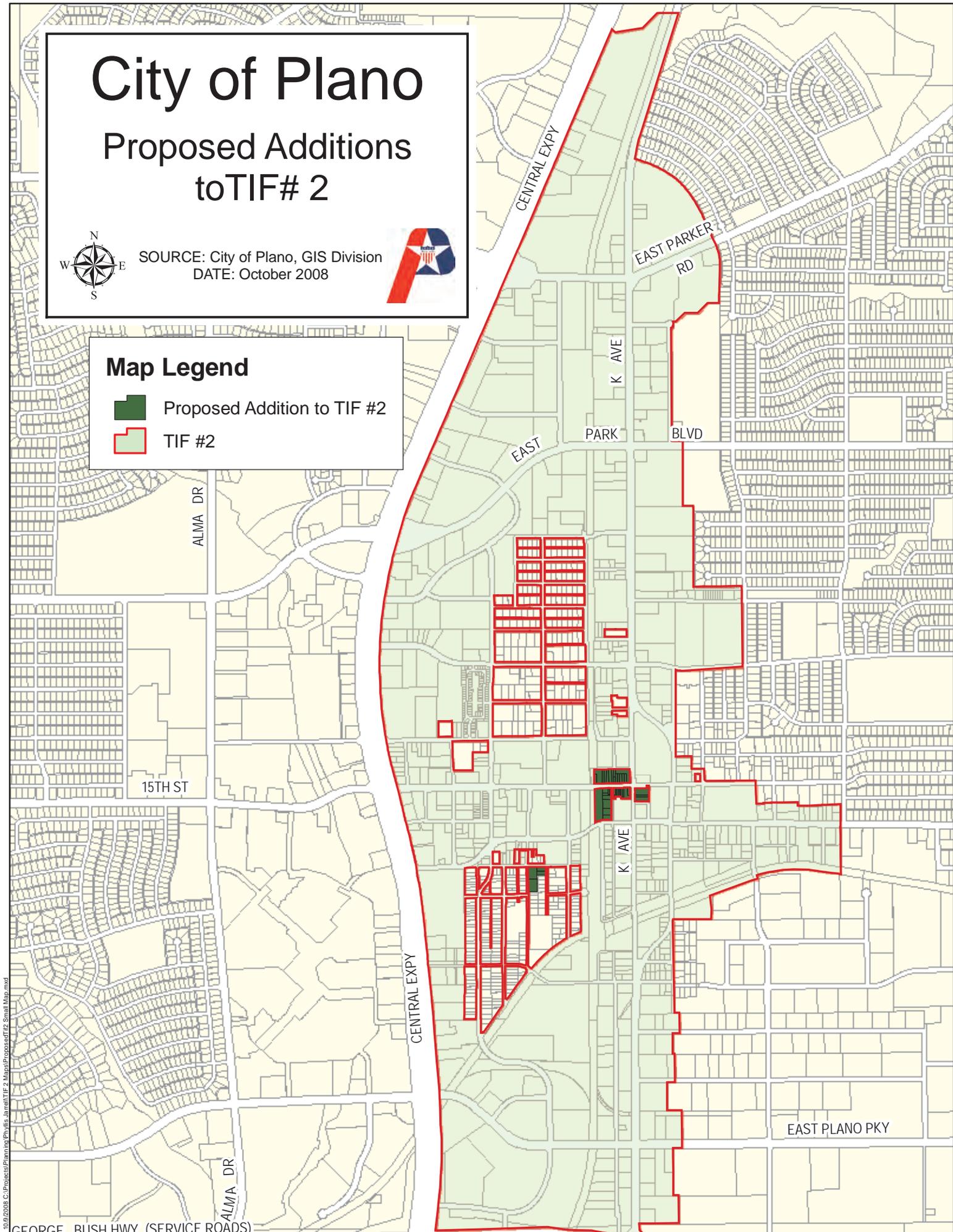


SOURCE: City of Plano, GIS Division
DATE: October 2008



Map Legend

-  Proposed Addition to TIF #2
-  TIF #2



DD:10/9/2008 C:\Projects\Planning\Phy\GIS\Jarrell\TIF_2_Maps\Proposed\TIF_2_Small_Map.mxd



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/10/2008		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Finance		Initials	Date	
Department Head	Denise Tacke		Executive Director		
Dept Signature:			City Manager		
Agenda Coordinator (include phone #): Katherine Crumbley X7479					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND ODYSSEY INFORMATION SERVICES, INC., A TEXAS CORPORATION; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR: 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS	
Budget	0	12,391,869		12,391,869	
Amount Approved by Council	0	-4,339,154	0	4,339,154	
This Item	0	-25,000		-25,000	
BALANCE	0	8,027,715		8,027,715	
FUND(S):					
COMMENTS:					
SUMMARY OF ITEM					
A request from Odyssey Information Services, Inc. for an economic development incentive to relocate its business to the City and retain, transfer or create 25 full time jobs and add business personal property improvements of not less than \$100,000.					
List of Supporting Documents:					
Economic Development Incentive Agreement					

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND ODYSSEY INFORMATION SERVICES, INC., A TEXAS CORPORATION; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Economic Development Incentive Agreement By and Between the City of Plano, Texas and Odyssey Information Services, Inc., a Texas corporation, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, 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 in his absence, an Executive Director, 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 ____ day of _____, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Economic Development Incentive Agreement ("Agreement") is made by and between the City of Plano, Texas (the "City"), and Odyssey Information Services, Inc., a Texas Corporation, acting by and through its respective authorized officers and representatives.

WITNESSETH:

WHEREAS, Odyssey Information Services, Inc. (hereinafter referred to as the "Company") is a nationwide technology services company; and

WHEREAS, the Company has advised the City that a contributing factor that would induce the Company to relocate its business and commercial activities to the City, thereby generating additional local sales tax revenues and increasing ad valorem tax values for the City, would be an agreement by the City to provide an economic development grant to the Company; and

WHEREAS, the Company agrees to occupy not less than 7,500 square feet of office space located at Three Legacy Town Center, 5801 Tennyson Parkway, Suite 200, Plano, Texas 75024, (the "Property") for the full term of this Agreement; add business personal property improvements on the Property of not less than One Hundred Thousand Dollars (\$100,000.00) and to retain, transfer or create 25 Job Equivalents on the Property by December 31, 2008 and maintain those positions for the full term of this Agreement; and

WHEREAS, the retention, creation or transfer of 25 Job Equivalents at the Property within the City will promote economic development, stimulate commercial activity and enhance the tax base and economic vitality of the City; and

WHEREAS, the City has adopted programs for promoting economic development; and

WHEREAS, the City is authorized by TEX. LOC. GOV'T CODE §380.001 *et seq.* to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to the Company in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City;

NOW THEREFORE, in consideration of the foregoing and the premises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

**Article I
Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Commencement Date” shall mean the earlier of the date of occupancy of the Property by the Company or December 31, 2008, whichever occurs first.

“Effective Date” shall mean the last date on which all of the parties hereto have executed this Agreement.

“Event of Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns or work stoppages any of which event(s) directly impact the Company’s operations in the City.

“Job Equivalent” shall mean one or more Company job positions located at the Property which individually or when combined total 2080 hours (inclusive of holidays, vacation and sick leave) annually.

**Article II
Term**

The term of this Agreement shall begin on the Commencement Date and continue until December 30, 2015, unless sooner terminated as provided herein.

**Article III
Obligations of Company**

In consideration for the grant of public funds as set forth in Section 4.01 below, the Company agrees to the following:

- (a) Occupy not less than 7,500 square feet of office space on the Property on or before December 31, 2008;

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- (b) Add business personal property improvements to the Property of a value of not less than One Hundred Thousand Dollars (\$100,000.00);
- (c) Retain, create or transfer 25 Job Equivalents to the Property on or before December 31, 2008;
- (d) Maintain those Job Equivalents for the full term of this Agreement; and
- (e) Use reasonable efforts to place all Company-managed hotel room nights, related to the Company's business activities, at facilities located in the City of Plano.

Article IV Economic Development Grant

4.01 **Grant.** The City agrees to provide the Company a one-time cash grant of Twenty Five Thousand Dollars (\$25,000.00) for the occupancy of 7,500 square feet of office space on the Property, business personal property improvements on the Property of One Hundred Thousand Dollars (\$100,000.00) and to assist in the retention, transfer or addition of 25 new Job Equivalent positions to the Property. The Company agrees to maintain those Job Equivalents throughout the term of this Agreement as provided in Section 4.03 below.

4.02 **Grant Payments.** Except as otherwise indicated, payment by the City under this Agreement shall be made within thirty (30) days after the Company verifies to the City on the Initial Certification attached hereto as Exhibit "A" that the Company has met its initial obligations as set forth in Article III (a), (b), and (c) above.

4.03 **Refunds.**

(a) In the event the Company allows Job Equivalents at the Property to fall below 25 Job Equivalents for 180 consecutive days during the term of this Agreement, not the result of an Event of Force Majeure, the Company shall refund to the City an amount equal to One Thousand Dollars (\$1,000.00) for each Job Equivalent that falls below 25. For the purposes of determining whether the City is due a refund under this section, the Company's Chief Financial Officer shall certify to the City by January 31, 2010 and by January 31 of each year thereafter during the term of this agreement the actual number of Job Equivalents at the Property for the preceding calendar year using the Certificate Form attached as Exhibit "B". All refunds under this Agreement shall be due within 30 days of written demand for payment. Notwithstanding the foregoing, the Company shall never be required to refund to the City, in the aggregate, any amount in excess of the total grant amount set forth in Section 4.01.

(b) In the event the Company, at any time during the term of this Agreement, is convicted of a violation under 8 U.S.C. Section 1324a(f) regarding the unlawful employment of undocumented workers, it shall reimburse the City all grant funds paid pursuant to this Agreement together with interest charged from the date of payment of the funds at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty. Repayment of grant funds and interest shall be due not later than 120 days after the date the City notifies the Company of the conviction.

Article V Termination

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

- (a) By mutual written agreement of the parties;
- (b) Upon expiration of the term of this Agreement;
- (c) By either party upon written notice to the other, if the other 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 (provided that such 30 day period shall be extended if the default is of a nature that cannot reasonably be cured within such 30 day period and further provided that the remedy is being diligently pursued); and
- (d) By either party upon written notice to the other if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable, provided, that such termination notice shall set forth an explanation of the terminating party's basis for termination under this subsection (d).

5.02 **Effect of Termination.** The rights, responsibilities and liabilities of the parties under this Agreement shall be extinguished upon the applicable effective date of termination of this Agreement, except for any obligations that accrue prior to such termination or as otherwise provided herein. All rights and obligations set forth above in this Section 5.02 shall survive the termination of this Agreement.

Article VI Miscellaneous

6.01 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the parties. This Agreement may not be assigned without the express written consent of the non-assigning party, except that the Company may assign this Agreement without obtaining the City's consent (a) to one of its affiliates, or (b) to any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or substantially all of the assets of the Company.

6.02 **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.

6.03 **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: Thomas H. Muehlenbeck
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

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

If intended for the Company:
Odyssey Information Services, Inc.
Attention: Jon Hibbs
President/CEO
5801 Tennyson Parkway, Suite 200
Plano, TX 75024
With cc to: General Counsel

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 **Legal Construction.** 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 **Recitals.** The recitals to this Agreement are incorporated herein.

6.10 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.11 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.12 **Dispute Resolution.** Any controversy or claim arising from or relating to this Agreement, or a breach thereof shall be subject to non-binding mediation, as a condition precedent to the institution of legal or equitable proceedings by any party. The parties shall endeavor to resolve their claims by mediation that, unless the parties mutually agree otherwise, shall be in accordance with the American Arbitration Association's Commercial Mediation Rules in effect at the time of mediation. Request for mediation shall be filed concurrently with the other party. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing for mediation, unless stayed for a longer period of time by agreement of the parties. The party requesting the mediation shall bear all costs related to the mediation. The mediation shall be held in Collin County, Texas, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any Court having jurisdiction thereof.

EXECUTED on this _____ day of _____, 2008.

ATTEST:

CITY OF PLANO, TEXAS, a home rule municipal corporation

Diane Zucco, CITY SECRETARY

By: _____
Thomas H. Muehlenbeck

CITY MANANGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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ATTEST:

ODYSSEY INFORMATION SERVICES,
INC., a Texas Corporation

By: _____
Jon Hibbs
President/CEO

EXHIBIT "A"

CERTIFICATE OF COMPLIANCE

I hereby certify that ODYSSEY INFORMATION SERVICES, INC. has occupied not less than 10,000 square feet of office space on the Property, has added business personal prooperty improvements to the Property of a value of not less than One Hundred Thousand Dollars (\$100,000.00) and has hired/transferred/retained 25 Job Equivalents to the Property, and is in compliance with subsections (a), (b) and (c) of Article III of the Agreement to Resolution No. _____(R) as of _____, and is entitled to receive payment under the terms of that Agreement.

ATTEST:

ODYSSEY INFORMATION SERVICES,
INC., a Texas Corporation

By:

Name:
CHIEF FINANCIAL OFFICER

Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358

EXHIBIT "B"

CERTIFICATE OF COMPLIANCE

I hereby certify that ODYSSEY INFORMATION SERVICES, INC., is in compliance with each applicable term as set forth in Article III of the Agreement to Resolution No. _____ (R) as of _____. The term of the Agreement is December 31, 2008 through December 30, 2015. "The number of new, transferred or retained Job Equivalents, calculated as set forth in the Agreement, and maintained pursuant to the Agreement since its inception has not fallen below 25 for more than 180 consecutive days and is _____ as of the date of this Certificate of Compliance." If the number herein reported is below the number required to be maintained pursuant the Agreement, I certify that the City of Plano has been refunded the appropriate amount as required by Section 4.03 of the Agreement. This form is due on January 31 of each year this Agreement is in force.

ATTEST:

ODYSSEY INFORMATION SERVICES,
INC., a Texas Corporation

By:

Name:
CHIEF FINANCIAL OFFICER

Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358

DATE: October 21, 2008
TO: Honorable Mayor & City Council
FROM: Jim Norton, 1st Vice Chair, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of October 20, 2008

**AGENDA ITEM NO. 6 - PUBLIC HEARING
ZONING CASE 2008-67
APPLICANT: QD RECREATION ACADEMY**

Request for Specific Use Permit for Day Care Center on one lot on 0.4± acre located on the south side of Legacy Drive, 270± feet west of Coit Road. Zoned Retail.

APPROVED: 6-0 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 2 **OPPOSE:** 0

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

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

STIPULATIONS:

Recommended for approval subject to:

1. Planning & Zoning Commission waiving the requirement for outdoor play space;
2. Day care shall be provided for less than four hours per day for an individual person. However, the day care facility may operate multiple sessions of four hours or less in length.

FOR CITY COUNCIL MEETING OF: November 10, 2008 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

BM/dw

xc: Coy Quine, Quine & Associates, Inc.
Ke Liao, QD Recreation Academy

CITY OF PLANO
PLANNING & ZONING COMMISSION

October 20, 2008

Agenda Item No. 6

Public Hearing: Zoning Case 2008-67

Applicant: QD Recreation Academy

DESCRIPTION:

Request for Specific Use Permit for Day Care Center on one lot on 0.4± acre located on the south side of Legacy Drive, 270± feet west of Coit Road. Zoned Retail.

REMARKS:

The requested zoning is a Specific Use Permit (SUP) for Day Care Center. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application. A day care center is defined as a facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours per day.

The proposed day care center is 15,344 square feet of indoor space in a multi-occupant building with direct access to the exterior of the building. The applicant plans to operate a "drop-in" day care and will not offer care for more than four hours per day for an individual person. The Zoning Ordinance requires that day care centers provide outdoor play space; however, the Planning & Zoning Commission may waive the requirement for outdoor play space if care is provided for less than four hours per day. With less than four hours of operation, the applicant is requesting that the Planning & Zoning Commission waive the requirement for outdoor play space.

The day care meets the required parking, loading, and unloading area requirements. It is also not within 300 feet of gasoline pumps or underground storage tanks.

RECOMMENDATIONS:

Recommended for approval subject to:

1. Planning & Zoning Commission waiving the requirement for outdoor play space;
2. Day care shall be provided for less than four hours per day for an individual person. However, the day care facility may operate multiple sessions of four hours or less in length.

ORDINANCE NO. _____
(Zoning Case 2008-67)

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, GRANTING SPECIFIC USE PERMIT NO. 597 SO AS TO ALLOW THE ADDITIONAL USE OF DAY CARE CENTER ON 0.4± ACRE OF LAND BEING A PART OF LOT 4, BLOCK A, LYNCH PARK ADDITION, LOCATED ON THE SOUTH SIDE OF LEGACY DRIVE, 270± FEET WEST OF COIT ROAD IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, PRESENTLY ZONED RETAIL; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 10th day of November, 2008 for the purpose of considering granting Specific Use Permit No. 597 for the additional use of Day Care Center on 0.4± acre of land being a part of Lot 4, Block A, Lynch Park Addition, located on the south side of Legacy Drive, 270± feet west of Coit Road in the City of Plano, Collin County, Texas, presently zoned Retail; and

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

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 10th day of November, 2008; and

WHEREAS, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 597 for the additional use of Day Care Center on 0.4± acre of land being a part of Lot 4, Block A, Lynch Park Addition, located on the south side of Legacy Drive, 270± feet west of Coit Road in the City of Plano, Collin County, Texas, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

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

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

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 597, allowing the additional use of Day Care Center on 0.4± acres of land being a part of Lot 4, Block A, Lynch Park Addition, located on the south side of Legacy Drive, 270± feet west of Coit Road in the City of Plano, Collin County, Texas, presently zoned Retail, said property being more fully described on the legal description in Exhibit "A" attached hereto.

Section II. The change granted in Section I is granted subject to:

1. Planning & Zoning Commission waiving the requirement for outdoor play space;
2. Day care shall be provided for less than four hours per day for an individual person. However, the day care facility may operate multiple sessions of four hours or less in length.

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

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

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

Section VI. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

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

PASSED AND APPROVED THIS THE 10TH DAY OF NOVEMBER, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"
LEGAL DESCRIPTION

ZC 2008-67

SITUATED in the City of Plano, Collin County, Texas, being a part of Lot 4, Block A, Lynch Park Addition, an addition to the City of Plano, recorded in Volume K, Page 524 of the Map Records of Collin County, Texas, being described by metes and bounds as follows:

COMMENCING at an "X" found chiseled in concrete at the southwest corner of said Lot 4, Block A, Lynch Park Addition;

THENCE North 20° 08' 35" West, with the west line of said Lot 4, Block A, 220.56 feet;

THENCE North 69° 51' 25" East, 60.68 feet to a point in the exterior wall of an existing building for the POINT OF BEGINNING;

THENCE North 69° 49' 20" East, along the center of an interior wall, 83.93 feet;

THENCE South 20° 10' 40" East, along the center of an interior wall 64.47 feet;

THENCE North 69° 50' 14" East, along the center of an interior wall, 36.01 feet;

THENCE South 20° 09' 46" East, along the center of an interior wall, 78.96 feet;

THENCE South 69° 50' 14" West, along the center of an interior wall, 14.85 feet;

THENCE South 20° 09' 46" East, along the center of an interior wall, 16.27 feet to a point in an exterior wall;

THENCE South 69° 50' 14" West, along the center of said exterior wall, 70.39 feet;

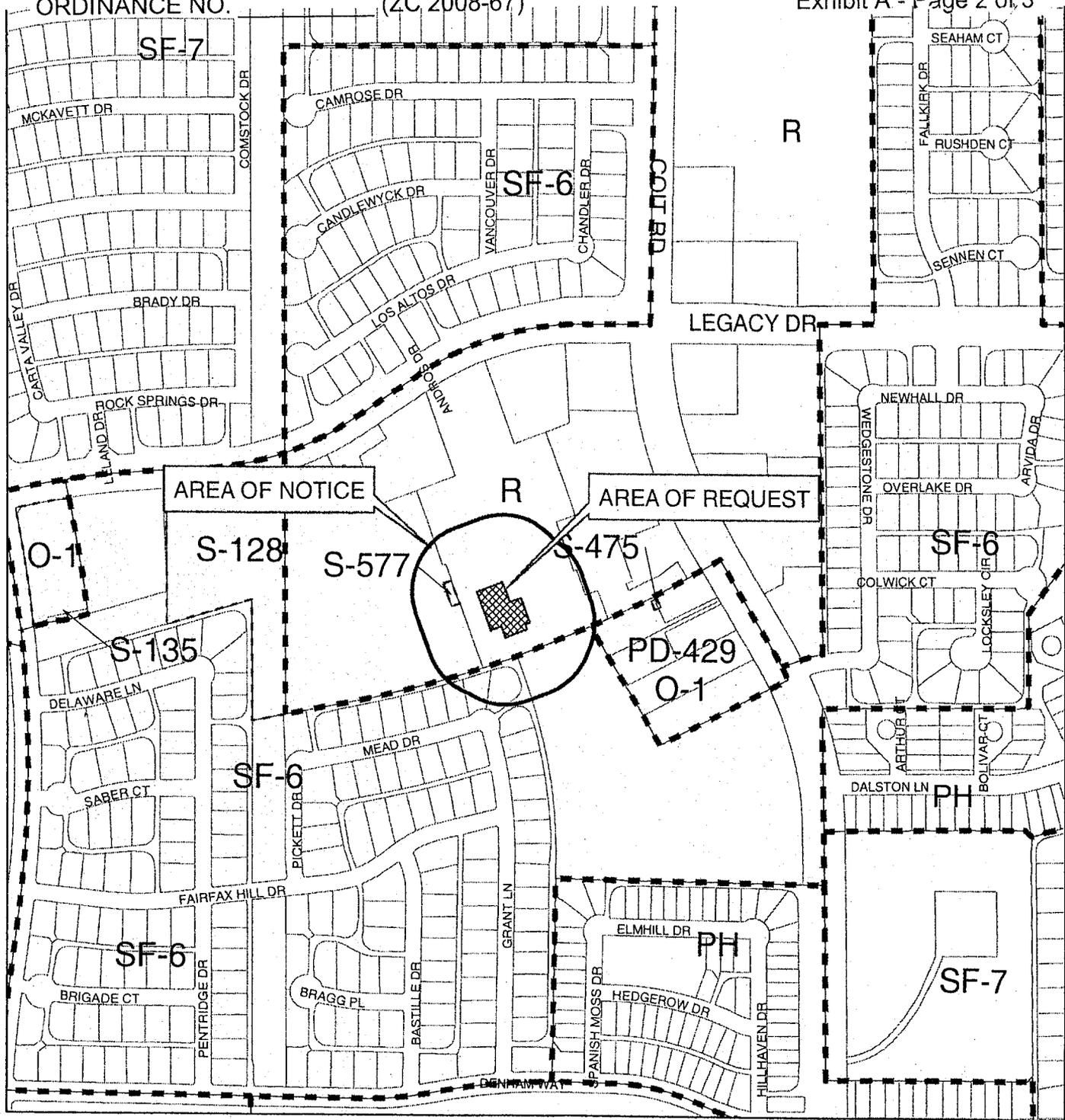
THENCE North 20° 14' 59" West, along the enter of an exterior wall, 35.92 feet;

THENCE South 69° 49' 59" West, along the center of an exterior wall, 34.62 feet;

THENCE North 20° 10' 40" West, along the center of an exterior wall, 123.77 feet to the POINT OF BEGINNING, and CONTAINING 15,344 square feet.

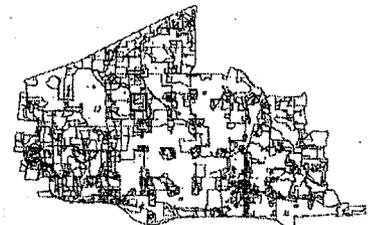
Basis of bearings: southern-most west line of Lot 4, Block A, Lynch Park Addition.

Controlling monuments: "X" found at southwest corner and "X" found South 69° 51' 25" West 9.98 feet from the southern-most elbow in the west line of said Lot 4, Block A, Lynch Park Addition.



Zoning Case #: 2008-67

Existing Zoning: RETAIL



○ 200' Notification Buffer



DESCRIPTION OF LEASE SPACE

RESITUATED to the City of Plano, Collin County, Texas, being a part of Lot 4, Block A, Lynch Park Addition, in the City of Plano, as shown in Volume 8, Page 524 of the Map Records of Collin County, Texas, being described by means and bounds as follows:

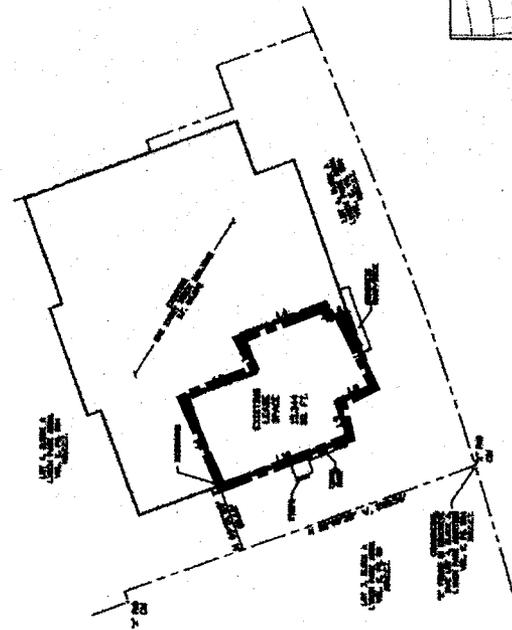
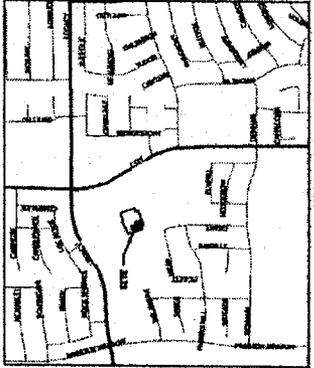
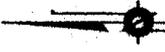
COMPARING the 7.71 Acre, bounded in part by the southeast corner of said Lot 4, Block A, Lynch Park Addition, THENCE North 30° 50' 33" West, with the west line of said Lot 4, being 232.53 feet; THENCE North 88° 51' 33" East, 80.85 feet to a point in the exterior wall of an existing building for the POINT OF BEGINNING; THENCE along the easterly side of said building, 83.00 feet; THENCE South 30° 10' 40" East, along the center of an exterior wall, 84.47 feet; THENCE North 89° 05' 14" East, along the center of an exterior wall, 38.01 feet; THENCE South 89° 05' 14" West, along the center of an exterior wall, 14.85 feet; THENCE South 30° 50' 48" East, along the center of an exterior wall, 19.27 feet to a point in the exterior wall; THENCE South 89° 05' 14" West, along the center of said exterior wall, 70.38 feet; THENCE North 30° 10' 40" East, along the center of an exterior wall, 33.82 feet; THENCE North 89° 05' 14" West, along the center of an exterior wall, 34.82 feet; THENCE North 30° 10' 40" East, along the center of an exterior wall, 133.77 feet to the POINT OF BEGINNING, and containing 75,346 square feet.

BASES OF BEARINGS, SIGHT-MEASUREMENT WEST LINE OF LOT 4, BLOCK A, LYNCH PARK ADDITION, CONTROLLING MONUMENTS: 3" IRON AT SOUTHWEST CORNER AND 3" IRON BOUND SOUTH 89° 05' 14" WEST 9.26 FEET FROM THE SOUTHWEST CORNER OF THE WEST LINE OF LOT 4, BLOCK A, LYNCH PARK ADDITION. 2008.

REQUESTING "BUP" Approval of the zoning code associated with this exhibit and for final approval of any associated plat, or claim, approval of development submission upon action, or the initiation of the development process, Planning & Zoning Commission and/or City Council action on Studies, Plans, or plans relating to development of this property shall be considered as an action separate from this exhibit.

ZONING EXHIBIT NO. ZC-2008-67
ZONING EXHIBIT
PART 3
LOT 4, BLOCK A
LYNCH PARK ADDITION
CITY OF PLANO, COLLIN COUNTY, TEXAS

PHIL SMITH SURVEYING
PHIL SMITH, SURVEYOR
10000 W. PARKWAY, SUITE 100
PLANO, TEXAS 75075
PHONE: 972-462-1000
FAX: 972-462-1001



LINE TABLE

NO.	BEARING	DISTANCE
1	N 30° 50' 33" W	232.53
2	N 88° 51' 33" E	80.85
3	S 30° 10' 40" E	83.00
4	N 89° 05' 14" E	84.47
5	S 89° 05' 14" W	38.01
6	S 30° 50' 48" E	19.27
7	N 89° 05' 14" W	70.38
8	N 30° 10' 40" E	33.82
9	N 89° 05' 14" W	34.82
10	N 30° 10' 40" E	133.77

LEGEND
3" IRON CHECKED IN CONCORDANCE WITH CHANGING ORDINANCE

DATE: October 21, 2008
TO: Honorable Mayor & City Council
FROM: Jim Norton, 1st Vice Chair, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of October 20, 2008

**AGENDA ITEM NO. 7A -PUBLIC HEARING
ZONING CASE 2008-69
APPLICANT: JOHN W. JOLLY**

Request for a Specific Use Permit for Day Care Center on one lot on 1.9± acres located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive. Zoned Planned Development-320-Estate Development.

APPROVED: 6-0 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 1 **OPPOSE:** 1

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

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

STIPULATIONS:

Recommended for approval as submitted.

FOR CITY COUNCIL MEETING OF: November 10, 2008 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

EH/dw

xc: John Jolly
Mark Wainscott, Head Construction, Inc.

CITY OF PLANO
PLANNING & ZONING COMMISSION

October 20, 2008

Agenda Item No. 7A

Public Hearing: Zoning Case 2008-69

Applicant: John W. Jolly

DESCRIPTION:

Request for a Specific Use Permit for Day Care Center on one lot on 1.9± acres located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive. Zoned Planned Development-320-Estate Development.

REMARKS:

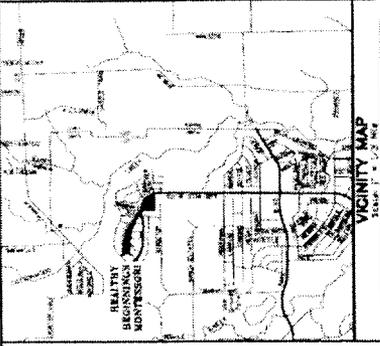
The requested zoning is a Specific Use Permit (SUP) for Day Care Center. A day care center is defined as a facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours per day. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

The proposed day care center is in a single occupant building with direct access to the exterior of the building. Children attending the day care center will have access to 29,170 square feet of outdoor play space.

The maximum number of students allowed at any time is 211. The proposed day care center meets the required parking, loading, and unloading area requirements. It is also not within 300 feet of gasoline pumps or underground storage tanks.

RECOMMENDATIONS:

Recommended for approval as submitted.



PROPERTY INFORMATION

APPLICANT: CHARLES F.M. GOODERIN
 PROJECT: HINCKEY ADDITION
 LOT 2R & 4 BLOCK A
 SURVEY ABST. 363

EXISTING CONDITIONS

1. The site is currently vacant.

PROPOSED DEVELOPMENT

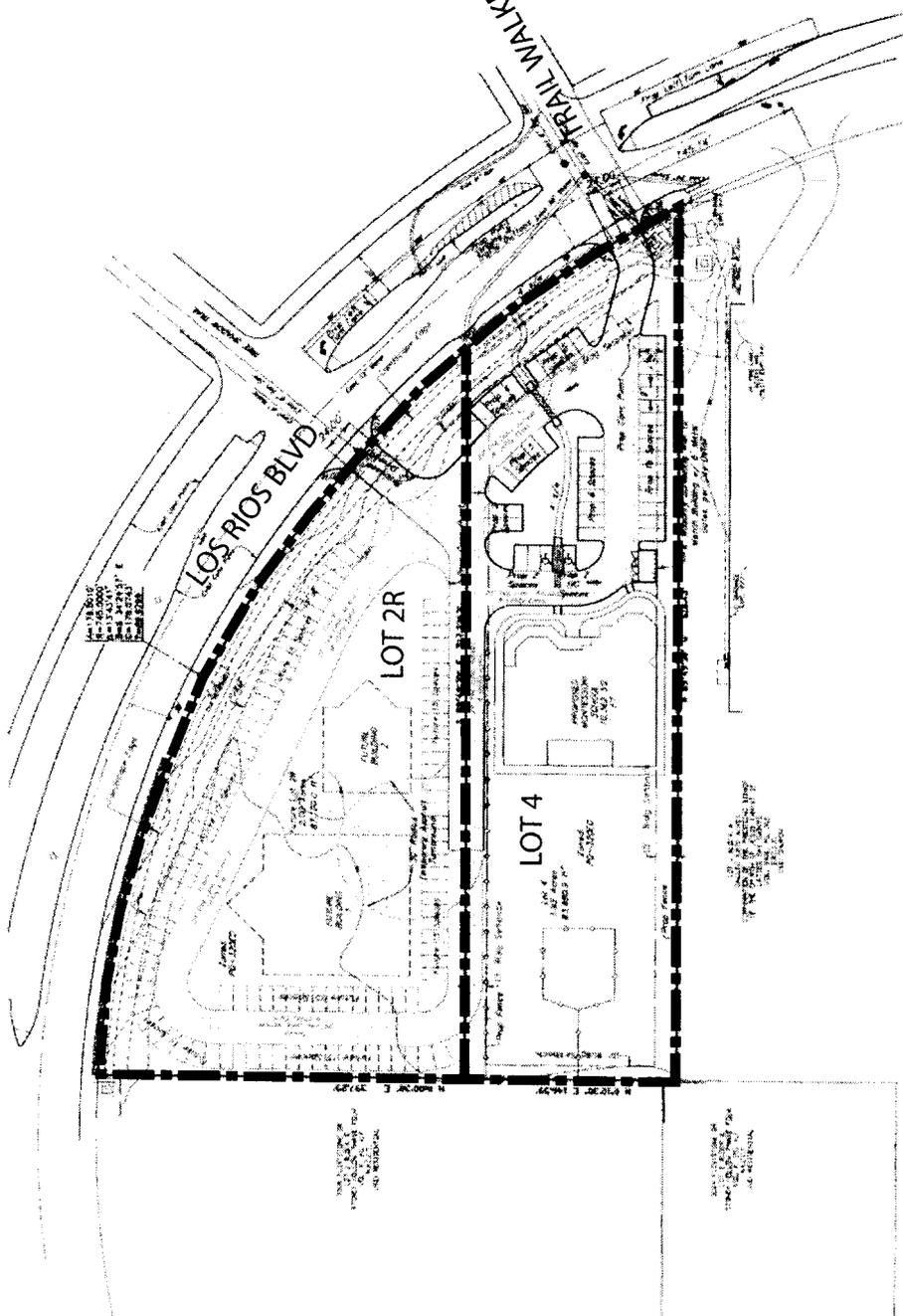
1. The proposed development consists of a residential subdivision with 12 lots.

UTILITIES

1. The site is served by the City of Los Rios for water and sewer service.

ADDITIONAL NOTES

1. The applicant warrants that the information provided is true and correct.



GENERAL NOTES:

- The applicant warrants that the information provided is true and correct.
- The applicant warrants that the proposed development complies with all applicable laws and regulations.
- The applicant warrants that the proposed development is consistent with the applicable zoning ordinance.
- The applicant warrants that the proposed development is in the public interest.
- The applicant warrants that the proposed development is in the best interests of the community.
- The applicant warrants that the proposed development is in the best interests of the City of Los Rios.
- The applicant warrants that the proposed development is in the best interests of the State of California.
- The applicant warrants that the proposed development is in the best interests of the United States of America.

**CONCEPT PLAN &
 PRELIMINARY SITE PLAN
 OF
 LOTS 2R & 4 BLOCK A
 HINCKEY ADDITION
 307 OF THE
 CHARLES F.M. GOODERIN
 SURVEY ABST. 363
 PLANS, TIZAS, COLLIER COUNTY
 SEPTEMBER 2008**

JC JONES & CARTER, INC.
 ENGINEERS, PLANNERS, SURVEYORS
 3030 S. Freeway, Suite 910 Dallas, Texas 75224 (972) 446-3680

PROJECT CONTACTS:

CLIENT: CHARLES F.M. GOODERIN
 1000 N. GARDEN ST. #100
 LOS RIOS, CA 94553
 (925) 446-3680

DESIGNER: JC JONES & CARTER, INC.
 3030 S. FREEWAY, SUITE 910
 DALLAS, TEXAS 75224
 (972) 446-3680

JONES & CARTER, INC.

ORDINANCE NO. _____
(Zoning Case 2008-69)

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, GRANTING SPECIFIC USE PERMIT NO. 598 SO AS TO ALLOW THE ADDITIONAL USE OF DAY CARE CENTER ON 1.9± ACRES OF LAND OUT OF THE CHARLES F.M. GOODERIN SURVEY, ABSTRACT NO. 353, LOCATED ON THE SOUTH SIDE OF LOS RIOS BOULEVARD, 100± FEET WEST OF TRAIL WALKER DRIVE IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, PRESENTLY ZONED PLANNED DEVELOPMENT-320-ESTATE DEVELOPMENT; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 10th day of November, 2008 for the purpose of considering granting Specific Use Permit No. 598 for the additional use of Day Care Center on 1.9± acres of land out of the Charles F.M. Gooderin Survey, Abstract No. 353, located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-320-Estate Development; and

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

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 10th day of November, 2008; and

WHEREAS, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 598 for the additional use of Day Care Center on 1.9± acres of land out of the Charles F.M. Gooderin Survey, Abstract No. 353, located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive in the City of Plano, Collin County, Texas, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

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

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

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 598, allowing the additional use of Day Care Center on 1.9± acres of land out of the Charles F.M. Gooderin Survey, Abstract No. 353, located on the south side of Los Rios Boulevard, 100± feet west of Trail Walker Drive in the City of Plano, Collin County, Texas, presently zoned Planned Development-320-Estate Development, said property being more fully described on the legal description in Exhibit "A" attached hereto.

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

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

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

Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

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

PASSED AND APPROVED THIS THE 10TH DAY OF NOVEMBER, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"
LEGAL DESCRIPTION

ZC 2008-69

BEING a tract of land in the Charles F.M. Gooderin Survey, Abstract No. 353, Collin County, Texas, being part of Lot 2, Block A of Hinckley Addition, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Volume O, Page 501, Plat Records, Collin County, Texas, and being more particularly described as follows:

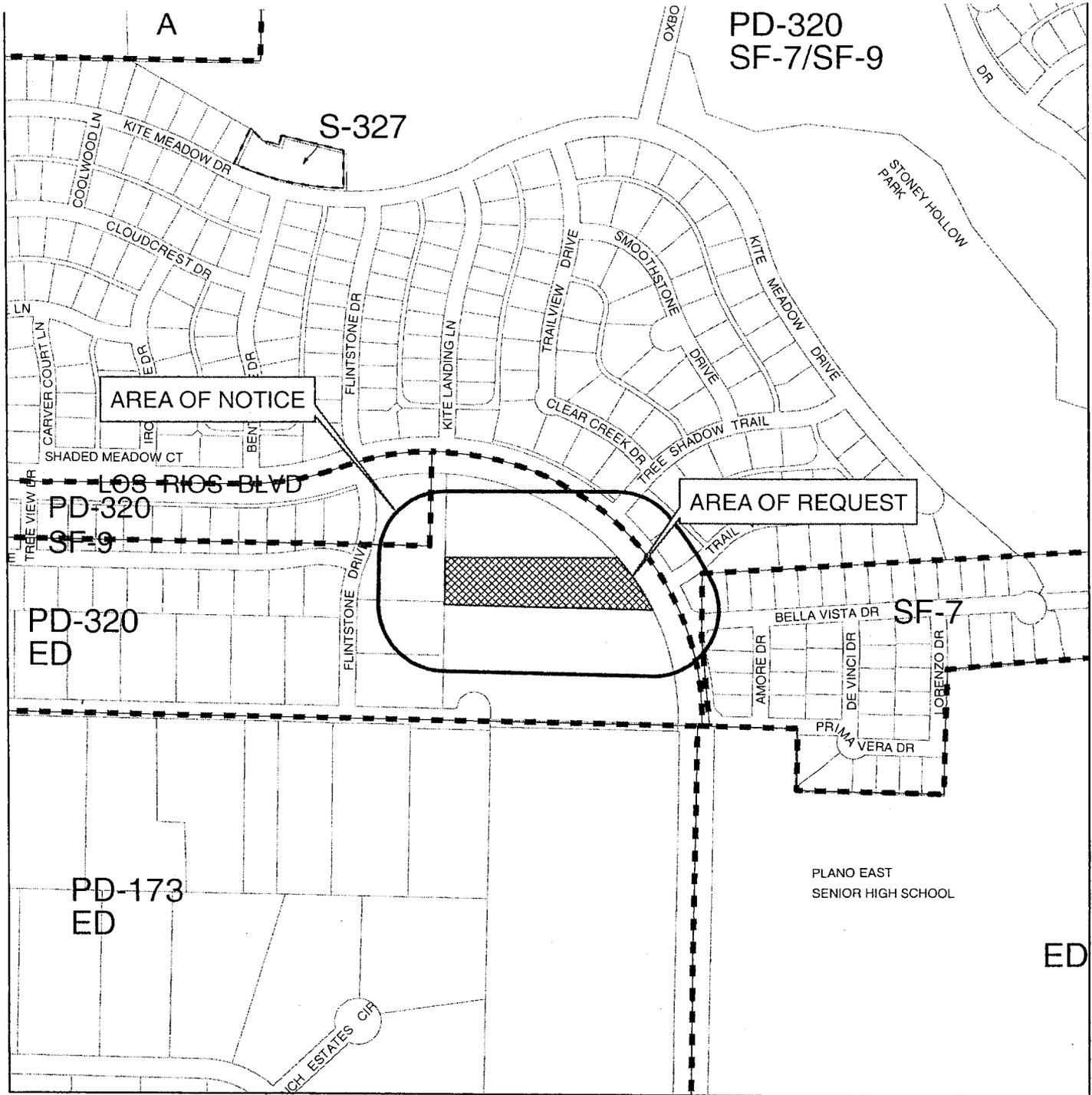
BEGINNING at a 1-inch iron rod found for corner in the westerly radial line of Los Rios Drive, a 110 foot wide public right-of-way at the northeast corner of Lot 1, Block A of said Hinckley Addition, same being the most easterly corner of said Lot 2, Block A;

THENCE North 89° 49' 30" West, a distance of 618.43 feet to a 1/2-inch iron rod found for corner in the east line of Lot 2 of said Block E of Stoney Hollow, Phase Four, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Volume K, Page 417, Plat Records, Collin County, Texas, same being the northwest corner of said Lot 1 and the southwest corner of said Lot 2 of said Block A;

THENCE North 00° 10' 30" East, along the common line of said Block E and Block A, a distance of 146.59 feet to 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

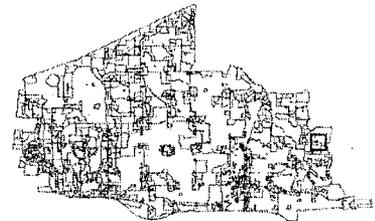
THENCE South 89° 49' 30" East, passing through said Lot 2, a distance of 517.34 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set in the westerly radial line of said Los Rios Drive, in a non-tangent curve to the right having a central angle of 13° 43' 39", a radius of 745.00 feet and a chord bearing and distance of South 34° 24' 58" East, 178.07 feet;

THENCE southeasterly, along said curve to the right and said westerly line, an arc distance of 178.49 feet to the PLACE OF BEGINNING and CONTAINING 83,880 square feet or 1.926 acres of land.



Zoning Case #: 2008-69

Existing Zoning: PLANNED DEVELOPMENT-320-ESTATE DEVELOPMENT



○ 200' Notification Buffer



6-8

DATE: October 21, 2008
TO: Honorable Mayor & City Council
FROM: Jim Norton, 1st Vice Chair, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of October 20, 2008

**AGENDA NO. 10 - PUBLIC HEARING
ZONING CASE 2008-71
APPLICANT: CITY OF PLANO**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and Section 3.1000 (Screening, Fence, and Wall Regulations) of Article 3 (Supplementary Regulations), and related sections of the Zoning Ordinance regarding golf nets.

APPROVED: 4-2 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

Recommended for approval as: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to create the following definition for golf nets:

Golf Nets – A vertical net, horizontal or sloping net, or combination thereof, including structural supports designed to confine golf balls to a country club (private), outdoor commercial amusement, or golf course uses.

2. Amend Section 3.1000 (Screening, Fence and Wall Regulations) of Article 3 (Supplementary Regulations) by adding the following new standards for golf nets to read as follows:

3.1005 Golf Nets

(1.) Golf nets are allowed in accordance with the following:

(a.) Golf nets associated with nonresidential uses.

(i.) Golf nets shall be permitted for driving ranges only, whether as a primary use, or as an accessory use to a golf course, country club (private), and/or outdoor commercial amusement uses, in any zoning district. Golf nets shall be prohibited in other areas of a golf course, country club (private) or outdoor commercial amusement uses.

(ii.) Golf nets shall be vertical nets only and may be constructed to a maximum height of 60 feet.

(iii.) Golf nets shall be exempt from side and rear yard setback requirements.

(b.) Golf nets associated with residential uses.

(i.) Golf nets are permitted on residential properties that are contiguous to a country club (private) or golf course, and on residential lots with frontage on a public right-of-way that separates the country club (private) or golf course from the residential lots.

(ii.) Golf nets are exempt from side and rear yard setback requirements and shall not extend forward of the primary structure(s) on the property.

(iii.) Golf nets may consist of vertical nets, horizontal or sloping nets, or a combination thereof, and may create an enclosure of the yard area. The maximum height for a residential golf net is 20 feet.

(2.) All golf nets shall comply with the following requirements:

(a.) Golf nets shall be constructed of flexible netting that is designed, manufactured and sold as golf netting. Chain link fencing is prohibited as a material for golf nets.

(b.) Golf nets shall be staked and/or cable-supported with structural supports.

(c.) No flags, signs, banners or other appurtenances shall be attached to the golf nets.

The Commissioners voting in opposition did not want to allow any new residential nets being installed, but wanted to "grandfather" some of the existing residential golf nets up to a certain height.

TMF/dw

CITY OF PLANO
PLANNING & ZONING COMMISSION

October 20, 2008

Agenda No. 10

Public Hearing: Zoning Case 2008-71

Applicant: City of Plano

DESCRIPTION:

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) and Section 3.1000 (Screening, Fence, and Wall Regulations) of Article 3 (Supplementary Regulations), and related sections of the Zoning Ordinance regarding golf nets.

HISTORY:

On June 18, 2007, the Planning & Zoning Commission called a public hearing to consider amendments to the Zoning Ordinance to establish regulations that would allow golf courses and driving ranges to install protective netting where needed. Golf netting has never been specifically defined in the Zoning Ordinance. Last year, the city settled a lawsuit over the installation of a golf net on a residential property. During mediation discussions associated with the settlement, the city agreed to consider amending the Zoning Ordinance to allow golf courses and driving ranges to erect nets. Staff had also been approached by golf course operators interested in erecting nets to address specific instances of golf balls being hit onto adjacent properties.

The Commission considered a Zoning Ordinance amendment on February 18, 2008, (Zoning Case 2007-16) that proposed establishing a definition for golf nets and allowing for 60-foot tall golf nets to be erected in conjunction with country club, outdoor commercial amusement, and golf course uses in any zoning district, but not residential uses. The Commission recommended denial and expressed concerns regarding setting precedence throughout the city for allowing golf nets and potential aesthetic and decreased property value issues associated with golf nets.

City Council considered the amendment on March 25, 2008. The Council denied the proposed ordinance amendment and sent the item back to the Commission to consider the following:

- Allowing existing nonconforming nets to remain up to a specified height to be determined;
- Allowing driving ranges only, whether on golf courses or independent businesses, to install nets; and
- Consider horizontal net options for residential properties.

Other than the mention of horizontal nets, staff did not receive clear, concise direction on whether to allow residents to install new nets beyond those nets that exist today.

At its meetings on August 18, 2008, and September 15, 2008, the Commission discussed potential Zoning Ordinance amendments pertaining to golf nets based upon the direction given from Council. The discussion was divided into two main areas - golf nets associated with residential uses, and golf nets associated with nonresidential uses.

The Commission recognized the need to protect people within their yards for their personal safety and was interested in allowing existing illegal nets to remain if brought into compliance with regulations that may be adopted pertaining to maximum height. Additionally, the Commission was interested in allowing new golf nets to be constructed on residential properties that may also be affected by errant golf balls. Golf courses can and often do change course layout, pin position, etc., to vary the play on the course and to respond to changes in golf club and ball technology that affect the distance and trajectory of a golf ball flight. The Commission also discussed that it may be appropriate to allow driving ranges only, whether as a primary use or as an accessory use to golf courses, country clubs (private), and/or outdoor commercial amusement uses, to erect nets.

The Commission's discussion included miscellaneous standards such as appropriate golf net materials, landscaping in conjunction with golf nets, and prohibition of sign placement on golf nets. While the Commission felt it was appropriate to regulate netting materials and prohibit sign placement on golf nets, they directed staff to not require landscaping to screen the nets. Several factors complicate installing landscaping in addition to the netting including allocating sufficient area to accommodate plant growth and maintenance, and damage to the golf nets caused by mature trees and shrubs.

REMARKS:

At its meeting on September 15, 2008, the Commission asked staff to bring back proposed ordinance amendments as follows:

Definition:

The following definition for golf nets is proposed:

Golf Nets - A vertical net, horizontal, or sloping net, or combination thereof, including structural supports, designed to confine golf balls to a country club (private), outdoor commercial amusement, or golf course uses.

Permitted Locations and Development Standards:

Residential Uses:

The proposed amendment allows for golf nets to be placed on residential properties (both single-family and multifamily) that are contiguous to a country club (private) or golf course, and on residential lots with frontage on a public right-of-way that separates the country club (private) or golf course from the residential lots. This would allow lots that are adjacent to golf course properties to place a net within their yard for protection from errant golf balls. Additionally, this would allow residential lots, such as those near the Los Rios golf course which side to a public street across from the golf course, to erect a net within their yard for protection from errant golf balls that may fly over/bounce off of the adjoining public street.

The maximum height proposed for golf nets on residential properties is 20 feet, including the structural supports. The golf nets may be vertical nets, horizontal, or sloping nets, or a combination thereof, and may create an enclosure of the yard area. Establishing a maximum height to address all situations is difficult given many variables. The terrain of the golf course properties, as well as the design of the golf courses, contribute significantly in determining how tall a net is needed to contain errant golf balls. By allowing a horizontal or sloping net option, this provides for an additional means for a property owner to protect their yard area.

Additionally, golf nets are proposed to be exempt from side and rear yard setback requirements and shall not extend forward of the primary structure(s) on the property. Allowing a consistent maximum height throughout a residential yard minimizes confusion for homeowners as to what is allowed and provides flexibility as to the placement of the net. It also simplifies enforcement of the ordinance and minimizes variable interpretations of the ordinance.

Driving Ranges:

The proposed amendment allows for golf nets to be placed on driving range properties only, whether as a primary use or as an accessory use to a golf course, country club (private), and/or outdoor commercial amusement uses, in any zoning district. The nets shall be prohibited in other areas of a golf course and country club (private) such as along fairways, at the tee boxes, etc.

The maximum height proposed for nets associated with driving ranges is 60 feet including the structural supports. The nets shall be vertical nets only. Additionally, the nets would be exempt from side and rear yard setback requirements in order to allow flexibility in placement. Topographical features of the property and the design of the driving range will dictate where nets can be sited on a property. Under the proposed amendment, it is possible that a net could be placed adjacent to the shared property line that separates the driving range from adjacent properties.

Miscellaneous Standards:

The proposed amendment specifies that the golf nets shall be of flexible netting that is designed, manufactured, and sold as golf netting and prohibits the use of chain link fencing. Additionally, the nets shall be staked and/or cable-supported with structural supports in order to constrain the nets. This will assist with extending the longevity of the golf nets, as well as keep nets from flapping in the wind and interfering with fences, landscaping and other improvements.

The proposed amendment also prohibits flags, signs, banners, or other appurtenances from being attached to the structural supports or the golf nets.

RECOMMENDATION:

Recommended for approval as: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Section 1.600 (Definitions) of Article 1 (General Regulations) to create the following definition for golf nets:

Golf Nets – A vertical net, horizontal or sloping net, or combination thereof, including structural supports, designed to confine golf balls to a country club (private), outdoor commercial amusement, or golf course uses.

2. Amend Section 3.1000 (Screening, Fence and Wall Regulations) of Article 3 (Supplementary Regulations) by adding the following new standards for golf nets to read as follows:

3.1005 Golf Nets

(1.) Golf nets are allowed in accordance with the following:

(a.) Golf nets associated with nonresidential uses.

(i.) Golf nets shall be permitted for driving ranges only, whether as a primary use, or as an accessory use to a golf course, country club (private), and/or outdoor commercial amusement uses, in any zoning district. Golf nets shall be prohibited in other areas of a golf course, country club (private) or outdoor commercial amusement uses.

(ii.) Golf nets shall be vertical nets only and may be constructed to a maximum height of 60 feet.

(iii.) Golf nets shall be exempt from side and rear yard setback requirements.

(b.) Golf nets associated with residential uses.

(i.) Golf nets are permitted on residential properties that are contiguous to a country club (private) or golf course, and on residential lots with frontage on a public right-of-way that separates the country club (private) or golf course from the residential lots.

(ii.) Golf nets are exempt from side and rear yard setback requirements and shall not extend forward of the primary structure(s) on the property.

(iii.) Golf nets may consist of vertical nets, horizontal or sloping nets, or a combination thereof, and may create an enclosure of the yard area. The maximum height for a residential golf net is 20 feet.

(2.) All golf nets shall comply with the following requirements:

(a.) Golf nets shall be constructed of flexible netting that is designed, manufactured and sold as golf netting. Chain link fencing is prohibited as a material for golf nets.

(b.) Golf nets shall be staked and/or cable-supported with structural supports.

(c.) No flags, signs, banners or other appurtenances shall be attached to the golf nets.

ORDINANCE NO. _____
(Zoning Case 2008-71)

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING SECTION 1.600 (DEFINITIONS) OF ARTICLE 1 (GENERAL REGULATIONS), SECTION 3.1000 (SCREENING, FENCE, AND WALL REGULATIONS) OF ARTICLE 3 (SUPPLEMENTARY REGULATIONS) AND RELATED SECTIONS OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, REGARDING GOLF NETS; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 10th day of November, 2008, for the purpose of considering a change in the Zoning Ordinance; and

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

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 10th day of November, 2008; and

WHEREAS, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

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

Section I. Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended to create the following definition for golf nets, such definition to read in its entirety as follows:

Golf Nets - A vertical net, horizontal or sloping net, or combination thereof, including structural supports, designed to confine golf balls to a country club (private), outdoor commercial amusement, or golf course uses.

Section II. Section 3.1000 (Screening, Fence, and Wall Regulations) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended by adding the following new subsection for golf nets to read in its entirety as follows:

3.1005 Golf Nets

- (1) Golf nets are allowed in accordance with the following:
 - (a) Golf nets associated with nonresidential uses.
 - (i) Golf nets shall be permitted for driving ranges only, whether as a primary use, or as an accessory use to a golf course, country club (private), and/or outdoor commercial amusement uses, in any zoning district. Golf nets shall be prohibited in other areas of a golf course, country club (private), or outdoor commercial amusement uses.
 - (ii) Golf nets shall be vertical nets only and may be constructed to a maximum height of 60 feet.
 - (iii) Golf nets shall be exempt from side and rear yard setback requirements.
 - (b) Golf nets associated with residential uses.
 - (i) Golf nets are permitted on residential properties that are contiguous to a country club (private) or golf course, and on residential lots with frontage on a public right-of-way that separates the country club (private) or golf course from the residential lots.
 - (ii) Golf nets are exempt from side and rear yard setback requirements and shall not extend forward of the primary structure(s) on the property.
 - (iii) Golf nets may consist of vertical nets, horizontal or sloping nets, or a combination thereof, and may create an enclosure of the yard area. The maximum height for a residential golf net is 20 feet.
- (2) All golf nets shall comply with the following requirements:
 - (a) Golf nets shall be constructed of flexible netting that is designed, manufactured, and sold as golf netting. Chain link fencing is prohibited as a material for golf nets.
 - (b) Golf nets shall be staked and/or cable-supported with structural supports.

- (c) No flags, signs, banners, or other appurtenances shall be attached to the golf nets.

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

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

Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

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

PASSED AND APPROVED THIS THE 10TH DAY OF NOVEMBER, 2008.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY