

## PLANO CITY COUNCIL

**WILL CONVENE INTO EXECUTIVE SESSION AT 5:00 P.M., FEBRUARY 14, 2005 AND PRELIMINARY OPEN MEETING IMMEDIATELY THEREAFTER, 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  |           |        |
| A. | Respond to questions and receive legal advice on agenda items                       | Wetherbee | 10 min |
| B. | Update on City v. Comcast lawsuit; Terms for cable franchise and related services.  | Wetherbee | 10 min |
| 2. | Personnel Appointment   |           |        |
| A. | Building Standards Commission   | Council   | 5 min  |
| 3. | Real Estate   | Council   | 5 min  |
| A. | Discussion and direction concerning Leasing property at Park Boulevard and K Avenue |           |        |

### **PRELIMINARY OPEN MEETING**

- |      |   |              |         |
|------|---|--------------|---------|
| I.   | Consideration and action resulting from Executive Session discussion: Personnel Appointments: Building Standards Commission | Council      | 5 min.  |
| II.  | Presentation re Employee Benefit Programs   | DiCristofaro | 10 min. |
| III. | Discussion re Council Travel Outside the Country  | Mayor        | 10 min. |
| IV.  | Council items for discussion/action on future agendas   | Council      | 5 min.  |
| V.   | Consent and Regular Agenda  | Council      | 5 min.  |

- |     |                 |   |        |
|-----|-----------------|---|--------|
| VI. | Council Reports | Council   | 5 min. |
|     | A.              | Council may receive information, discuss and provide direction on the following reports:                        |        |
|     | B.              | Council may receive reports from its other members who serve as liaisons to boards, commissions, and committees |        |

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: February 14, 2005

CALL TO ORDER: 7:00 p.m.

INVOCATION: Father Charles Latour  
John Paul II High School

PLEDGE OF ALLEGIANCE: Representatives from the Boys & Girls  
Clubs of Collin County 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><b><u>OATHS OF OFFICE</u></b></p> <p><u>Transportation Advisory Committee</u> Charles C. Gillett Candace Noble</p> <p><b><u>GENERAL DISCUSSION</u></b></p> <p><b>In accordance with the Open Meeting Act, the City Council will hear comments of public interest, but any discussion shall be limited to placing the item on a future agenda for further consideration.</b></p> <p><b>Remarks are limited to five (5) minutes per speaker, with a maximum of 30 total minutes of testimony. Other time restraints may be directed by the Mayor.</b></p> <p><b>Specific factual information or an explanation of current policy may be made in response to an inquiry; but any discussion or decision must be limited to a proposal to place the item on a future agenda.</b></p> <p><b>Speakers will be notified when speaking time has expired. The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</b></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b>CONSENT AGENDA</b></p> <p><b><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial.</u></b></p> <p><b><u>Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. The Council will then take action on the remainder of the Consent Agenda items. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></b></p> <p>(a) <b>Approval of Minutes</b></p> <p>January 24, 2005                      January 26, 2005                      January 28, 2005                      January 31, 2005</p> <p><b><u>Award, Rejection of Bids/Proposals, Conditional Acceptance of Lowest Responsible Bid/Proposal and Designation of Alternate Lowest Responsible Bid/Proposal when applicable on the following:</u></b></p> <p>(b) <b>Bid No. C044-05</b> to establish an annual fixed price contract for EMS Medical Supplies in the estimated annual amount of \$91,684. This will establish an annual fixed price contract with two optional one-year renewals.</p> <p>(c) <b>Bid No. B043-05</b> for the purchase of six (6) Certified Law Enforcement Motorcycles in the amount of \$95,628.</p> <p><b><u>Adoption of Resolutions</u></b></p> <p>(d) To approve the terms and conditions of an Inter-Jurisdictional Mutual Aid agreement by and between the City of Plano and Collin County, Texas, providing terms and conditions for mutual aid in the event of a disaster and/or civil emergency; authorizing its execution by the Mayor; and providing an effective date.</p> <p>(e) To approve the terms and conditions of a modification to an agreement by and between the Plano Economic Development Board, Inc. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date.</p> <p>(f) To approve and authorize refunds of property tax overpayments; and providing an effective date.</p> <p>(g) To approve an Interlocal Cooperation Agreement by and between the City of Plano and the Plano Independent School District providing terms and conditions for the construction of a multi-purpose court at Bob Woodruff Park adjacent to Dooley Elementary School; authorizing its execution by the City Manager; and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(h)	To approve the terms and conditions of a service agreement by and between TXU Electric Delivery Company and the City of Plano, Texas for the installation of switchgear at the southeast corner of 15 <sup>th</sup> Street and Avenue G to facilitate the future relocation of overhead electrical lines; authorizing its execution by the City Manager; and providing an effective date.	
(i)	To approve and grant a 2,872 square foot water line easement on City property at the southwest corner of 15 <sup>th</sup> Street and H Avenue, Plano, Collin County, Texas, authorizing its execution by the City Manager; and providing an effective date.	
<b><u>Adoption of Ordinances</u></b>		
(j)	To order a Special Election to be held in conjunction with the General Election in and throughout the City of Plano, Texas, on Saturday May 7, 2005 for the purpose of submitting propositions to the qualified voters of the City for amendment of the City Charter as follows: provide for the powers of the City to be amended to delete the reference that the City may be sued; provide that Council Members shall hold office for two years be amended to make the term of office three years effective May 7, 2005; provide that the qualifications of Council Members for the City of Plano be amended to delete the requirement of owning taxable property within the City; provide that the qualifications of appointees to City boards and commissions be amended to delete the requirement of owning taxable property within the City; provide that the publication in the newspaper of the ordinance granting a franchise be published once each week for four weeks be amended to limit publication to the ordinance caption; provide that the time period for filing a suit against the City be revised to be limited to the time period allowed by law, but in no event, not later than two years, whichever period is shorter; designating locations of polling places for such Special Election; ordering notices of election to be given as prescribed by law in connection with such election; and providing an effective date.	
(k)	To call a Bond Election to be held within the City on May 7, 2005, for the purpose of authorizing General Obligation Bonds; making provisions for the conduct of the election and other provisions incident and related to the purpose of this ordinance; and providing an effective date.	
(l)	To order an election to be held on May 7, 2005 for the purpose of electing four (4) members of Council, Place No. 1 (District 1), Place No. 3 (District 3), Place No. 5 and Place No. 7, to the City Council to hold office for a period of two years (three years if the Charter Amendment regarding terms of office passes); designating locations of polling places; ordering notices of election to be given as prescribed by law in connection with such election; and providing an effective date.	
(m)	To adopt and enact Supplement Number 67 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(n)	<p>To repeal Ordinance No. 2005-1-21; establishing the number of certain classifications within the Police and Fire Departments for Fiscal Year 2004-2005; establishing the authorized number and effective dates of such positions for each classification effective October 4, 2004 and February 14, 2005 and April 1, 2005 and July 1, 2005 respectively; establishing a salary plan for the Police and Fire Departments effective October 4, 2004; and providing a repealer clause, a severability clause and an effective date.</p>	
	<p><b><u>Award of Contract</u></b></p>	
(o)	<p>To award a contract for cleaning and repair of firefighting turnout gear to Solutions Safety Services, Inc., through an interlocal agreement with City of Dallas pursuant to Chapter 271, Section 271.102 of the Local Government Code, and authorizing the City Manager to execute all documents necessary to effectuate the purchase. A \$45,000 expenditure will take place each year for three fiscal years under this contract.</p>	
	<p><b><u>State Contract</u></b></p>	
(p)	<p>To approve entering into a Service Agreement through the Department of Information Resources (DIR) with IBM in an amount of \$36,627; and authorizing the City Manager to execute all necessary documents to effectuate the purchase. (DIR# SDD-190)</p>	
(q)	<p>To approve entering into a Service Agreement through the Department of Information Resources (DIR) with Internetwork Experts in an amount of \$126,743; and authorizing the City Manager to execute all necessary documents to effectuate the purchase. (DIR-BUSOP-012)</p>	
(r)	<p>To approve an expenditure in an amount of \$61,274 for the purchase of network infrastructure equipment to IBM through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate the purchase. (DIR# SDD-190)</p>	
	<p><b><u>Approval of Expenditure</u></b></p>	
(s)	<p>To approve an expenditure to purchase hip-length winter jackets in the amount of \$50,000 over multiple fiscal years utilizing City of Mesquite contract (Contract #2004-022), pursuant to Chapter 271, Section 271.102 of the Local Government Code, and authorizing the City Manager to execute all documents necessary to effectuate the purchase.</p>	
(t)	<p>To approve an expenditure in the amount of \$552,208 to SHI-GS for a Microsoft Enterprise Agreement renewal and true-up for server and desktop licenses through the Department of Information Resources (DIR); and authorizing the City Manager to execute all necessary documents to effectuate the purchase. (DIR#313-001A).</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></b></p> <p><b><u>The purpose of a Public Hearing is to receive input and information with the clarification that the focus of the City Council is on the singularly presented position, and not on repetition. To more effectively consider all presentations, applicants will limit their presentations to 15 minutes with a five (5) minute rebuttal time, if needed. All other speakers will be limited to a maximum of 30 total minutes of testimony, and three minutes per individual on any single issue. Other time restraints may be imposed at the discretion of the Mayor.</u></b></p> <p>(1) <b>Public Hearing and an ordinance as requested in Zoning Case 2004-53</b> – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Heritage Resource Designation H-33 to a 0.4± acre property, located on the southeast corner of 13th Street and H Avenue, presently zoned General Residential, and retaining this zoning classification; directing a change accordingly in the official zoning map of the City; and providing a repealer clause, a savings clause, a penalty clause, a severability clause and an effective date. Neighborhood #59 Applicant: Plano African American Museum, Inc.</p> <p>(2) <b>Public Hearing and an ordinance as requested in Zoning Case 2004-56</b> – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 1.8± acres located on the east side of Industrial Boulevard, 715± feet south of 14th Street in the City of Plano, Collin County, Texas, from Retail to Light Industrial-1; 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. Neighborhood #67 Applicant: Mark H. Hickman</p> <p>(3) <b>Public Hearing and an ordinance as requested in Zoning Case 2004-55</b> – To amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, to permit animal exhibition and/or stable uses in the agricultural district with approval of a specific use permit; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</p> <p><b><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 is 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></b></p>	



February 8, 2005

**Pat Evans**  
Mayor

**Shep Stahel**  
Mayor Pro Tem

**Ken Lambert**  
Deputy Mayor Pro Tem

**Scott Johnson**  
Place 2

**Phil Dyer**  
Place 3

**Sally Magnuson**  
Place 4

**Steve Stovall**  
Place 5

**Jean Callison**  
Place 7

**Thomas H. Muehlenbeck**  
City Manager

**Mayor Pat Evans**  
City Council Members  
City of Plano  
Plano, Texas 75074

Honorable Mayor and City Council:

We will begin our meeting Monday evening at 5:00 p.m.

The Preliminary Open Meeting agenda consists of a presentation regarding Employee Benefit Programs; discussion regarding Council travel outside the country and a Personnel Appointment for the Building Standards Commission.

I look forward to seeing you Monday evening.

Sincerely yours,



**Thomas H. Muehlenbeck**  
City Manager

THM/sw



*Al DiCristofaro*  
4105 Medical Parkway  
Suite 208A  
Austin, TX 78756  
512.451.8142  
512.451.8312 (FAX)  
512.426.4609 (Cell)  
[aldi@austin.rr.com](mailto:aldi@austin.rr.com)

September 2, 2004

Ms. Sydney Covey  
Compensation & Benefits Manager  
The City of Plano  
1520 Avenue K  
Suite 130  
Plano, TX 75074

Re: Employee Benefits Review Project

Dear Sydney:

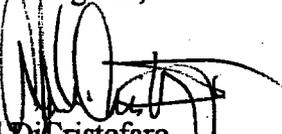
Enclosed is the Retirement Store's report on the City of Plano's employee benefit programs. It is my sincere hope that this report provides you the assistance you were looking for to more effectively manage the City's benefit programs.

The Table of Contents following this page will provide you a "road map" to the report's contents.

I will look forward to discussing the report with you and other representatives of the City in more detail once you have had an opportunity to digest it. In the meantime, please direct any questions concerning the information in this report to me.

It was a pleasure to work with you and with everyone at the City of Plano on this project. I will look forward to visiting with you again soon.

Best Regards,



Al DiCristofaro  
President/Consultant

Encl.

POM II-a

# City of Plano

## Employee Benefits Review Project

### Fiduciary Responsibility

The issue of the City's fiduciary responsibility for all its benefit programs and, more specifically, its retirement programs was asked to be addressed in this project. The issue represents a significant challenge for both public and private employers. While the Retirement Store is not a law firm and its consultants are not lawyers, the following is a layman's discussion of the issue. *The City of Plano is strongly encouraged to consult an attorney who specializes in Employee Benefit law for specific legal guidance about fiduciary responsibility as it relates to your benefits program.*

The Retirement Store believes that there are 2 primary fiduciary-related issues that apply to all benefit programs:

1. The plan/benefit sponsor must deliver a certain level of education to employees that assists them in understanding their benefit options and facilitates their making appropriate decisions about them. Generally speaking, virtually all employers as well as the City of Plano can do a better job of helping employees fully comprehend their benefit options.
2. The plan/benefit sponsor must select providers for benefit options that possess the necessary financial and technical resources that insure that employees receive the benefits as promised.

ERISA (Employee Retirement Income Security Act) provides significant guidance to private sector employers in the administration of employee benefit programs. It also comprehensively defines the responsibilities of a retirement plan fiduciary for those same sponsors. Governmental employers like the City of Plano, however, are exempt from ERISA. As a result, the specific fiduciary responsibilities for sponsors of governmental retirement plans including § 457 plans are somewhat difficult to define. According to the Section 457 Answer Book: "the identity and conduct of any plan fiduciaries is governed solely by state law (including the trust document)."<sup>1</sup> Therefore, one would look to State law for further guidance. There are 3 particular references in Texas statutes that are particularly noteworthy:

- 1.) Chapter 802 of the Texas Government Code deals with the Administrative Requirements of Public Retirement Systems and contains several references to public retirement systems and fiduciary liability. In most instances, the references are specific to State sponsored retirement systems such as ERS, TRS, TMRS, TCDRS, etc., all of which are defined benefit plan systems. Since according to the Texas Attorney General the Plano 401(a) Plan is considered a public retirement system, this chapter may have applicability to that Plan. §802.203 devotes itself to the Fiduciary Responsibility of those systems:

- FIDUCIARY RESPONSIBILITY. (a) In making and supervising investments of the reserve fund of a public

<sup>1</sup> Gary S. Lesser, Editor, Section 457 Answer Book; Q2:146

H-b

retirement system, an investment manager or the governing body shall discharge its duties solely in the interest of the participants and beneficiaries:

(1) for the exclusive purposes of:

(A) providing benefits to participants and their beneficiaries; and

(B) defraying reasonable expenses of administering the system;

(2) with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims;

(3) by diversifying the investments of the system to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the documents and instruments governing the system to the extent that the documents and instruments are consistent with this subchapter.

(b) In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the governing body must act prudently and in the interest of the participants and beneficiaries of the public retirement system.

(c) A trustee is not liable for the acts or omissions of an investment manager appointed under Section 802.204, nor is a trustee obligated to invest or otherwise manage any asset of the system subject to management by the investment manager.

(d) An investment manager appointed under Section 802.204 shall acknowledge in writing the manager's fiduciary responsibilities to the fund the manager is appointed to serve.

(e) The investment standards provided by Subsection (a) and the policies, requirements, and restrictions adopted under Section 802.204(c) are the only standards, policies, or requirements for, or restrictions on, the investment of funds of a public retirement system by an investment manager or by a governing body during a 90-day interim between professional investment management services. Any other standard, policy, requirement, or restriction provided by law is suspended and not applicable during a time, and for 90 days after a time, in which an investment manager is responsible for investment of a reserve fund. If an investment manager has not begun managing investments of a reserve fund before the 91st day after the date of termination of the services of a previous investment manager, the standards, policies, requirements, and restrictions otherwise provided by law are applicable until the date professional investment management services are resumed.

2.) Chapter 609 of the Texas Government Code devotes itself to governmental Deferred Compensation plans. A complete copy of Chapter 609 is located in the Exhibit section of this report. Of particular interest in this section are:

- Subchapter A, §609.009: TRUST FOR 457 PLAN. An employee's deferred

amounts and investment income under a 457 plan and the qualified investment products in which the amounts are invested are held in trust for the exclusive benefit of participants and their beneficiaries in accordance with Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 457). For purposes of this section, custodial accounts and contracts described by Section 457 are treated as trusts. A trust does not have to be established before January 1, 1999, for a 457 plan in existence on August 20, 1996.

- Subchapter A, §609.010: LIABILITY; RESPONSIBILITY FOR MONITORING. (a) The board of trustees, a state agency, a political subdivision, a plan administrator, or an employee of any of those persons is not liable to a participating employee for the diminution in value or loss of all or part of the participating employee's deferred amounts or investment income because of market conditions or the failure, insolvency, or bankruptcy of a qualified vendor.

- (b) A participating employee is responsible for monitoring:

- (1) the financial status of the qualified vendor in whose products the employee's deferred amounts and investment income are invested;

- (2) market conditions; and

- (3) the amount of the employee's deferred amounts and investment income that is invested in the qualified vendor's product.

- Subchapter B. entitled "Deferred Compensation Plans for Employees of Political Subdivisions"

3.) Chapter 117 of the Texas Property Code is entitled "Uniform Prudent Investor Act." The chapter deals with the responsibilities of trustees in the management of trust assets. Since the assets of a Deferred Compensation plan are established in a trust and since the City, as Plan Sponsor, may be considered a trustee of those assets, several sections of this code may apply. A copy of the code is also included in the Exhibits section. Of particular interest are the following sections of the code:

- 117.003. PRUDENT INVESTOR RULE.

- (a) Except as otherwise provided in Subsection (b), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this chapter.

- (b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

- § 117.004. STANDARD OF CARE; PORTFOLIO STRATEGY; RISK AND RETURN OBJECTIVES.

- (a) A trustee shall invest and manage trust assets as a

II-d

prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) general economic conditions;
- (2) the possible effect of inflation or deflation;
- (3) the expected tax consequences of investment decisions or strategies;
- (4) the role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (5) the expected total return from income and the appreciation of capital;
- (6) other resources of the beneficiaries;
- (7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (8) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) Except as otherwise provided by and subject to this subtitle, a trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

Within the governmental Deferred Compensation industry, it is a widely held belief that providing oversight of a 457 plan is a prudent action for any municipality. Assume for a moment that 20% of your employees' assets were invested in a single investment option. You (or your provider designee) provided employees insufficient education about investment risk or asset allocation. The investment option experiences trouble: perhaps it was making guarantees it could not possibly sustain; perhaps it was the subject of an SEC investigation for its "late trading" activities. The investment option subsequently goes broke; your employees lose everything. Possible? If you worked for Enron, it was more than possible. Who do you think your employees will hold accountable? What would your defense be? Could you be held responsible? Using common sense, if you have taken those actions that a prudent person would expect of you in managing the plans you make available to your employees and those actions resemble what comparable plans have done, you may provide yourself some defense that you may not otherwise enjoy.

# City of Plano Deferred Compensation Program Executive Summary

## Background

A 457 plan is a non-qualified, tax-deferred retirement plan that works very much like other retirement plans such as the 403(b) and 401(k). Created in 1978 the name refers to the relevant section [457] in the Internal Revenue Code that governs the plan.

Virtually all governmental entities provide an opportunity for their employees to participate in a governmental 457 Deferred Compensation program. In a few instances, some "grandfathered" governmental plans may sponsor other voluntary programs in addition to the 457 program. The Employees Retirement System of Texas (ERS) and the City of Dallas, for example, are 2 entities in Texas that offer both a 457 and a 401(k) option to their employees since the 401(k) existed prior to 1986 when the law prohibiting governmental entities from establishing new 401(k)'s was enacted. ERS also currently sponsors a 403(b) program for educational related state employees. DISD would similarly sponsor a 403(b) for Dallas school teachers, as would PISD. What's important is that all of these plans do virtually the same thing: they provide a means for employees to save money for retirement on a tax favorable basis. The primary distinguishing characteristic of each program is the type of organization that may sponsor them.

Public governmental 457 plans are required to be funded. That means that according to IRC section 457(g), the assets of a public governmental deferred compensation plan must be held in trust for the exclusive benefit of plan participants and their beneficiaries. Section 1448 of the Small Business Jobs Protection Act of 1996 (SBJPA) added 457(g) of the Code, which requires that a 457 plan maintained by state or local government employers hold all plan assets and income in trust, or in custodial accounts or annuity contracts (described in 401(f) of the Code), for the exclusive benefit of their participants and beneficiaries.

EGTTRA (Economic Growth and Tax Relief Reconciliation Act) in 2001 enabled several enhancements to governmental 457 plans that improved their attractiveness. Among those enhancements were the increase of the annual contribution limits, the elimination of the coordination of 457 deferrals with other retirement plans (like 401(k) and 403(b)), the introduction of an accelerated "catch up" provision, the ability to roll 457 assets to an IRA at separation, and the availability of loans, if elected by the plan sponsor. In fact, in many instances, 457 plans have become the voluntary retirement plan of choice for governmental and public education employers primarily because they do not impose the pre-59 ½ distribution tax penalty common to other plans.

In summary, a governmental 457 Deferred Compensation plan provides a very effective vehicle to allow your employees to save money on a tax favorable basis and augment benefits they may receive from the City's TMRS benefit.

## The Deferred Compensation Industry

While there are literally hundreds of providers of 401(k) and 403(b) plans, there are only a handful of governmental 457 providers. In fact, a cottage industry of sorts has developed around 457 plan administration. While most companies administering 457 plans are insurance companies there are a few mutual fund houses that have also gained a presence in the market.

There has been a significant amount of price competition in the 457 industry in recent years. Price "wars" have developed as companies scrambled to secure new assets that allow them the size to reduce unit costs and remain a price competitive in the business. The price competition has served plan sponsors and participants well, but, simultaneously, strained the profit margins of many existing providers and caused other would-be entrants to the 457 business to avoid the foray and focus on more profitable opportunities. It is the opinion of the Retirement Store that the Industry will continue to experience significant change:

- 1.) As 457 administration evolves to more closely resemble 401(k) administration as a result of 457 product changes, it is possible that administrators who once shunned this business may revisit that strategy;
- 2.) Whether or not the Industry experiences more entrants, competition for assets will continue to drive costs downward.

## The City of Plano Plan

The City of Plano offers 3 separate 457 programs through AIG VALIC, Hartford, and Nationwide Retirement Solutions. A.M. Best rates all 3 entities highly and a copy of their current ratings are included at the end of this section. All 3 programs use variable annuity contracts to meet the 457 "exclusive benefit" criteria mentioned previously. The 3 combined programs as of 6/30/04 manage in excess of \$31 million in assets for both active and inactive Plano employees. As of August 2004, in excess of 700 employees or approximately 35% of the Plano workforce take advantage of the benefits offered through Deferred Compensation. In addition to the 457 plan, the City sponsors an OBRA (Omnibus Budget Reconciliation Act of 1990) for part time employees. The plan is funded exclusively through Nationwide and, through July 2004, had 1172 accounts and \$1.35 million in assets. The combined City of Plano 457 and OBRA plans would be considered mid-sized and would be an attractive piece of business for many deferred compensation administrators.

Of particular interest is that after a 3<sup>rd</sup> provider (i.e., AIG VALIC) was added to the Plan in 2000, participation in the Plan spiked upwards between 2001 and 2002. However, the number of active participants began to fall in 2003 and the 2004 active employee participation in the plan is actually below 2001 plan levels (see City of Plano – 457 Summary). It may be that active participation in the Plan fell off because of workforce reductions during that period. Whatever the reason, it is doubtful that the addition of a 3<sup>rd</sup> provider effectively stimulated more employee interest in the plan. In fact, the multiple provider environment appears to have presented more significant fiduciary issues to the City than it resolved any of the City's problems in its 457 administration. A full discussion of this issue is included in the Summary Recommendations section beginning on the next page.

# City of Plano Deferred Compensation Program Summary Recommendations

There are several administration and structural areas in the current arrangement that the City of Plano might consider addressing to enhance the attractiveness and benefits of the 457 arrangement to both the City and its employees/participants:

- CITY OVERSIGHT

There is currently no central control in the City responsible for the oversight of its Deferred Compensation Plan. By default, responsibility currently resides with the Human Resources Department. It is not unusual for HR personnel to oversee Deferred Compensation arrangements in smaller governmental entities. It is the opinion of the Retirement Store that Plano can no longer be defined as "small" in terms of either the number of its employees participating in one of the City's 457 plans or the total assets under management of the combined Plans.

**RECOMMENDATION:** *The Retirement Store recommends that the City consider the formation of a committee that is responsible for the control and oversight of the City's 457 Plan(s).* Virtually all major cities in Texas have some type of oversight committee that is responsible for their 457 Plans. In fact, § 609.106 of the Texas Government Code (Oversight Committee) provides specific statutory authority to accomplish this objective. Different municipalities have approached this issue differently. Austin, for example, employs a committee that automatically includes some management positions as well as "open" positions that are elected by the plan's participants. El Paso, on the other hand, prefers a more informal approach and employs a group consisting of the CFO, OMB Director, Benefits Manager, and City Pension Plan Manager. In an age of heightened fiduciary liability exposure because of issues like the mutual fund trading scandal, there should be specific accountability to provide regular and thoughtful oversight to your Deferred Compensation plan. Typically, a committee is better able to provide that than any one individual.

- INVESTMENT POLICY STATEMENT

An Investment Policy Statement (IPS) is a document that provides a "road map" for your 457 Deferred Compensation plan. The IPS typically specifies the purpose of the plan, its investment objectives, the parties responsible for Plan oversight, the number and type of investment options available, the manner in which investment options are evaluated and by whom, etc. There is currently no Investment Policy Statement for the City of Plano's 457 Plan.

**RECOMMENDATION:** *The Retirement Store recommends that the City consider the adoption of an Investment Policy Statement for its Deferred Compensation Plan.* Investment Policy Statements are essential in ERISA-related retirement plans. In fact, it's the first document that IRS or DOL personnel request when auditing a retirement plan. As a governmental entity, Plano is exempt from ERISA. Plano is not exempt, however, from exercising good judgment and prudent care in making decisions on behalf of employees deferring their own dollars into a voluntary retirement plan like Deferred Compensation.

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Furthermore, a well-designed IPS could provide critical guidance to whoever at the City is ultimately charged with the oversight of this Plan. A sample Investment Policy Statement is included in the Exhibit section of this report.

- **MULTIPLE PROVIDERS**

The City of Plano currently utilizes 3 different Deferred Compensation providers: AIG VALIC, Hartford, and Nationwide Retirement Solutions. Multiple providers do not allow the City to leverage the total assets of the Plan to negotiate better fees, investment options, participant services or simplified administration. In fact, in a multiple provider environment, the focus is more on one provider competing with another than in providing proper education and service to participants. Add to that the loss of productivity created by employees needing to talk with all 3 companies before electing a provider or moving their account to take advantage of the investment product "du jour" and the non-monetary magnitude of the problem becomes obvious. Furthermore, Texas cities that use a single provider platform (e.g., Austin, Dallas, El Paso, and Houston) enjoy participation in their deferred comp programs north of 50%. Plano is at 35%. Finally, in a multiple provider environment, the City rather than the administrators become primarily responsible for ensuring that employee contributions to the program do not exceed IRS maximums.

**RECOMMENDATION:** *The Retirement Store recommends that the City consider moving to a single provider environment for its Deferred Compensation program.* In the past, it was not unusual for a Plan Sponsor like Plano to add a new provider in order to provide investment diversity within their Plan since so many Administrators offered only proprietary options in their investment menus. The evolution of the financial services industry, however, creates an environment today where virtually all administrators have access to all investment products. A single provider environment will typically result in significantly better fees, better employee services including education, better investment options, less employee confusion, better employee participation in the program, and simplified administration.

- **FEES AND EXPENSES**

The fees paid by Plano participants in any of your current Deferred Compensation plans appear to be above average for a plan with assets in excess of \$30 million. The appropriateness of fees attributable to specific investment options in each of the 3 plans was not within the scope of this project. However, the Retirement Store reviewed all contract level fees applicable to the 3 existing programs and performed a cursory review of each provider's investment menu to determine the level of fees applicable to investment options within the respective program. The conclusion was that approximately .75-1% of your current assets are paid annually by participants in "unnecessary" fees based on your plan's size. On \$30 million in assets, those fees eat up about \$225,000-300,000 annually. The current fees are primarily driven by the multiple provider environment since each provider must compensate sales people to compete with the other products available in the Plan. While this review did not focus on the way current representatives are compensated, it is very likely that some providers' representatives may be incented by a commission-based program. Representative compensation programs that are commission driven do not always serve the best interests of employee participants. The higher fees may also be the result of the use by all providers of "bundled" insurance-based annuity products (see Investment Options section below).

**RECOMMENDATION:** *The Retirement Store recommends that the City leverage the Plan's assets to negotiate a better fee arrangement by moving to a single provider*

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*environment.* It may be possible to re-negotiate a better fee arrangement with any of the existing providers. The Hartford and Nationwide may be particularly interested in working with the City on a better fee arrangement because of the size of their books and their longer term relationship with the City. It is our opinion, however, that the absolute best fee arrangement available to the City would be the result of moving to a single provider platform for administration and investment services.

- INVESTMENT OPTIONS

As previously indicated, the scope of this project did not include a thorough review of each investment option offered by your providers since there are approximately 150 investment options among your 3 plans. In simply reading the investment menu in each Plan, however, it was obvious that there are firms managing money for Plano employees that have been involved in the recent Mutual Fund Trading investigations conducted by the Securities and Exchange Commission. Please note, however, that the particular options in your Plan may not have been the target of the SEC's investigation even if the firm managing the money was. Furthermore, there are both redundant and poorly performing investment options in all of your plans. That is not unusual considering the number of investment options among the 3 current plans.

**RECOMMENDATION:** *The Retirement Store recommends that you immediately satisfy yourself that there is no investment firm or investment option in your plans that have been the target of an SEC investigation that may adversely impact your participants or the City as a plan fiduciary. (NOTE: The Exhibit section of this report includes a sample letter that could be sent by the City of Plano to your existing providers to deal with this issue.)* The City of Plano today offers "bundled" products to its Deferred Compensation participants. In a "bundled" arrangement, the Company provides the City a pre-determined set of investment options and services for your employees. "Bundled" arrangements are particularly common in smaller plans. Plano might consider a "semi-bundled" or "unbundled" arrangement in a single provider environment where the City could gain significant control over the investment options offered to its employees. While it may be possible to negotiate that type of change with your current providers, it is likely that a competitive bid process would produce a more desirable result. If, on the other hand, the City retains a "bundled," multiple provider environment it should demand agreements from those providers that will hold the City harmless and/or defend it against any action resulting from the inclusion of any investment option in the plan. In a review of the documents provided to the Retirement Store in conjunction with this project, it appears that only the Hartford's Administrative Services agreement contains any hold harmless provision.

- CONTINGENT DEFERRED SALES CHARGES

Two of your existing providers will levy a "back-end" charge in the event that their plan is terminated and the assets are moved to a replacement provider. The Contingent Deferred Sales Charge section of this report (see page 17) provides a description of those charges. The Hartford's and AIG VALIC's CDSC's appear to be punitive on an individual basis, i.e. they are used solely to deter the transfer of their assets by the Plan sponsor to another provider. Nationwide, on the other hand, imposes a market value adjustment (MVA) on their Fixed Account assets. While market value adjustments are not unusual for fixed account or stable value products, Nationwide's MVA formula draws significant "fire" from within the industry as also being "punitive." Governmental 457 plans at the \$30 million level with a single

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provider will generally not contain punitive back end charges, but may still have a market value adjustment depending on the type of fixed account product utilized in the plan.

**RECOMMENDATION:** *The Retirement Store recommends that you consider 3 options to deal with the Deferred Sales Charge issues:*

1. The City could negotiate with each current provider to eliminate immediately or no later than 12 months from now any existing Deferred Sales Charge, Market Value Adjustment, or other "back end" fee or charge. The City should be prepared to suspend any provider from securing any new accounts immediately if they refuse to comply. At the end of the 12 month period, you could then approach the marketplace with an RFP for a single provider that was CDSC free.
2. If the City decides to move to a single provider environment through a competitive bid process it could structure the RFP in such a way that any current provider who wishes to bid must agree to eliminate all back end charges or have their bid disqualified.
3. The City could ask a new provider via the RFP process to pay any withdrawal charges --- and they will.

For more information please refer to the Contingent Deferred Sales Charge Section on page 17.

- **EDUCATION AND TRAINING**

It is difficult to draw concrete conclusions from the provider's responses. It appears that while they all possess strong capabilities, virtually no educational programs are offered to City employees and that the educational process is primarily conducted "one-on-one." As a result, the City has no assurance that it has met its responsibilities as a Plan fiduciary since it has no in-depth knowledge of what is told to each employee/participant that causes them to enroll in a program, choose a particular investment option, or move an account balance to a new provider. Furthermore, it appears that in their responses to requests for information as a result of this process, more time is spent by representatives of the companies at police and fire than in other City Departments. Reasons for that probably include the fact that police and fire typically contribute more to this program than non-uniformed employees as a result of higher salary levels. There is also more incentive to chase larger account balances for commission-based representatives. In addition, police and fire, by their very nature, tend to be more "accessible" than non-uniformed personnel. Finally, the confusion inherently created in a 3 provider environment may actually impede some employees from participating in any of the programs.

**RECOMMENDATION:** *The Retirement Store recommends that the City identify and implement specific programs that provide minimum education standards with respect to Deferred Compensation participation.* Those programs might be structured to provide an educational "continuum" that serves the needs of employees who are relatively new to the Deferred Comp process as well as those that are experienced investors in the program. You should be comfortable that the content provided to your employees is a fair and balanced presentation. Again, while it is possible to develop such a program with your present multiple provider environment, there are efficiencies in doing it with a single provider.

- RFP

In my review, it appears that the City has never conducted a competitive bid process for its Deferred Compensation plan since its inception with the Hartford in 1981. Nationwide was added to the Plan in 1991, apparently after being selected as the exclusive OBRA provider (no one else had a product at the time). AIG VALIC was added in 2000. It appears that neither Nationwide nor AIG VALIC were added through a competitive bid process. In fact, it is not known if the City's relationship with the Hartford resulted from a formal RFP/bid process, but we suspect that it did not.

**RECOMMENDATION:** *The Retirement Store recommends that the City consider conducting a formal RFP for a single Deferred Compensation Administrator and Investment provider. The RFP should include administration of the City's OBRA plan.* The RFP recommendation makes sense only if the City accepts the prior recommendation that the City's and its employees interests would best be served by moving to a single provider environment. The Contingent Deferred Sales Charges (CDSC's) levied by your current providers make the RFP a formidable process; you will need to first develop a strategy to deal with the CDSC's. Deferred Comp RFP's are also arduous because they require that you determine what elements of a deferred compensation plan would best serve the needs and interests of your employees. As a general rule, the most obvious goals of the RFP process are better fees, better investment options, better education, etc. Some of the not-so-obvious goals may include participant-level investment advisory services, Self Directed Brokerage Accounts, customized web sites, and City administration re-allowances, for example. It is not uncommon today for governmental entities to include the reimbursement of consulting fees related to the RFP process or on an on-going basis in bid specifications.

The Retirement Store is fully prepared to provide the City of Plano the resources and the expertise necessary to conduct a successful RFP for its Deferred Compensation program if it pursues that option.

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# City of Plano Deferred Compensation Fee Review/Summary

## A. Mutual Fund/Variable Separate Account Investments

There are various fees associated with participation in governmental deferred compensation plans. Typically, those fees fall into the following categories:

### 1. Contract Maintenance Fees

A contract maintenance fee is normally a flat annual charge paid by a participant to the Plan administrator. The fees are typically quite small and may range from \$10-25 annually. It appears that none of your current providers assess a contract maintenance fee.

### 2. Daily Asset Charges/Separate Account Fees

These are fees that are usual to insurance company issued arrangements and represent the mortality and expense risks (i.e., M&E) associated with annuity contracts. Technically, they are fees that protect the insurance company in the event that the client lives beyond his or her normal life expectancy (mortality) and the expense associated with administering the Plan for the City (expense). In reality, however, most clients do not annuitize their account balances into a lifetime income streams through the purchase of an annuity at separation or retirement opting instead to either roll their account balances to an IRA (now permitted through EGTTA) or using a Systematic Withdrawal Option (SWO) to deplete the account balance. As a result, the insurance company normally uses these fees to compensate their sales people and/or improve their profit margins on this business. The following fees apply to your current business:

#### HARTFORD

Daily asset charges range from .75% – .90% basis points.

.75% – Fidelity investment options

.85% – non-Hartford investment options

.90% – Hartford investment options

#### AIG/VALIC

The “Separate Account” fees range from .75% to 1.25% with 1.00% assessed against most investment options in the Plan. VALIC passively managed investment options carry the lower .75% fee while the plan’s Vanguard options carry the 1.25% fee.

#### NATIONWIDE

The “Variable Account Expense” charged by Nationwide to City of Plano participants ranges from .70% to .95%. While most of the investment options carry a charge of .80%, more popular

options such as those offered by Fidelity and American Century are assessed the higher (i.e., .95%) charge.

### 3. Fund Related Fees

Fund related fees include 3 different components:

- Management Expenses to the fund manager
- 12b-1 fees that reimburse a fund for its marketing/distribution expenses
- "Other" expenses that don't fall into any other category

Additionally, there may be expense "waiver" or reimbursements that are deducted from the fund related fees shown above.

Since all 3 companies offer Mutual Fund/Variable Separate Account investments, all of the above fees would apply. For example, in the AIG/VALIC product, these fees range from a low of .28% (Vanguard Long-Term Treasury Fund) to a high of 2.67% on the VALIC Growth Fund. Since there are a myriad of investment options under the plans offered by the City of Plano, the Retirement Store did not complete a review of each investment option since it would have served no purpose here. What you need to know is that when the Plan(s) is re-bid or re-negotiated, you should be looking for investment options that are comparably priced to the average of the investment options in a particular asset class (e.g. International Funds, Small Cap Value funds, etc.) Morningstar and Lipper, for example, publish average expenses for each asset class.

It's important to note that fund related fees are levied in addition to the Daily Asset Charges/Separate Account Fees shown in #2 above.

#### EXAMPLE

It might be best to illustrate the fee environment with an example. Let's assume that you invest \$100 into AIG/VALIC's Credit Suisse Small Cap Growth Fund on 1/1/04. At the end of the year, you would have paid the following fees related to this fund:

Separate Account Fee: (M&E)	1.00%
Management Fee:	1.00%
12b-1 Fee:	.25%
"Other" Expense:	1.13%
Sub-Total All Fees	<u>3.38%</u>
Expense Waiver	-.98%
Grand Total	<u>2.40%</u>

If the Credit Suisse Small Cap Fund earned a return of 0% for the year, your \$100 investment would be worth \$97.60 at the end of the year. In fact, the fund would have to produce an annual return of 2.4% for you to simply break even. Furthermore, the average expense ratio for small cap growth funds like Credit Suisse according to Morningstar is 1.75%. This fund's expense load of 2.40% including the separate account charge is approximately 37% greater than the average for small cap growth funds. If the investment option outperformed other comparable offerings in its asset class, you might be willing to spend an extra 37% to buy it. According to Morningstar, through 6/3/04, this fund actually underperformed its benchmark index (i.e., Russell 2000) for the last 3 years.

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## B. Fixed Account Investments

The Fixed investment option pays a specified rate of interest on its contributions and account balances. All "Fixed" Investment Options in your current contract appear to be general account products. A General Account product is one tied to the general assets of the insurance company offering it. In the unlikely event of bankruptcy, the assets of a general account product become available to the creditors of the insurance company as with any other asset. Texas operates a State Guarantee Fund that might respond to individual participants in the event of an insurer's financial collapse. At the time of re-bid, you might want to consider a separate account Stable Value product that credits interest much like a General Account product, but is held separate and apart from the insurer's general assets. There are pro's and con's to both types of products.

The fee you pay in a Fixed Account product is the difference between what the insurance company was able to make on the contributions in the account and what they actually credited back to participants. For example, if you gave me \$100 to invest and I was able to make \$6 (6%) on my investment, but I only gave you back \$4 (4%), I made \$2 (2%) profit. That may be fine for \$100, but is reasonable for \$100,000 or \$1,000,000 or \$10,000,000? The challenge in a general account product is knowing what the insurance company is actually making on your money since your funds are co-mingled with the funds of other clients who may, in fact, be credited with a different rate than your plan. As a general rule, however, you can reasonably assume that the profit margin in this type of product is somewhere between .75-1.25%. Through June 30, 2004, the combined City of Plano 457 plans had assets of approximately \$8.3 million in these fixed account products.

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## City of Plano Deferred Compensation Program Contingent Deferred Sales Charges Review

Contingent Deferred Sales Charges (CDSC's) are typically those fees or restrictions in a contract that discourage a contract owner (e.g., the City of Plano) from replacing the contract with a competitor's product or services. They may also be known as surrender fees, market value adjustments, or "back end" charges. There are no fees paid and no restrictions enforced under a CDSC arrangement until the current contract is surrendered (that is the "contingency") and its assets moved to a replacement provider. That could happen on either an individual account or with the Plan making a decision to terminate an incumbent provider and transfer those assets to a new provider. This discussion deals only with a plan-initiated decision to move an incumbent's assets to a replacement provider. You should also be aware, however, that all 3 current providers assess CDSC's or other restrictions at the participant level. AIG VALIC and Nationwide restrict transfers from their Fixed Account product to 20% annually. Hartford includes a 90 day "competing fund" restriction for some transfers from their fixed account. AIG VALIC and Hartford also assess account CDSC's if a participant chooses to transfer their account to a competing provider in the plan.

CDSC's are frequently found in smaller plans and in plans that have multiple providers, like Plano's. CDSC's may make it challenging (although not impossible) for a plan sponsor like Plano to secure competitive bids in an open bid environment.

Most of your current providers will impose charges or some type of restriction in the event that their assets are moved to a new provider.

DSC's come in 2 forms. In the City of Plano plan, AIG VALIC employs a *deferred sales charge penalty*. Its sole purpose is to discourage the plan sponsor from transferring the assets to a replacement provider. Your particular CDSC fees are assessed on a participant level depending on how long a participant has "owned" their contract. In 457 plans, that is somewhat unusual. Most plans measure the CDSC charge on a contract level basis (i.e., when the City first approved the contract) and not on a participant level. Nationwide, on the other hand, employs a *market value adjustment* fee. Market Value Adjustments are typical in some fixed account products. The formula for the Nationwide fee, however, regularly draws "fire" from within and outside the industry since it is widely perceived to have little basis to what would normally be considered relevant fixed account criteria. By their very nature, the CDSC fees in the City of Plano plans would be considered punitive; their intent is to deter the City or a participant for moving their account to a replacement provider.

Here is a brief discussion of the penalties assessed by the 3 providers:

### AIG VALIC

The estimated penalty of moving AIG VALIC's assets to a replacement provider as of 6/30/04 was \$80,000 according to the Company. While the formula is rather complicated, it essentially assesses a penalty of the lesser of the participant's account balance or 5% of all deferrals for a participant for the last 5 year period. According to the Company, here is their CDSC provision:

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**“Transfers to Other Carriers - A participant may transfer up to 10 percent of his or her accumulated account value per contract year without charge. Participant transfers in excess of 10 percent to another carrier may subject the participant's account to a surrender charge if one or more of the following conditions are not met:**

- (1) An annuity payout option of five years or longer duration is selected.**
- (2) A five-year systematic payout option is selected.**
- (3) No purchase payments were received within the most recent 60 months**
- (4) The participant's account has been in effect 15 years or longer.**
- (5) Participant has attained age 59½ and his/her account has been in effect for five years or more.**

**If one of the above conditions is not met, the participant's surrender charge is equal to 5 percent of the lesser of: (1) any purchase payments received during the most recent 60 months prior to the receipt of the surrender request by VALIC at its Home Office or, (2) the amount transferred.”**

You will note that the CDSC goes away under several conditions, but most participants with AIG VALIC accounts would have difficulty meeting any of the conditions. There is, however, no CDSC charge once the contract is 15 years old. It is the most punitive fee of its type in your current provider line-up. Furthermore, since AIG VALIC is your most recent provider, virtually all of their accounts are well below 15 years old. As the company secures new accounts, the problems get significantly worse.

### **HARTFORD**

The Hartford also applies a participant level CDSC. It is 3 years shorter than the AIG VALIC fee. It is a 5% maximum charge that reduces to 0% over a 12 year period. Hartford initially estimated the charge to be approximately \$263,000 in the event that the City terminated their relationship and directed the movement of Hartford's assets to a replacement provider. When asked for a specific accounting of the charges, it dropped to \$82,237. After questioning the accounting, the charge went back to \$263,000. Upon expressing extreme disappointment with the Hartford that they would, after a 23 year relationship with the City of Plano, hand them a \$263,000 bill if the City decided to take their business elsewhere, the charge dropped to \$0. The statement is in writing from the Hartford and that is the current premise we are basing this assessment on. The 12 year participant level charge, however, remains in effect if a participant moves their account balance to one of the other competing providers in the City's existing environment.

### **NATIONWIDE**

Nationwide applies a market value adjustment (MVA) to the assets in the Fixed Account only in the event that the contract is terminated and the assets are moved to a replacement provider. As of 6/30/2004, there were assets of \$1.93 million in the Nationwide Fixed Account that would be subject to the MVA. The estimated MVA on 6/30/04 was approximately \$8,492 according to Nationwide. Nationwide's MVA is very sensitive to changes in interest rates. In a rising interest

rate environment such as the one we are currently experiencing, the MVA will rise with interest rate levels. Conversely, the MVA will go down and even disappear in a falling interest rate market. As a result, the 25bp increase in interest rates by the Federal Reserve on August 10, 2004 would have, in all probability, pushed the 6/30/04 estimate by Nationwide upwards. If interest rates do, in fact, continue to rise the City can expect the MVA penalty with Nationwide to continue to increase.

## RECOMMENDATIONS

The primary difficulty with CDSC's is the resulting inability of the Plan sponsor to make administrative or management changes to a program without incurring some monetary penalty. At times, those penalties can be significant. In the City of Plano plan(s) your existing providers estimate the aggregate charges to move these plans to a replacement provider to be less than \$90,000 (\$80,000 AIG VALIC + \$8,500 Nationwide). Options for the City to consider include:

- Negotiating with all incumbent providers now to eliminate all CDSC's or Market Value Adjustments. You would normally re-negotiate a 1 year arrangement to accomplish that. At the end of the 12 month period, all assets should be "free and clear" if they were moved to a new provider. If the provider will not agree to re-negotiate, the City must be prepared to freeze the provider from doing any more business since, particularly in the case of AIG VALIC, it will only worsen an already bad situation.
- Go to bid now for a single provider and require that existing providers either waive their current CDSC or MVA fees or be disqualified in the bidding process. Obviously, this strategy must comply with the City's procurement rules. If the process is not approached in that manner existing providers gain a competitive edge over new providers since they would, in all likelihood, "eat their own fees" if they were re-selected, but would pass the fee on to a replacement provider. It's important to get all bidders on the "same page."
- Go to bid now and ask a new provider to "buy" out the existing fees. Assume that AIG VALIC and Nationwide were unwilling to waive their withdrawal fees. As a result, a new provider would be forced to pay off the Plan's "debt" of approximately \$90,000. In that instance, the new provider might look to recover that cost over the life of the contract. Assume you are willing to provide a 5 year contract to a new provider and they amortize the cost over 5 years at \$18,000 annually. On assets of \$31 million, that would add a charge of approximately 6 basis points (.0006%) to the contract cost annually. Currently, participant contract costs are in the 75-125 basis points (.75-1.25%) neighborhood. Expense-wise, it could still result in a vast improvement. This option, coupled with the option in the bullet stated above, in the opinion of the Retirement Store, is your best alternative.

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## City of Plano Deferred Compensation Education and Enrollment Services

In the survey of Plano's existing providers there were 3 questions that dealt with the educational and enrollment services offered by each company. The questions and each of the company's **verbatim** responses are included below. What is important to note is that while all 3 companies possess excellent educational capabilities, almost none of them are being delivered to Plano employees today.

**SUMMARY:** It is difficult to draw concrete conclusions from the provider's responses. It appears that while they all possess strong capabilities, virtually no educational programs are offered to City employees. That could be the result of what Hartford calls the "equal access rules" imposed by the City. The Companies all rely on one-on-one marketing to "educate" and enroll participants and it appears that, from their own admission, more time is spent by representatives of the companies at police and fire than in other City Departments. Reasons for that probably include the fact that police and fire contribute more to this program than non-uniformed employees. If representatives are commission-based, there is more incentive to chase larger account balances. After reading the responses, my assumption is that AIG VALIC uses commissioned-based reps while Hartford and Nationwide employ salary-plus systems.

**1. Please describe the type of educational services (e.g. seminars, group meetings, etc.) you provide on-site to both employees and the Plan sponsor.**

### **AIG VALIC**

Seminars and workshops have been made available to the City of Plano in a group setting; however, individual counseling sessions have been the preferred method of educating participants. Additionally, AIG VALIC's financial advisors have conducted meetings in many departments within the City of Plano where small group sessions have been provided to help the employees better understand the workings of the 457(b) Deferred Compensation Program and how that program would benefit their retirement planning needs in relation to the City's TMRS retirement program. As the AIG VALIC financial advisors meet individually with employees within the City of Plano, the participants are educated to better understand investments, their specific needs in retirement and how their various savings programs will work together to meet those needs. These confidential, one-to-one meetings provide individuals the opportunity to maximize the advantages of participating in the plan by consulting with our financial advisors. The individual counseling sessions are provided for participants who may have additional questions or require special assistance. Proper asset allocation for each client is a major topic covered by each AIG VALIC financial advisor.

### **HARTFORD**

The Hartford offers educational seminars or information for participants above and beyond your normal enrollment materials.

The Hartford's plan is to implement a financial education curriculum, which is broad based beyond the plan, encompassing broad financial topics.

The following is a more *detailed* look at our curriculum.

Our Education Curriculum:

**1. Plan Level Group Sessions – Enrollment Meetings**

One of the most important decisions an employee can make is deciding to enroll in their employer's Plan. Employees will be able to enroll in our program by either attending a group enrollment seminar or meeting individually with their local Representative. These three part sessions will provide the employee with important information such as:

- Overall benefits of the plan – why they need to save for retirement.
- Program specific information such as investment options offering, investment performance history and applicable investment fees.
- Legislative issues as they affect the Plan.

**2. Plan for Life Seminar Series™ - Life Stage Specific Seminars**

For nearly 35 years, The Hartford has been helping people prepare for retirement. In that time, we've earned the trust and respect of our customers – one at a time. And that's exactly how we approach retirement planning – one person at a time. We know that while a successful retirement is a nearly universal ideal, it's a very personal endeavor. The needs of an individual close to retirement are very different from those of an individual early in his or her career. With that in mind, we have created a Plan for Life series, focusing on each stage in a career cycle.

**3. Investment Concept and Strategies Series**

Each career stage touches on various topics and investment concepts. Participants can choose to learn more by attending specialized workshops covering the topics below:

College Funding  
Estate Conservation  
Financial Management  
Investment Fundamentals  
Long-Term Care  
Mutual Funds  
Retirement  
Retirement Investment Strategies (for post retirement)  
Turbulent Times  
Asset Allocation  
Women and Investing

**NATIONWIDE**

Our local retirement specialists will perform group workshops and one-on-one consultations with participants on a frequent basis. The retirement specialist will utilize advanced software programs on their laptop computers to help participants: enroll in the plan, review fund investments, determine asset allocation preferences, calculate projected retirement income needs, prepare hypothetical future benefit illustrations, assist participants with planning for their retirement, offer financial planning assistance.

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Our on-site retirement specialist will work in coordination with the entity's staff on an ongoing basis to schedule workshops and one-on-one consultations at various sites and times. In addition, our program director will work with your staff to review and update communication and education programs and materials, as well as being available for entity events, such as board meetings.

**2. Please describe the frequency of those sessions for the last 12 month period (7/1/2003-6/30/2004)**

**AIG VALIC**

AIG VALIC financial advisors have offered workshops and seminars at least once a year to the City of Plano's internal departments. The Police department has been visited at least twice per year to offer group meetings. In addition to workshops and seminars, participants have been contacted to review their accounts semi-annually. AIG VALIC financial advisors have also made quarterly visits to the fire stations during all three shifts.

**HARTFORD**

Due to the equal access rules, educational sessions were offered only when specifically requested by a department - 5 presentations were given over the last year.

**NATIONWIDE**

The sessions vary in frequency as the Police Department is scheduled for biannual meetings to cover all briefings in three separate facilities. The Fire Department is worked biannually to cover 10 stations and three shifts. Appointments are then worked on an as needed basis, as well as a monthly daylong session in Human Resources.

**3. Describe the approximate time your local representatives are engaged "one-on-one" each week with City of Plano participants**

**AIG VALIC**

Our financial advisors are available to meet with the City's employees on a one-to-one basis to discuss the employee's unique needs and retirement saving objectives. Working closely with the employee, we provide counseling and advice to help the employee meet his/her goals. The one-to-one counseling includes computer-aided retirement planning tools and will be tailored to each employee. The two AIG VALIC's financial advisors assigned to the City have been available to clients at least 32 hours each week. The goals attained by the financial advisors are returning participant calls within 24 hours and meeting with clients within one week of their call. Our goal is to be recognized as the Deferred Compensation Representatives most available to the employees.

II-U

**HARTFORD**

The local representative made himself officially available one day per week during the 2003 year. The rep typically met with 6-10 employees at each session. In 2004 the City began requiring all 457 vendors to make themselves available once per month for the day. Agents with Hartford are engaged in one-on-one sessions approximately 7-12 times per week. This number does not include phone and mail correspondence.

**NATIONWIDE**

This varies from week to week, however, the average is from 1 to 5 per week.

TH-V

# City of Plano - 457 Summary

(Note Observations on Page 25)

Evaluation Period: 1/1/04 to 6/30/04

	<u>Hartford</u>	<u>Nationwide</u>	<u>AIG/VALIC</u>	<u>Total</u>
Total Account Value	\$20,513,148	\$8,821,947	\$1,692,125	\$31,027,220
Percentage Fixed Assets	30.0%	22.0%	19%	26.8%
Total Deferrals	\$813,117	\$737,878	\$371,717	\$1,922,712
Active Participants	379	257	91	712

Evaluation Period: Full Year 2003

	<u>Hartford</u>	<u>Nationwide</u>	<u>AIG/VALIC</u>	<u>Total</u>
Total Account Value	\$20,156,855	\$8,821,946	\$1,283,811	\$30,262,612
Percentage Fixed Assets	28%	22%	21%	25.60%
Total Deferrals	\$1,748,739	\$1,051,141	\$900,454	\$3,700,334
Active Participants	425	298	65	788

H-W

IX II

**Evaluation Period: Full Year 2002**

	<u>Hartford</u>	<u>Nationwide</u>	<u>AIG/VALIC</u>	<u>Total</u>
<b>Total Account Value</b>	\$16,536,878	\$6,084,782	\$271,557	\$22,893,217
<b>Percentage Fixed Assets</b>	35%	27%	19%	32.80%
<b>Total Deferrals</b>	\$2,020,500	\$1,110,475	\$145,345	\$3,276,320
<b>Active Participants</b>	457	313	20	790

**Evaluation Period: Full Year 2001**

	<u>Hartford</u>	<u>Nationwide</u>	<u>AIG/VALIC</u>	<u>Total</u>
<b>Total Account Value</b>	\$17,771,105	\$6,329,071	\$149,891	\$24,250,067
<b>Percentage Fixed Assets</b>	28%	24%	15%	27.1%
<b>Total Deferrals</b>	\$2,010,536	\$1,172,930	\$143,330	\$3,326,796
<b>Active Participants</b>	432	290	12	734

Observations:

- Fixed assets have historically represented about 25% of total plan assets, but curiously spiked upwards in 2002 to almost 33% of the total. Note the significant change in the Hartford's fixed percentage between 2002 and 2001. Why?
- Annual deferrals dropped marginally between '01 and '02 and increased 13% between '02 and '03. Deferrals through June '04 are on track to be the highest ever in spite of a drop in total participation of 9.6%. Catch-up?
- Total number of participants YTD 2004 is less than total participants in 2001 in spite of the addition of a 3<sup>rd</sup> provider.

### **III. Discussion Re Council Travel Outside the Country**

*III-a*

**Discussion/Action Items for Future Council Agendas  
(as of February 8, 2005)**

***Additional rescheduling of Council meetings may be necessary due to elections and the PISD calendar. These changes will be made as soon as the dates are confirmed.***

***February 22 (rescheduled from 2/28)***

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report  
Board and Commission Policies and Procedures Alignment with Council

**Appeal of P&Z denial of Zoning Case 2004-52** – The requested zoning is to add a Specific Use Permit (SUP) for Arcade to the existing Retail (R) zoning. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district, which could benefit in a particular case the general welfare, provided adequate development standards and safeguards are established. An SUP for Arcade is required when six or more player-operated skill or amusement machines are within an establishment. The property is located within one lot (Pittard Subdivision, Block 4, Lot 3) on 0.1± acre 400± feet south of Parker Road and 963± feet west of Independence Parkway.

**Public Hearing and an ordinance as requested in Zoning Case 2004-54** – A request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses), and Section 3.1500 (Residential Adjacency Standards) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance regarding superstore use. Applicant: City of Plano Tabled from 01-24-05 Council Meeting

**Public Hearing: Zoning Case 2004-57** - The request proposes to expand the area of Planned Development-138-Retail/General Office from 21.1± acres to 30.5± acres by rezoning portions of Planned Development-350-Retail/General Office and Planned Development-402-Retail/General Office. The property is located on the south side of Plano Parkway, west of Ohio Drive, east of Allied Drive, and north and south of Alliance Boulevard. Zoned Planned Development-138-Retail/General Office (PD-138-R/O-2) with Specific Use Permit #164 for Outdoor Commercial Amusement facility, Planned Development-350-Retail/General Office (PD-350-R/O-2), and Planned Development-402-Retail/General Office (PD-402-R/O-2). Neighborhood #55.  
**Applicant: Healthcare Realty Trust, Inc.**

**Public Hearing: Zoning Case 2004-58** - A request to rezone 33.0± acres located on the north side of Windhaven Parkway, 2,900± feet east of Dallas North Tollway and 3,300± feet west of Spring Creek Parkway from Multifamily Residence-3, Planned Development-242-Multifamily Residence-2 and Planned Development-243-Retail/General Office to Planned Development-Single-Family Residence-6. Zoned Multifamily Residence-3 (MF-3), Planned Development-242-Multifamily Residence-2 (PD-242-MF-2), and Planned Development-243-Retail/General Office (PD-243-R/O-2). Neighborhood #27. **Applicant: Acres of Sunshine, Ltd.**

**Public Hearing: Zoning Case 2004-59** - Request for a Specific Use Permit (SUP) for Private Club on 0.1± acre located 130± feet south of West Park Boulevard and 45± feet west of Preston

IV-a

Park Boulevard. Zoned Planned Development-189-Retail/General Office. Neighborhood #55.  
**Applicant: Regency Centers**

*March 7 – 11 – PISD Spring Break*

*March 11 – 15 – NLC – Washington, DC*

**March 16 (rescheduled from 3/14) (NLC)**

*March 24 – Dedication of Steinway Piano – Courtyard Theater – Reception and Concert – 7:00 p.m.*

**March 28**

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report

*April 9 – Police Banquet – Perot Systems – 6 – 10 p.m.*

**April 11**

**April 25**

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report

*April 28 – District 3 Roundtable – 7 p.m. – City Joint Use Facility – Building A*

**May 9**

*May 17 – Special Called Meeting to Canvass Election*

**May 23**

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report

*May 30 – Memorial Day Holiday*

*June 10 – 13 – TCMA - Galveston*

**June 13**

**June 27**  
DART Status Report  
Mobility Report

*IV-b*

Comprehensive Monthly Financial Report

*July 4 – Independence Day Holiday*

**July 25**

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report

**July 27**

Budget

**August 8**

*August 18 - District 4 Roundtable - 7. p.m. – Vines High School Cafeteria*

**August 22**

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report

*September 5 – Labor Day Holiday*

**September 12**

*September 25 – 28 – ICMA - Minneapolis*

**September 26**

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report

*October 3 – 7 – PISD Fall Break*

**October 10**

**October 24**

DART Status Report  
Mobility Report  
Comprehensive Monthly Financial Report

*October 26 – 29 – TML – Gaylord Texan, Grapevine*

*November 10 – District 2 Roundtable – Plano Sports Authority – 2<sup>nd</sup> floor*

*IV-c*

**November 14**

*November 24 – 25 – Thanksgiving Holidays*

**November 28 (Thanksgiving)**

DART Status Report

Mobility Report

Comprehensive Monthly Financial Report

*December 6 – 10 – NLC – Charlotte, NC*

**December 12**

*December 23 – 26 – Christmas/ Winter Holidays*

**December 28 (rescheduled from 12/26) (Winter Holiday)**

DART Status Report

Mobility Report

Comprehensive Monthly Financial Report

*January 2, 2006 – New Year Holiday*

IV-d

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
January 24, 2005**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Shep Stahel, Mayor Pro Tem  
Ken Lambert, Deputy Mayor Pro Tem  
Scott Johnson  
Phil Dyer  
Sally Magnuson  
Steve Stovall  
Jean Callison

**STAFF**

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

Mayor Evans called the meeting to order at 5:12 p.m., Monday, January 24, 2005, 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 Real Estate, Section 551.072 for which a certified agenda is required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 6:25 p.m. in the Council Chambers for which the following matters were discussed:

**Consideration and Action Resulting From Executive Session Discussion**

No items were brought forward.

**DART Status Report**

No report was made.

## **Railroad Crossing Quiet Zone Study**

City Engineer Upchurch spoke to the Federal Railroad Administration's study and creation of Quiet Zones at at-grade railroad crossings and to a proposed effective date of April, 2005 pending final ruling. He spoke to the far west side, southwestern portion, and east side areas of the City as the three major corridors identified. Mr. Upchurch spoke to the crossing analysis, mediation particulars and cost estimates at Parker Road in far west Plano, Ohio and Coit Roads, Plano Parkway with close proximity to US Highway 75, F Avenue, 10<sup>th</sup> Street at Southwestern Avenue, N Avenue, Bradshaw Drive, and Park Vista Road. He stated that the goal is to create Quiet Zones throughout the entire City, that some crossings can be accomplished more quickly than others, spoke to timelines and to working with the railroad on this. He spoke to coordinating efforts with other cities where crossings co-mingle, advised that it is anticipated the total cost of these improvements will be \$400,000 and stated that dollars are included under capital improvement for this.

The Council spoke to F Avenue and possible redevelopment of a nearby existing business facility and to large trucks exiting through the Douglass Community and creating a problem for the neighborhood. The Council also spoke to alternatives which might involve tight turn-around scenarios for the large trucks. Railroad Controls Limited Consultant Kurt Anderson spoke to proposed federal rules for commercial and non-commercial driveways and turning radius requirements. Mayor Evans recommended that the F Avenue location be kept in mind so as to not negatively affect the Douglass Community. Mr. Anderson spoke to an alternative of a wayside horn should redevelopment at this location occur.

## **Mobility Report**

Transportation Engineering Manager Neal stated that Staff training and initial installation of new traffic signal controllers has been completed, spoke to meeting with the Dallas Area Traffic Management Team to discuss proposed use of "flashing yellow arrow" signal displays, and to the installation of count-down pedestrian signals for a 60-day test at two intersections. He responded to the Council regarding placement of the left turn arrow at the end of the cycle stating this is used for lower usage traffic patterns at an intersection. Mr. Neal spoke to neighborhood approval of the removal of the traffic circle at Silver Creek and Charles Place stating that coordination of removal is underway and further spoke to the revised Transportation Division City of Plano web page.

## **Weapons of Mass Destruction (WMD) Grant Update**

Fire Chief Peterson spoke to the City receiving \$1.7 million in funding grant appropriations primarily through the State of Texas to be used by the Police and Fire Departments and by the Public Works Department. He stated that no actual dollars are received and that this works instead like a credit given for purchasing from designated sources.

Chief Peterson reviewed the 2002 – 2004 State Homeland Security Program (SHSP), Urban Areas Security Initiative (UASI), and the Law Enforcement Terrorism Prevention Program (LETTP) grant flowchart and spoke to frustrations experienced in going through the approval process when submitting purchasing requests. He spoke to the 2002 State Homeland Security Grant, Pre-2004 State Homeland Security Grant, 2003 Urban Area Security Initiative II, 2004 State Homeland Security Grant, 2004 Urban Area Security Initiative, 2004 Law Enforcement Terrorism Prevention Program, and the applicable grant dollars.

Chief Peterson and City Manager Muehlenbeck spoke to \$2.4 million received by the County and to the City receiving approximately \$19,000 out of this amount. Chief Peterson responded to the Council with regard to the disproportionate amount of funding received by the City when compared to the fact that Plano makes up approximately 45% of the county's population and stated that County funding usage has gone to putting together and staffing the Department of Homeland Security with primarily health professionals which the City can make use of. He stated that all municipalities were treated equally, and responded to the Council that the County is only required to report back to the Centers for Disease Control with regard to dollars spent. Chief Peterson advised regarding two additional miscellaneous grants received from the Texas Department of Health and the Urban Areas Security Initiative.

Chief Peterson spoke to the 2005 SHSP and the LETTP flow chart, the Emergency Preparedness Planning Council and the Regional Emergency Preparedness Advisory Council, and stated that the flow chart process is much the same. He spoke to evaluation of project categories, and reviewed additional requests with applicable funding dollars made by the City.

Mayor Pro Tem Stahel requested that additional information be provided the City regarding funding details for the \$2.4 million allocation received by the County. Chief Peterson responded to Mayor Evans that he would check into the 2005 grant funding dollar status which so far has been communicated as providing no funding for the City. Council Member Stovall spoke to not knowing how and where the funding is going for staffing and the like. Chief Peterson spoke to mutual aid designation and to cities not competing with each other when putting together county-wide teams.

Remaining Preliminary Items were discussed during the Regular Meeting. The Council convened directly into the Regular Meeting at 7:15 p.m. No recess was taken.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary

**PLANO CITY COUNCIL**  
**January 24, 2005**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Shep Stahel, Mayor Pro Tem  
Ken Lambert, Deputy Mayor Pro Tem  
Steve Stovall  
Phil Dyer  
Scott Johnson  
Sally Magnuson  
Jean Callison

**STAFF**

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

Mayor Evans convened the Preliminary Open Meeting directly into the Regular Meeting on Monday, January 24, 2005, at 7:15 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Pastor Gene Wilkes of Legacy Church.

The Pledge of Allegiance was led by Cub Scout Pack 225 of Weatherford Elementary.

City Manager Muehlenbeck recognized Executive Director Hogan for his thirty years of service to the City.

The Council resumed discussion of the Preliminary Open Meeting.

**Solicitation Subcommittee Report**

Council Member Dyer spoke to there not being a clear-cut resolution to the issues surrounding solicitation, review of other cities' ordinances and to finding a way to accommodate fire fighters collecting for muscular dystrophy. He spoke to allowing solicitation a limited number of weekends per year at a limited number of intersections.

Council Member Magnuson expressed concern that one group may be placed above another, spoke to issues of safety and requested that the ordinance not be amended. Council Member Stovall spoke to the problems of ensuring collections are done safely and to non-profit organizations needing to adapt their marketing plans. He stated concern regarding treating groups differently and spoke to not amending the ordinance.

Deputy Mayor Pro Tem Lambert spoke to the report proposing limiting solicitation to periods of decreased traffic, such as when school is out and stated concern regarding the summer heat. He proposed that Staff work with the City Attorney to develop a proposed ordinance incorporating recommendations on several possible intersections. Council Member Callison spoke to receiving clarification of "when school is out of session."

Council Member Magnuson spoke to meetings held with members of Staff including the City Attorney and Police Chief, consideration of ordinances from around the country and the consensus of the group that the existing ordinance not be amended. She spoke to the variables in human nature and the possibility that solicitors may step into traffic to retrieve money from vehicles.

Council Member Dyer spoke to the importance of access to medians and to an application process wherein a group would be using the intersections on a given weekend. He spoke to trying to find a way to make it work.

City Attorney Wetherbee responded to Council Member Johnson stating that she did not have enough information to determine the City's liability should someone be injured while soliciting. She spoke to the difficulties in determining whether or not a group is a charitable organization.

Mayor Pro Tem Stahel spoke to holding a lottery to determine which group would be using intersections on a specific weekend and Ms. Wetherbee advised that the number of people could be limited at a location, but stated concern with composing an "approved" list. She stated that a lottery system could be set up, that the City does not have to make all public property available, and that the Council should be consistent and not allow the process to favor any organization. Mayor Evans spoke to the proliferation of solicitors when other cities enacted prohibitions against solicitation.

Mayor Pro Tem Stahel reviewed the history, advising that in 2000/01 a task force determined that the key issue was safety and recommended allowing solicitations at 5-6 intersections, but stated that during the last year these locations were overwhelmed with new people. He stated that he was not ready to allow solicitation due to safety concerns, but if there were a specific proposal he would consider it. Mr. Stahel spoke regarding the possible high level of demand should the City permit solicitation four weekends per year.

City Attorney Wetherbee advised that status as a 501(c)(3) did not serve a purpose from a regulatory standpoint and spoke to providing solicitation for anyone who is not in a commercial business.

Deputy Mayor Pro Tem Lambert spoke to looking at what can be done to regulate solicitation in a manner to allow it and to implementing something on a trial basis. After discussion, the Council concurred to consider a revised program on a trial basis and Council Member Magnuson advised that a pilot program will be brought back for Council's consideration in a timely manner.

### **Comprehensive Monthly Financial Report**

Director of Finance McGrane advised that year-to-date revenues in the General Fund were up over last year primarily due to better collection of advalorem taxes. He spoke to the slight increase in sales tax and stated that the water/sewer fund is down slightly. Mr. McGrane spoke to the expenditures in the General Fund being slightly ahead of last year primarily in the area of capital outlay. He advised that hotel/motel taxes are increasing and spoke regarding the potential for a bond sale for the capital improvement program increasing the portfolio and that a hard look will be taken during the next budget cycle at where the City is with regard to the level of hotel/motel taxes.

### **Personnel Appointments**

#### Transition and Revitalization Commission

Upon a motion made by Council Member Johnson and seconded by Council Member Callison, the Council voted 8-0 to appoint Craig Perry to an interim term. Upon a motion made by Council Member Johnson and seconded by Council Member Callison, the Council voted 8-0 to appoint Larry May as chair.

#### Public Arts Committee

Council Member Callison advised that the item would be deferred to the next Council meeting.

#### Transportation Advisory Committee

Upon a motion made by Council Member Magnuson and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to appoint Candace Noble to an interim term expiring in October 2005. Upon a motion made by Council Member Magnuson and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to appoint Charles C. Gillett to an interim term expiring in October 2006.

### **Council Items for Discussion/Action on Future Agendas**

No items were discussed.

## **Consent and Regular Agendas**

Council Member Dyer advised that due to a possible conflict of interest, he would be stepping down on Regular Agenda Item “8,” resolution to approve the terms and conditions of a Public Right-of-Way use Agreement between the City of Plano and Medical Center of Plano.

City Secretary Bealke advised that Sonja Hammar and Jack Lagos requested Consent Agenda Item “H,” resolution to adopt a 2005 State Legislative Program be removed for individual consideration.

## **Council Reports**

Deputy Mayor Pro Tem Lambert spoke to Council Member Callison’s appointment to the Finance Steering Committee of the National League of Cities.

## **GENERAL DISCUSSION**

Jack Lagos, citizen of the City, spoke to recognizing veterans and stated concern that the memorial has not moved up in priority. Mayor Evans and Mayor Pro Tem Stahel spoke to discussion of bond items to be held on the January 26 meeting.

Sonja Hammar, citizen of the City, spoke to Consent Agenda Item “H” including legislative action with regard to the Sci-Tech Discovery Center and to insufficient notice being provided. She spoke regarding improvements on Tulane Drive coming across from Coit Road to Ohio Drive and to beginning eminent domain proceedings to eliminate the traffic hazard that has been created. Ms. Hammar spoke regarding notation on the City’s board/commission application regarding compliance with open records procedures and regarding the current policy allowing members to have information withheld and further requested revision of the application.

## **CONSENT AGENDA**

Upon a motion made by Council Member Johnson and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to approve and adopt all remaining items as recommended and as follows:

### **Approval of Minutes [Consent Agenda (A)]**

December 21, 2004

January 10, 2005

January 12, 2005

**Award, Rejection of Bids/Proposals, Conditional Acceptance of Lowest Responsible Bid/Proposal and Designation of Alternate Lowest Responsible Bid/Proposal when applicable on the following:**

**Bid No. B184-04** for the purchase of W.O. Haggard Library Furniture Part 2 – Project No. 5216 in the amount of \$86,748. [Consent Agenda Item (B)] (See Exhibit “A”)

**Bid No. B045-05** for East Side Fire Hydrant Project #1 in the amount of \$57,400 for the purchase of fire hydrants, tapping sleeves and valves. [Consent Agenda Item (C)] (See Exhibit “B”)

**Bid No. B137-04** for Median and ROW Maintenance Multiple Locations II in the estimated annual amount of \$108,108 for an annual contract of two years with three City optional one-year renewals for labor, materials and equipment utilized for the median and right-of-way mowing services. [Consent Agenda Item (D)] (See Exhibit “C”)

**Bid No. C187-04** for Standard Lot Mowing and Accumulated Trash Removal, Shrub and Tree Trimming in the estimated annual amount of \$35,000 for an annual contract of one year with two City optional one-year renewals. [Consent Agenda Item (E)] (See Exhibit “D”)

**Bid No. C188-04** for an annual fixed-price contract for Oversized Lot, Acreage & Perimeter Lot Mowing and Accumulated Trash Removal, Shrub and Tree Trimming in the estimated annual amount of \$27,500 for an annual contract of one year with two City optional one-year renewals. [Consent Agenda Item (F)] (See Exhibit “E”)

#### **Adoption of Resolutions**

**Resolution No. 2005-1-11(R):** To urge the Texas Legislature not to impose additional limits on property appraisals and local government revenues; and providing an effective date. [Consent Agenda Item (G)]

**Resolution No. 2005-1-12(R):** To oppose any school finance or tax reform measures that would negatively affect local government revenues and services; and providing an effective date. [Consent Agenda Item (I)]

**Resolution No. 2005-1-13(R):** To adopt Parks and Recreation Development Priorities for submission to the Texas Parks and Wildlife Department to comply with the Texas Parks and Wildlife Department’s requirements for approved Park Master Plans. [Consent Agenda Item (J)]

**Resolution No. 2005-1-14(R):** To authorize intervention before the Railroad Commission of Texas in Gas Utilities Docket (GUD) No. 9530; authorizing participation with other cities served by Atmos Energy Corporation, formerly known as TXU Gas Company, in administrative and court proceedings involving a gas cost prudence review related to a filing made in September 2004 as required by the final order in GUD No. 8664; designating two representatives of the City to serve on a steering committee; requiring reimbursement of reasonable legal and consultant expenses. [Consent Agenda Item (K)]

**Resolution No. 2005-1-15(R):** To suspend the proposal by Atmos Energy Corp. to implement interim GRIP Rate Adjustments for gas utility investment in 2003; authorizing participation with other cities served by Atmos Energy Corp., Mid-Tex Division, in a review and inquiry into the basis and reasonableness of the proposed rate adjustments; authorizing intervention in administrative and court proceedings involving the proposed GRIP Rate Adjustments; designating two representatives of the City to serve on a steering committee; requiring reimbursement of reasonable legal and consultant expenses. [Consent Agenda Item (L)]

**Resolution No. 2005-1-16(R):** To approve the hiring of an Assistant City Attorney by the City Attorney; and providing an effective date. [Consent Agenda Item (M)]

**Resolution No. 2005-1-17(R):** To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (N)]

**Resolution No. 2005-1-18(R):** To accept the findings and opinions of the Annual Audit; authorizing the City Manager to publish the results thereof; and providing an effective date. [Consent Agenda Item (O)]

**Resolution No. 2005-1-19(R):** To authorize the City Manager to enter into an agreement with the Plano Independent School District and Frisco Independent School District for the purpose of conducting a Joint General Election and City of Plano Special Bond Election, Special Charter Amendment Election and Special Local Option Elections on May 7, 2005; and providing an effective date. [Consent Agenda Item (P)]

**Resolution No. 2005-1-20(R):** To approve the terms and conditions for the purchase of a containment vessel and trailer from Nabco, Inc., authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase of the equipment; and providing an effective date. [Consent Agenda Item (Q)]

### **Adoption of Ordinances**

**Ordinance No. 2005-1-21:** To repeal Ordinance No. 2004-9-29; establishing the number of certain classifications within the Police and Fire Departments for fiscal year 2004-2005; establishing the authorized number and effective dates of such positions for each classification effective October 4, 2004 and April 1, 2005 and July 1, 2005 respectively; establishing a salary plan for the Police and Fire Departments effective October 4, 2004; and providing a repealer clause, a severability clause and an effective date. [Consent Agenda Item (R)]

**Ordinance No. 2005-1-22:** To amend Chapter 14, Offenses – Miscellaneous, of the Code of Ordinances of the City of Plano, Texas, by adding Article II, Shopping Carts, regulating the use of shopping carts within the City of Plano, and providing a repealer clause, a severability clause, a publication clause, and an effective date. [Consent Agenda Item (S)]

**Ordinance No. 2005-1-23:** To order a Special Election to be held in conjunction with the General Election in and throughout the City of Plano, Texas on Saturday, May, 7, 2005 for the purpose of approving the legal sale of mixed beverages in restaurants by food and beverage certificate holders only; designating locations of polling places; ordering notices of election to be given as prescribed by law in connection with such election; and providing an effective date. [Consent Agenda Item (T)]

**Ordinance No. 2005-1-24:** To order a Special Election to be held in conjunction with the General Election in and throughout the City of Plano, Texas on Saturday, May 7, 2005 for the purpose of approving the legal sale of beer and wine for off-premise consumption only; designating locations of polling places; ordering notices of election to be given as prescribed by law in connection with such election; and providing an effective date. [Consent Agenda Item (U)]

#### **Approval of Agreement**

To approve Geographic Information System (GIS) Annual Maintenance with Environmental Research Systems Institute (ESRI) in the amount of \$54,351. [Consent Agenda Item (V)]

#### **Award of Contract**

To approve and authorize the selection of EHP Consulting, L.L.C. to provide Professional Environmental Services in connection with the City of Plano Asbestos Operation and Maintenance Program and authorizing the City Manager to execute all necessary documents to effectuate the contract. [Consent Agenda Item (W)]

To approve and authorize for the selection of Birkhoff, Hendricks & Conway L.L.P. to provide Professional Engineering Services for an amount not to exceed \$27,800 in connection with the design of Parker Road Elevated Tank Repaint project and authorizing the City Manager to execute all necessary documents to effectuate this contract. [Consent Agenda Item (X)]

#### **Approval of Expenditure**

To approve an expenditure to purchase Lightbar/Siren/Speaker units in the amount of \$81,774, through an Interlocal Agreement with Tarrant County, pursuant to Chapter 271, Section 271.102 of the Local Government Code, and authorizing the City Manager to execute all documents necessary to effectuate the purchase. [Consent Agenda Item (Y)]

#### **Reimbursement of Oversize Participation**

To approve and authorize reimbursement to Legacy/Monterey Homes, L.P. for oversize participation for paving improvements associated with construction of Deerfield North, Phase I in the amount of \$76,168. [Consent Agenda Item (Z)]

To approve and authorize reimbursement to EDS Information Services, L.L.C. for oversize participation for paving improvements associated with construction of Headquarters Drive and Parkwood Boulevard in the amount of \$258,900. [Consent Agenda Item (AA)]

To approve and authorize reimbursement to EDS Information Services, L.L.C. for oversize participation for paving improvements associated with construction of Parkwood Boulevard from Legacy Drive to Headquarters Drive in the amount of \$153,013. [Consent Agenda Item (BB)]

**END OF CONSENT:**

**Resolution No. 2005-1-25(R):** To adopt a 2005 State Legislative Program for the City of Plano; directing the City Manager to act with regard to the City's Legislative Program; and providing an effective date. [Consent Agenda Item (H)]

Executive Director Turner reviewed the legislative process and spoke to a grant for the state appropriation bill that would be in support of the Sci-Tech Discovery Center. He stated that whether or not this is followed through depends on what Council's action is with respect to the bond program and to this being a way to provide supplementary funding. Mr. Turner responded to Deputy Mayor Pro Tem Lambert that there would be time to remove the item from the appropriations bill if necessary.

Mr. Turner reviewed an item opposing legislation that would authorize the City to set speed limits on residential streets by ordinance clarifying that as introduced, the bill would allow speed limits without requiring engineering studies as a basis. Deputy Mayor Pro Tem Lambert spoke to instances where locations did not meet a requirement and where limits were reduced and to advocating local control. Mr. Turner spoke to speed limits being based on engineering studies that justify the speed and stated that if they are artificially low, they create violations but do not control speed. Deputy Mayor Pro Tem Lambert requested the item be removed for consideration on another agenda, however the Council did not concur.

Executive Director Turner responded to City Manager Muehlenbeck stating that if the legislature drops the tax rate for schools the City will speak out regarding any adverse effects.

Jack Lagos, citizen of the City, stated concern that the request for the Sci-Tech Discovery Center makes an assumption that the item is on the City's bond referendum and requested clarification of several items on the list. The Council clarified that items related to permitting a waiver of appearance at a municipal court trial, authorizing or imposing municipal employee collective bargaining, and creating detrimental amendments to the Public Information Act are items that the resolution opposes.

Sonja Hammar, citizen of the City, spoke to the posting of this item not fully informing the public regarding the subjects to be considered.

**Resolution No. 2005-1-25(R) (cont'd)**

A motion was made by Council Member Magnuson and seconded by Council Member Stovall to adopt a 2005 State Legislative Program for the City of Plano; directing the City Manager to act with regard to the City's Legislative Program; and providing an effective date; and further to adopt Resolution No. 2005-1-25(R). The Council voted 7-1 with Deputy Mayor Pro Tem Lambert voting in opposition. The motion carried.

**Public Hearing and Resolution No. 2005-1-26(R) to adopt the Park Forest Neighborhood Action Plan** as proposed by the Park Forest Neighborhood Planning Team and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Park Forest Neighborhood; and providing an effective date. [Regular Agenda Item (1)]

David Dooley, resident of the Park Forest Neighborhood, thanked Staff for their assistance and spoke to the area's goals including: creating a positive community image and instilling pride in maintaining/preserving the quality of existing residential properties by promoting homeownership, housing rehabilitation and code compliance; providing a variety of recreational opportunities and open space and continuing to ensure that parks are well maintained; assuring safe and efficient mobility for cars, trucks and pedestrians while protecting the stability and residential character of the neighborhood; preserving the trees as part of the resources that contribute to the character and beauty of the neighborhood; and enhancing recognition of the area and developing neighborhood identity and cohesiveness. He spoke to the three major requests which included more lighting, less on-street parking and more code enforcement. Mr. Dooley spoke to educating the residents regarding the process of code enforcement.

Planner Tovell advised the Council that this portion of the City was split into three areas for consideration to provide for a more manageable size.

The Council discussed the replacement of playground equipment at Big Lake Park and Park Services Manager Fox advised the Council that the property from Cross Bend south to Parker Road is considered Big Lake Park (a City facility). Mayor Pro Tem Stahel requested a note be provided to Mr. Dooley regarding when new equipment will arrive.

City Manager Muehlenbeck advised that he would check regarding the possibility of lower street lights to help in illuminating below the tree canopy and Mayor Evans spoke to volunteer groups that may help older/disabled citizens to comply with code requirements and to individual homes having outdoor lighting.

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

**Resolution No. 2005-1-26(R) (cont'd)**

Upon a motion made by Council Member Dyer and seconded by Council Member Johnson, the Council voted 7-0 to adopt the Park Forest Neighborhood Action Plan as proposed by the Park Forest Neighborhood Planning Team and approving its use by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development and provision of City services within the Park Forest Neighborhood; and providing an effective date; and further to adopt Resolution No. 2005-1-26(R). Deputy Mayor Pro Tem Lambert was away from the bench.

**Public Hearing** by the City Council of the City of Plano, Texas, pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to the use or taking of a portion of a City of Plano park and known as Bluebonnet Trail Linear Park for a License Agreement for installation of cellular technology incorporated with the existing TXU transmission towers. [Regular Agenda Item (2)]

Assistant to the City Manager Israelson advised the Council that the request is for ground equipment associated with a proposed antenna to be located in an electrical transmission line and spoke to restrictions of other locations. He spoke regarding the Council finding that there is no feasible and prudent alternatives to the use or taking of the park land as proposed by the project and that the project includes all reasonable planning to minimize the harm to the park land. Mr. Israelson spoke regarding landscape plans to screen the equipment.

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

The following two items were considered concurrently.

**Ordinance No. 2005-1-27** to approve a project for installation of cellular technology incorporated with the existing TXU transmission towers through a ground license agreement to Sprint Spectrum, L.P. requiring the use or taking of a portion of City of Plano public park land, known as Bluebonnet Trail Linear Park east of Custer Road; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park resulting from the use; and providing an effective date. [Regular Agenda Item (3)]

**Resolution No. 2005-1-28(R)** to grant a license agreement to Sprint Spectrum, L.P. for installation of cellular technology incorporated with the existing TXU transmission towers being in the George Perrin Survey, Abstract No. 722 City of Plano, Collin County, Texas across a portion of the City of Plano park known as Bluebonnet Trail Linear Park east of Custer Road and authorizing the execution of the license agreement by the City Manager; and providing an effective date. [Regular Agenda Item (4)]

**Resolution No. 2005-1-28(R)**

Assistant to the City Manager Israelson responded to the Council that the City would derive revenue from the site if the request were approved.

Upon a motion made by Council Member Dyer and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to approve a project for installation of cellular technology incorporated with the existing TXU transmission towers through a ground license agreement to Sprint Spectrum, L.P. requiring the use or taking of a portion of City of Plano public park land, known as Bluebonnet Trail Linear Park east of Custer Road; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2005-1-27; and to grant a license agreement to Sprint Spectrum, L.P. for installation of cellular technology incorporated with the existing TXU transmission towers being in the George Perrin Survey, Abstract No. 722 City of Plano, Collin County, Texas across a portion of the City of Plano park known as Bluebonnet Trail Linear Park east of Custer Road and authorizing the execution of the license agreement by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-1-28(R).

**Public Hearing** by the City Council of the City of Plano, Texas, pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to the use or taking of a portion of City of Plano park land known as Russell Creek Park Athletic Complex for a drainage easement. [Regular Agenda Item (5)]

City Engineer Upchurch advised the Council that in the design of a YMCA complex it has been determined that an off-site drainage easement needs to be acquired on property owned by the City. He spoke to minimal to no impact on the use of the park, replacement of the bike trail, review by the Parks and Recreation Planning Board and the determination that there is no feasible and prudent alternative to the use or taking of the park land as proposed by the project and stated that all reasonable planning has been done to minimize harm to the park land resulting from the use or taking.

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

The following two items were considered concurrently.

**Ordinance No. 2005-1-29** of the City of Plano, Texas, approving a project for a drainage easement at Russell Creek Park Athletic Complex-YMCA, requiring the use or taking of a portion of City of Plano public park land known as Russell Creek Park Athletic Complex; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park resulting from the use; and providing an effective date. [Regular Agenda Item (6)]

**Resolution No. 2005-1-30(R)** of the City Council of the City of Plano, Texas, granting the use or taking of a portion of Russell Creek Park Athletic Complex for a drainage easement being in the Grizzell Kennedy Survey, Abstract No. 499, City of Plano, Collin County, and authorizing the approval by the City Manager; and providing an effective date. [Regular Agenda Item (7)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Johnson, the Council voted 8-0 to approve a project for a drainage easement at Russell Creek Park Athletic Complex-YMCA, requiring the use or taking of a portion of City of Plano public park land known as Russell Creek Park Athletic Complex; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2005-1-29; and to grant the use or taking of a portion of Russell Creek Park Athletic Complex for a drainage easement being in the Grizzell Kennedy Survey, Abstract No. 499, City of Plano, Collin County, and authorizing the approval by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-1-30(R).

Due to a possible conflict of interest, Council Member Dyer stepped down from the bench on the following item.

**Resolution No. 2005-1-31(R)** to approve the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and Medical Center of Plano, a Texas Corporation, to locate, place, attach, install, operate, and maintain a communications system in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (8)]

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Stovall, the Council voted 7-0 to approve the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and Medical Center of Plano, a Texas Corporation, to locate, place, attach, install, operate, and maintain a communications system in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-1-31(R).

**Ordinance No. 2005-1-32** to transfer the sum of \$14,251 from the Convention & Tourism Unappropriated Fund Balance to the Convention & Tourism Operating Appropriation for Fiscal Year 2004-05 for the purpose of additional funding for the Plano Balloon Festival; amending the budget of the City and Ordinance 2004-9-15, as amended to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. [Regular Agenda Item (9)]

**Ordinance No. 2005-1-32 (cont'd)**

City Manager Muehlenbeck spoke to the timing of requests for the balloon festival and advised that this item is related to additional charges in the area of emergency management service.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Callison, the Council voted 8-0 to transfer the sum of \$14,251 from the Convention & Tourism Unappropriated Fund Balance to the Convention & Tourism Operating Appropriation for Fiscal Year 2004-05 for the purpose of additional funding for the Plano Balloon Festival; amending the budget of the City and Ordinance 2004-9-15, as amended to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date; and further to adopt Ordinance No. 2005-1-32.

**Resolution No. 2005-1-33(R)** to approve the terms and conditions of a funding agreement between the City of Plano, Texas and the Plano Balloon Festival, Inc.; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (10)]

Upon a motion made by Council Member Dyer and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to approve the terms and conditions of a funding agreement between the City of Plano, Texas and the Plano Balloon Festival, Inc.; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-1-33(R).

**Ordinance No. 2005-1-34** to transfer the sum of \$176,495 from the General Fund Unappropriated Fund Balance to the General Fund Operating Appropriation for Fiscal Year 2004-05 for the purpose of funding the creation of three Fire Battalion Chief positions and increasing the Assistant Fire Chief compensation by 2% effective April 1, 2005; amending the budget of the City and Ordinance No. 2004-9-15, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. [Regular Agenda Item (11)]

Chief Peterson spoke regarding previous discussion and advised that this item would provide better day-to-day supervision for Fire Department shift operations and improve the capability to establish a command team at major incidents in a more expeditious manner.

Upon a motion made by Council Member Magnuson and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to transfer the sum of \$176,495 from the General Fund Unappropriated Fund Balance to the General Fund Operating Appropriation for Fiscal Year 2004-05 for the purpose of funding the creation of three Fire Battalion Chief positions and increasing the Assistant Fire Chief compensation by 2% effective April 1, 2005; amending the budget of the City and Ordinance No. 2004-9-15, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date; and further to adopt Ordinance No. 2005-1-34.

**Ordinance No. 2005-1-35** to transfer the sum of \$95,651 from the General Fund Unappropriated Fund Balance to the General Fund Operating Appropriation for Fiscal Year 2004-05 for the purpose of funding the creation of the Office of Homeland Security; amending the budget of the City and Ordinance No. 2004-9-15, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. [Regular Agenda Item (12)]

Executive Director Glasscock spoke regarding the increased demands on Chief Peterson's role as the Emergency Management Coordinator, the recommendation to establish an Office of Homeland Security to include funding for a full-time buyer, senior administrative assistant and part-time intern position and the opportunities to find additional grants.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to transfer the sum of \$95,651 from the General Fund Unappropriated Fund Balance to the General Fund Operating Appropriation for Fiscal Year 2004-05 for the purpose of funding the creation of the Office of Homeland Security; amending the budget of the City and Ordinance No. 2004-9-15, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date; and further to adopt Ordinance No. 2005-1-35.

**Public Hearing and an ordinance as requested in Zoning Case 2004-54** – A request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses), and Section 3.1500 (Residential Adjacency Standards) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance regarding superstore use. Applicant: City of Plano [Regular Agenda Item (13)]

Development Review Manager Elgin advised the Council that the item has been broadly advertised to allow consideration to amend definitions, the schedule of permitted uses, supplementary regulations and residential adjacency standards. He spoke to the current regulations for superstore use adopted in August 2000 and stated that they are permitted by right in the Light Commercial, Commercial Employment, Central Business-1, Light Industrial-1, Light Industrial-2, Regional Commercial and Corridor Commercial districts and the requirement for a specific use permit (SUP) in the Retail zoning district. Mr. Elgin spoke to supplemental regulations calling for enhanced architectural and landscape standards which apply in Retail zoning only. He spoke to direction given by the Council to consider amending superstore requirements and to Planning and Zoning Commission worksessions, potential sites where the use would be allowed by right being along freeways and not near residential development, review of the requirements by other cities and the emerging trend of "off-mall" freestanding stores.

### **Zoning Case 2004-54 (cont'd)**

Mr. Elgin advised that after discussion the Commission recommended applying supplemental regulations to superstores in any and all districts, requiring a 30-foot landscaped edge when stores are adjacent to a Type C thoroughfare and did not recommend requirement of a specific use permit as follows: (Additions are indicated by underlined text; deletions are indicated by strikethrough text.)

1. Amend standard (1) of Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal and Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) to read as follows:

“(1) These criteria shall apply to new superstore construction in Retail any zoning districts ~~only~~. These criteria shall not apply to the use, reuse, modification, or consolidation of existing retail space developed on ~~the date of the adoption of this ordinance~~ or before January 24, 2005, or to the expansion of existing retail space existing on ~~the date of adoption of this ordinance~~ or before January 24, 2005, by no greater than ten percent of the existing ground floor area.”

2. Amend standard (7) of Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal and Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) to read as follows:

“(7) Where the property immediately abuts a residential zoning district, unless separated by a Type ~~D~~ C or larger thoroughfare, a minimum 30-foot wide landscape edge must be installed in addition to the screening required by Section 3.1000. The landscape edge must include a combination of berms, evergreen shrubs, and a mix of evergreen and deciduous overstory (shade) trees (minimum four inch caliper) placed a minimum 25 feet on center. Plantings may be grouped.”

Mayor Evans opened the Public Hearing. Myron Dornig, representing Wal-Mart, requested rules be applied fairly and equitably and in opposition to changing the rules on a pending project for which site plan approval has already been granted. Linda Parkinson and John Rebensdorf, citizens of the City, spoke in support of requiring specific use permits. Dr. Karen Dubrow and Patricia Templeton, PhD, representing the Good Neighbor Coalition, spoke to requiring specific use permits across all zoning districts. No one else spoke either for or against the request. The Public Hearing was closed.

Deputy Mayor Pro Tem Lambert spoke in support of the recommendations of the Commission but stated concern regarding the omission of the specific use permit requirement and spoke to the legislative process. Mayor Pro Tem Stahel spoke to the appropriateness of an SUP requirement and recommended its inclusion.

### **Zoning Case 2004-54 (cont'd)**

Mayor Evans spoke to commercial land available along the City's borders particularly S.H. 121 that is not adjacent to residential uses, developers' expenses related to the SUP process and competition with neighboring cities that do not require an SUP. She spoke to retaining the SUP at Retail locations and to developing clear standards that can be applied. Mayor Evans spoke to the Commission recommendations including direction with regard to setbacks and landscaping which offer developers a clear idea of what is expected. She spoke to the importance of working with businesses and welcoming them into the City and to their impact on revenue.

Deputy Mayor Pro Tem Lambert spoke to an SUP not being detrimental to development, to incentives offered by other cities and to the effect of demographics on the location of retail development. He spoke to the zoning of car dealerships along Plano Parkway located near residentially zoned property and the potential for their redevelopment as superstores. Mr. Lambert spoke to the difficulty in development regulations that would cover all circumstances and stated that business will not be lost due to the requirement for SUP's.

Mayor Evans spoke to the market being the same on both sides of S.H. 121 and to the extra burden an SUP might place on a developer, writing protective requirements and the Commission's review and recommendation not to include specific use permits.

Deputy Mayor Pro Tem Lambert spoke to the Commission's review, to requirements in other area cities, and stated concern regarding the effect should retailers vacate the mall.

Mayor Pro Tem Stahel spoke to possibly exempting only those properties along S.H. 121 from the SUP requirement, regarding the automobile dealerships along Plano Parkway that back up to residential neighborhoods and to having the ability to review plans.

Mayor Evans spoke to SUP's possibly resulting in the City being passed over and the loss of quality development and sales tax revenue.

Mayor Pro Tem Stahel and Deputy Mayor Pro Tem Lambert stated concern regarding redevelopment of sites. Mayor Evans spoke to having legal standards when denying requests. City Attorney Wetherbee spoke to specific use permits offering the Council discretion, denying uses based on whether or not the project fits in the neighborhood and the inability to pick out a property and to having uniform regulations throughout a district. Director of Planning Jarrell spoke to an SUP allowing the Commission and Council more discretion than a use allowed by right and to being consistent in the application of requirements.

**Zoning Case 2004-54 (cont'd)**

Mayor Pro Tem Stahel spoke to tabling the request in order to review the parcels that may be candidates for re-development and to full deliberation of the issues and advised that changes will not apply to the previously approved Wal-Mart site. Ms. Jarrell advised that Staff would prepare a map showing all properties that are 8-10 acres in size that could logically be redeveloped as superstores and Deputy Mayor Pro Tem Lambert spoke to considering those smaller properties that could be combined. Ms. Jarrell advised the Council that should a developer "scrape" an old shopping center within an area zoned as Retail, an SUP would be required.

Upon a motion made by Mayor Pro Tem Stahel and seconded by Council Member Magnuson, the Council voted 8-0 to table the item until February 22 - A request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), Subsection 3.113 (Superstores) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses), and Section 3.1500 (Residential Adjacency Standards) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance regarding superstore use as requested in Zoning Case 2004-54.

**Resolution No. 2005-1-36(R)** to suspend enforcement of parking regulations on Quincy Lane between Ohio Drive and Family Farm Lane in the corporate City limits of Plano, Texas, for thirty (30) days from the effective date of this resolution so that a traffic study may be conducted to determine the appropriateness of allowing curb side parking along Quincy Lane between Ohio Drive and Family Farm Lane; and providing an effective date. [Regular Agenda Item (14)]

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Johnson, the Council voted 8-0 to suspend enforcement of parking regulations on Quincy Lane between Ohio Drive and Family Farm Lane in the corporate City limits of Plano, Texas, for thirty (30) days from the effective date of this resolution so that a traffic study may be conducted to determine the appropriateness of allowing curb side parking along Quincy Lane between Ohio Drive and Family Farm Lane; and providing an effective date; and further to adopt Resolution No. 2005-1-36(R).

There being no further discussion, Mayor Evans adjourned the meeting at 10:47 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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**Elaine Bealke, City Secretary**

**PLANO CITY COUNCIL  
SPECIAL CALLED WORKSESSION  
JANUARY 26, 2005**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Shep Stahel, Mayor Pro Tem  
Ken Lambert, Deputy Mayor Pro Tem  
Scott Johnson  
Phil Dyer  
Sally Magnuson  
Steve Stovall  
Jean Callison

**STAFF**

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

Mayor Evans called the meeting to order at 5:07 p.m., Wednesday, January 26, 2005, in the Council Chambers of the Plano Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Evans reviewed the process for the meeting.

**City Council Discussion and Requested Presentations**

Equestrian Center and Carpenter Park Expansion

Parks and Recreation Director Wendell stated that the Equestrian Center is contained under Special Facilities in the bond program listing, \$4 million has been identified to build a basic arena and support facilities, spoke to the usage range of the facility, stated that it is similar to a facility in Glenrose and further that the design plan is to accommodate local north Texas events. He stated that Chaparral Road Athletic site has been identified as the suitable site, rather than Oak Point Park and Nature Preserve, responded to the Council that the arena will have a concrete floor under dirt to allow for other uses, be multi-purpose, and be constructed to meet City standards.

Mayor Pro Tem Stahel spoke to considering the location of K Avenue and Chaparral Road, a “starter” facility earlier on in the process, and Mayor Evans spoke to the Plano Centre area at Jupiter Road north of Spring Creek Parkway and connection to activities at Plano Centre. Mr. Wendell responded that a “starter” facility was not recommended and that a flood plain exists at the Jupiter Road location as well as being close to a residential area.

Council Member Stovall spoke to not having created “destinations” where dollars have an opportunity to come back to the City, there currently being no competition for this use, and stated that starting small will not accomplish this. Mr. Wendell responded to the Council that the primary use would be for horse shows, to serve as a multi purpose center, and generate some type of economic impact, stating however that a thorough study would need to be done. Deputy Mayor Pro Tem Lambert spoke to not having completed a proper study towards what would be gained and recommended looking at what is really needed for the community. Mr. Wendell responded to the Council that no communication has been received from the public, and that this topic came up during discussions with the consultant.

#### Carpenter Park Recreation Center Expansion/Senior Center Addition

Mr. Wendell spoke to trends for multi-generational facilities and to combining facilities, staff, and utilities and further reviewed pool types, classes, activities, and renovations to the existing Carpenter Park facility. He spoke to the current senior center being close to capacity but not over-used.

#### Fire Stations

Fire Chief Peterson stated that the location of the proposed fire station 12 is in the vicinity of Coit and Parker Roads, and that the location of the proposed fire station 13 is located at Legacy and Windhaven Drives west of the Dallas North Tollroad, spoke to increased traffic volumes, and further stated that these stations will assist with increasing response times. He responded to the Council regarding security enhancements stating that each station would be evaluated and priorities established. Chief Peterson spoke to phasing in over the years, stated that each station would have an individual system and be compatible with individually monitored fire systems.

#### Radio System Infrastructure Replacement

City Manager Muehlenbeck spoke to not issuing long term debt and removing this item from the bond referendum. He spoke to using certificates of obligation instead for shorter periods of time or tax anticipation notes and to looking at the tax impact. The City Manager spoke to the advantage of having the system paid off before the useful life has expired taking technology improvements into consideration. Director of Budget and Research Rhodes stated that certificates of obligation would be on the debt side, and that technology funds are used for operating expenditures and do not pay for the actual equipment. Mayor Pro Tem Lambert spoke to looking into this. Ms. Rhodes spoke to discussions regarding the start of an asset management program on the technology side to replace computer hardware and servers. Mr. Muehlenbeck spoke to dwindling resources and to difficulties in finding these funds. Council Member Johnson spoke to difficulties in having a large expenditure at one time.

### Land Acquisition and Development Fund

City Manager Muehlenbeck spoke to a \$3 million starting point for land acquisition and development in the City and reviewed funding alternatives. He spoke to using a combination of certificates of obligation/tax participation notes and the water/sewer fund, and further spoke to repayment of funds not always coming back each and every time but representing an incentive for development. He responded to the Council that the transaction cost of issuing bonds would be avoided and interest would be paid back to the City.

### Environmental Educational Building

Executive Director Hogan recommended that this item be removed from bond consideration and that consideration be given instead to alternative funding. He spoke to this concept affecting water, storm water runoff, recycling, and the like and further spoke to funding this item from the Enterprise Funds of Water/Sewer, Municipal Drainage, and the Environmental Waste Fund. Mr. Hogan stated that monies are available to do this from all three funds through the rest of this year or the end of the next fiscal year and spoke to not issuing long term debt. He recommended coming back at a later date with more information on the alternatives. Mayor Evans spoke to determining what the benefits might be at a future date but to removing this from the bond.

William Pritchett, citizen of the City, spoke to teaching children to appreciate the freedom and opportunities they have in the United States, to the sacrifices of many for these privileges and to honoring the lives of both great heroes and ordinary men and women by moving the Veteran's Memorial Park to a number one priority.

Laura Curan, representing the Sci-Tech Discovery Center, advised the Council that the proposal to build a facility on this bond referendum is withdrawn. She spoke to coming back in the next twelve to twenty-four months and thanked City Staff and volunteers for their time. The Council spoke to the efforts of the organization and to the group finding multiple partners to make the project more successful.

Mayor Evans advised that the Council would address the project list and City Manager Muehlenbeck stated that \$42 million has been removed from consideration.

City Manager Muehlenbeck responded to Deputy Mayor Pro Tem Lambert regarding the anticipated timeframe to do Security Enhancements and stated that he would recommend placing the item within the three-year time period and to keeping the \$2 million. Council Member Dyer spoke to the importance of completing the project in a timely manner.

The Council concurred to keep the Fire Facilities as High Priority: Fire Station 12, Fire Station 13, Emergency Operations Center and Fire Station 4 Expansion. In the area of Medium Priority the Council concurred to keep Fire Station Reconfiguration and Engine and moved Security Enhancements from low priority to medium.

The Council concurred to keep Library Improvements in the area of Library Facilities and the Animal Shelter Expansion in the area of Other Facilities.

The Council concurred to keep the following Park Improvement Projects as High Priority: Oak Point Park Development, Athletic Field Improvements, Trail Connections; Bicycle Transportation System, Archgate Park Phase II, Neighborhood Park Improvements, Park Improvements, Aquatic Center Renovations and Maintenance Facility. Deputy Mayor Pro Tem Lambert spoke to negotiating with land owners and the Council concurred to keep the Park Land Acquisition item. Director of Parks and Recreation Wendell advised regarding Medium Priority Projects: PISD Tennis Court Lights stating that the school district uses the courts during daylight hours and spoke to the City not providing neighborhood courts but utilizing the school's courts. Following discussion, the Council concurred to keep the request, and to postpone land and facilities for Tennis Center #2. The Council concurred to keep Legacy and Chisholm Trails on the list.

Mr. Wendell advised that in the area of Special Use Facilities the skate park would be located in an area where there is general supervision such as near Oak Point Center and that with regard to dog parks, the thought was to have one each in the eastern, central and western areas of the City but that locations for east/west have not yet been determined. He spoke to considering proximity to homes and parking facilities. Council Member Dyer spoke to the skate park being located along the hike/bike trail and Mayor Pro Tem Stahel spoke to not mixing horse/dog activities. With regard to Special Use Facilities, the Council concurred to leave in \$50,000 to conduct studies of costs and feasibility and the possible opportunities for enterprise funds. City Manager Muehlenbeck advised that there is an additional \$20,000 in the current budget that could be used as well. Mr. Wendell spoke regarding an equestrian contact to advise Staff regarding programs.

Following discussion regarding marketing, the Council concurred to leave in the Pecan Hollow Golf Course Renovations. Mr. Wendell advised that the property owners have been receptive but that Staff does not have a time frame with regard to White Rock Creek Acquisitions. Following further discussion, regarding the possibility of using certificates of obligation, the Council concurred to keep the item on the bond list so that resources are available when needed. The Council concurred to keep the Bishop Road Park Improvements.

In the area of Low Priority items, the Council concurred to remove the Chaparral Road Athletic Site Phase 1, Botanical Gardens and Tennis Center #2 Land and Tennis Center #2. The Council concurred to leave in \$1,425 million for park improvements and \$470,000 for a veterans' memorial at Memorial Park, phasing in the national/local recognition areas at a later time, and moving the item up to a higher priority. Mr. Wendell advised that during the design phase of the veterans' area the architect could provide a master plan for the other two.

### Recreation Center Projects/Sr Center Carpenter Park

Mr. Wendell responded to the Council that this will be a multi-generational facility. The Council spoke to not naming this a senior center, indicating that rather than just an expansion it is also something new to which Mayor Evans spoke to rewording the description for the ballot. Mr. Muehlenbeck stated that this will be a stand alone item on the ballot. Mr. Wendell reviewed the breakdown of items and the Council concurred that this item will remain on the list.

The Council recessed the worksession at 6:55 p.m. and reconvened back into open session at 7:38 p.m.

### Street Improvements

City Engineer Upchurch referred to the map of proposed street projects and spoke to projects which may still remain after completion of this bond program. Deputy Mayor Pro Tem Lambert spoke to any remaining “gaps where there is no roadway” that might still exist in the divided roadways once this program is completed to which Mr. Upchurch spoke to the particulars of where they are indicated on the map. He spoke to Communications Parkway between Spring Creek Parkway northbound toward Tennyson Parkway where no road is built, an existing situation in this area with property owned by DART which could be a possible station, and further spoke to oversize participation scenarios which would apply. Council Member Johnson spoke to problems associated with not having roadways extend through for existing businesses. Mr. Upchurch responded that there are no other missing gaps where anything is actually located, spoke to portions of Shiloh Road to Parker Road which will be included in a future bond program and to criteria for road widening.

Mayor Pro Tem Stahel spoke to items listed regarding Shiloh Road and to postponing the medium priority selection. Mr. Upchurch spoke to leaving things as they are and stated that each project is evaluated before construction begins and stated that having funds in the program provides latitude, and uses of COG, TxDot, and Collin County dollars for projects. Deputy Mayor Pro Tem Lambert requested that a dollar amount per mile to build roads be identified along with a dollar amount remaining to be spent.

Mayor Pro Tem Stahel spoke to two areas at Ridgetop Lane where the road becomes one lane from two lanes and to safety issues in this situation. Mr. Upchurch spoke to implementing improvements on warning signs in the area and stated that he is confident that right-of-way could be provided at this location.

Council Member Dyer spoke to low priority Street Improvements. Mr. Upchurch spoke to not waiting on some roads if this is a five year program, and to the dramatic change new roads make in a neighborhood.

The Council discussed Street Projects/Aesthetic Enhancements and concurred to remove the East Side Entryway from the bond at this time. Mayor Evans spoke to looking at the design of this entryway at a future time to clean things up. The Council concurred to fund Tulane and Ridgetop Roads and to fund the Communications Parkway gap between Spring Creek Parkway and Tennyson Parkway.

Ms. Rhodes advised the Council that the current total stands at \$145.8 million. City Manager Muehlenbeck spoke to grouping like items together and to a possible ballot list consisting of Fire Facilities, Library Facilities, Animal Shelter Expansion, Park Improvement Projects, Recreation Center Projects, and Street Improvement Projects.

Council Member Dyer stated concern that under the current system, there is not a mechanism by which to go back to existing facilities and add public art and that as the City reaches build-out of public facilities future bond elections will have fewer projects that will be eligible. He spoke to having public art as part of a long-term vision and to inclusion of a separate line item in the amount of \$1 million.

Council Member Stovall spoke regarding the efforts in creating the current recommendation, leaving it in place and possibly adding an amount to the next bond issuance for public art at existing facilities. He spoke to the Council's ability to remove public art from any project and in agreement that there should be a way of adding dollars for existing facilities.

Deputy Mayor Pro Tem Lambert spoke to the Public Art Committee's desire to have a funding pool then making decisions regarding projects and to changing the current ordinance. He spoke regarding the current inability to place art at the Central Fire Station or City Hall when items will be placed at smaller facilities and to using art to draw people to the City.

Mayor Evans spoke to the change in perspective that occurred when it was decided that public art is not only a statue, but rather part of the design of the building. Council Member Stovall spoke to the creation of the *Arts Master Plan* and to adding a line item for art at existing facilities.

Mayor Pro Tem Stahel spoke to treating the entire City with the same opportunity and to the possibility of narrowing down the qualifying projects and listing the remaining funds as a separate line item for existing facilities subject to the discretion of the Public Art Committee and City Council.

City Attorney Wetherbee stated concern regarding projects having possible cost overruns that may compromise the art element. She spoke to citizen's expectations of public art and to reserving discretion to the Council when projects come forward in the bid process.

Council Member Dyer stated concern regarding the amount of funding included for two projects located at the same site behind a current retail establishment and to funding not being available for use elsewhere.

Council Members Magnuson and Johnson spoke to Council approval of the requests as they come forward. Council Member Stovall spoke to implementing the process to see how it works and to the ordinance's original intent.

City Attorney Wetherbee spoke to bringing back the ordinance to clarify the application. She advised that the Council has until February 14, 2005 to order the election.

Mayor Pro Tem Stahel spoke to having asterisks indicating the method of calculating the pool of money but stated that disbursement would be decided by the Council at a later date and City Attorney Wetherbee responded that while helpful this would not be a correct proposition. Deputy Mayor Pro Tem Lambert and Council Member Dyer spoke to making public art a separate line item.

The Council concurred to schedule a special called meeting on January 31, 2005 at 6:00 p.m. to review and amend the public art ordinance and to discuss bond proposals.

Ms. Rhodes advised the Council that based on \$145.8 million the program would be for three years with a tax rate impact of 3.2 cents which would be \$59.39 per year for the average homeowner.

City Manager Muehlenbeck and Ms. Rhodes spoke to 3, 4, or 5 year programs, the applicable tax rate, and the average cost increase, yearly to homeowners. Ms. Rhodes spoke to timing of projects in the capital reserve program, Mr. Muehlenbeck spoke to financing three years worth of projects over five years, and stated that actually selling the bonds is what affects the tax impact. Staff discussed a possible 5 or 4 year bond program. Deputy Mayor Pro Tem Lambert stated that he understands that the Council will return to discuss a \$145.8, four-year bond issue and determine if there will be 6 or 7 items on the ballot which will be brought back both ways.

Nothing further was discussed. Mayor Evans adjourned the meeting at 9:02 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary

**PLANO CITY COUNCIL  
SPECIAL CALLED WORKSESSION  
JANUARY 28, 2005**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Shep Stahel, Mayor Pro Tem  
Ken Lambert, Deputy Mayor Pro Tem  
Scott Johnson  
Phil Dyer  
Sally Magnuson  
Steve Stovall  
Jean Callison

**STAFF**

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

Mayor Evans called the meeting to order at 3:01 p.m., Friday, January 28, 2005, in Training Room A of the Plano 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, for which a certified agenda is not required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 3:24 p.m. in the Council Chambers for which the following matter was discussed:

**City Council Discussion and Action to Direct Staff to Initiate the Process for a Bond Sale for a Performing Arts Center**

Mayor Evans asked if any Council Member wished to entertain discussion on this item to which no Council Member came forward. She directed Staff to post an item for discussion and action during the January 31, 2005 Monday Council Meeting at 6:00 p.m. to authorize the Council to correct the previously issued bond ordinance for the performing arts center.

Nothing further was discussed. Mayor Evans adjourned the meeting at 3:26 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary

**PLANO CITY COUNCIL  
SPECIAL CALLED WORKSESSION  
JANUARY 31, 2005**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Shep Stahel, Mayor Pro Tem  
Ken Lambert, Deputy Mayor Pro Tem  
Scott Johnson  
Phil Dyer  
Sally Magnuson  
Steve Stovall  
Jean Callison

**STAFF**

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

Mayor Evans called the meeting to order at 6:05 p.m., Monday, January 31, 2005, in the Council Chambers of the Plano Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Evans welcomed those in attendance and reviewed the procedure for the meeting.

**Council Discussion and Action on Possible Changes to Ordinance No. 2004-7-12, Relating to Public Art Procedures and Funding Sources for City Projects**

Michael Coleman, Public Art Committee Chair, provided a slide presentation demonstrating public art across the nation and spoke to a community outreach program in Plano for art. He advised that the Mission Statement of the Committee is "The celebration of public spaces through the development and implementation of visual art projects and programs, which enrich the cultural experience of the citizens of Plano. He spoke to the mural in the Douglass Community Center, and the children's theme sculpture in Haggard Park. He spoke to the economic impact of the arts, business development, and building pride in tourism. Mr. Coleman spoke to the positive economic numbers identified in a study for the City of Dallas on the impact of the arts, and to the average cost of .30 cents to the Plano homeowner for art in the City of Plano.

David Wiley, Public Art Committee Member, spoke to the economic value of public art and the impact on tourism, investment opportunities through Electronic Data Systems Corporation, and the values in the 2% Public Art Ordinance. He stated that 8 out of 9 cities larger than Plano in Texas utilize a 2% public art program. Mr. Wiley spoke to taking the politics out of public art, this being an economically sound program, paying as you go, and stated that art is needed. He spoke to art in existing buildings and allocation of funds for this purpose outside of the parameters of the ordinance, public art becoming a part of the façade in identifying the reasoning behind the funding of art with long term debt, and further spoke to choosing a mechanism to fund public art. He spoke to a future determination by the Council with each art project at a specific site.

Chelisa Herbrich, ArtCentre of Plano Director of Education and former art specialist at the Plano Independent School District, spoke to the attributes of public art, art programming in the school district, needs for funding, and stated support for the public art program in Plano.

Mayor Evans spoke of previous discussions and considering different options for funding and allowing more flexibility. She spoke to the concern of some members of the Council that the policy as written ties a 2% dollar amount to each new facility and prevents the use of funds for existing ones.

City Manager Muehlenbeck spoke to the concerns raised regarding the issuance of twenty-year debt and regarding an alternative to issue certificates of obligation or tax anticipation notes which can be paid off quickly and sold at the next bond sale. He advised that the fund could be used at the discretion of the Council who would decide whether or not they wished to fund an amount for a project and further stated that the agreement would be made prior to an architectural agreement.

Mayor Evans and Council Member Magnuson spoke to public input received and the importance of public art in the community. Council Member Stovall spoke to the support of young adults.

Deputy Mayor Pro Tem Lambert spoke to not being opposed to public art and to previous discussions on how to address funding. He spoke to concerns that the reallocation of funds must be consistent with other laws and policies, stating that funds derived from bond funding approved for fire stations could not be applied to other facilities. Mr. Lambert spoke to an alternative of having public art as a separate line item in the bond program so that it could apply to any public facility or property in the City whether new or existing as long as the art was a capital cost to allow for flexibility. He spoke to the decreasing number of new facilities and in support of funding via bonds rather than certificates of obligation. Mr. Lambert spoke to making the bonds short-term and endorsed a proposition and having voters approve it.

Mayor Evans spoke regarding public input from citizens who are uncomfortable with long-term funding and who feel that smaller amounts representing individual art pieces could be paid for more quickly.

Council Member Magnuson stated there is a difference between project eligibility and allocation. Deputy Mayor Pro Tem Lambert stated that funds are allocated in the program and that if it is decided not to include public art on a project then it cannot be placed into another project. He spoke to the inclusion of a proposition for public art sending a message to future Councils regarding the public's mandate and concern that if it is not included it may be passed over in coming years.

Council Member Stovall spoke to the renovation of buildings and facilities in the future, to capital improvements always being made, and 8 out of 9 of the largest cities (in Texas) using capital improvements to fund public art. He spoke to moving capital money within a fund such as the Park and Recreation Department, having an artist involved from the very beginning of a project, and doing it separately. Mr. Stovall spoke to art being added to the Municipal Center, not changing the public art ordinance, stated that as a Council a decision can be made as to the nature of the art project, spoke to using bond money or certificates of obligation to pay an artist, and stated that Councils in the future will not be limited on how to fund.

City Attorney Wetherbee responded to Council Member Dyer spoke regarding Section II a. 5. of the Public Art Ordinance relating to the appropriation applying to bond referenda projects, prior propositions and whether public art was contemplated with voter approval and further spoke to not going outside the scope of the proposition. Mr. Dyer stated that to him this paragraph reads that funds could not be allocated to projects not on the referendum. Council Member Stovall spoke to the intent being to limit. Ms. Wetherbee stated that to her this establishes a "bright line" as to when you can use bond funds for projects for art elements. Mr. Dyer stated that he sees this to mean that even though an art project might be contained in the same area such as the Fire Department, if the area in question for the art is not contained in the referendum then it cannot be used for that purpose, and only between bond projects. Ms. Wetherbee spoke to this being a debatable issue and to public art being an element such as landscaping. She stated that the question is whether or not the voters understood this. Deputy Mayor Pro Tem Lambert spoke to eliminating this paragraph. Ms. Wetherbee spoke to leaving this in if bond funds were used and doing a single line proposition to add more money for public art.

Mayor Evans spoke in favor of the use of certificates of obligation and spoke to giving the Council the maximum amount of flexibility, renovating and going back to buildings (existing), doing a little bit at a time, placement of the existing animal shelter renovation bond referendum item, and to this being an awkward place to put art with no visibility to the public.

Mayor Evans spoke to the Haggard Park renovations, public art at the Municipal Center, stated that the current ordinance does not provide flexibility, and spoke to providing the art program through certificates of obligation and not being tied to renovations or new facilities. She spoke to using 4% when there is a major project coming up, artificial limits as to where these things can be addressed, and recommended consideration of flexibility and spoke to the real life practicality of doing it this way.

Council Member Callison spoke to what is next if certificates of obligation are used, future Councils not being held accountable, and whether things were set in stone. Mayor Evans stated this is a four-year program after which time a future Council could evaluate how things went. She spoke to not seeing new facilities coming on in the next bond referendum, providing an amount of money to work with a flexible plan, and a group who can help in being creative and applying this where needed. Ms. Callison spoke to setting a designated amount for a three-year period, going back to the Public Art Committee and telling them to find the best places in the City for the (art) enhancements, and identifying things approved on the bond to be captured. Mayor Evans spoke to continuing with the concept of building art into new facilities, not using money that should not be used, and not paying excessive interest.

Deputy Mayor Pro Tem Lambert spoke to alternatives to remove the 2% dollars from the bond program, and looking at alternative financing such as certificates of obligation to fund the Public Art Program stating that he is not as comfortable with this alternative but that he could live with this choice. Mayor Evans stated that this is subject to a Council vote. Council Member Stovall spoke to leaving this in the bond with voter approval, and further spoke to certificates of obligation usage.

Mayor Pro Tem Stahel spoke to Section II a. 5. of the Public Art Ordinance tying things specifically to the bond program and giving no flexibility and to doing otherwise as being misleading. He stated that his preference now is to place \$1.1 million as a separate line item, as Item #7, or to use certificates of obligation, tax certificates, or some type of short term funding mechanism, stating that after a 3-year pilot program this might prove to be the way to go. Mr. Stahel spoke to the Haggard Park project as an example of a pilot project, but not representing a full pilot test and recommended placing \$1.1 million as a separate line item to be used as seen fit by the Council, with his second choice being alternative funding.

Council Member Johnson stated that the flexibility of certificates of obligation is good, spoke to the momentum of the Douglass Community wall mural and the Haggard Park project, recreation center art continuance, and being in support of taking \$1.1 million out of the bond referendum and placing this amount into certificates of obligation or tax anticipation notes (short term borrowing) and further made a motion to this effect to which Council Member Stovall made a second. (No vote was taken at this time.)

City Attorney Wetherbee recommended that before voting, the Council move to and discuss Item No. 2 after which time they can then move back to Item 1.

## **Continuation of Bond Proposition Discussion and Direction**

Deputy Mayor Pro Tem Lambert spoke to removing public art dollars from the bond, the resulting bond amount, and a proposal for some type of short term funding at a future date for public art. Council Member Dyer stated that with this type of fund the citizens would not have an opportunity to vote on public art. Mayor Evans referenced items being funded in this same manner. Mr. Dyer spoke in support of public art, taking away the citizen's opportunity to speak on this issue and stated this is "new turf" and not the right thing to do. Mr. Lambert stated that taking the funding out of the bond referendum and not providing a separate line item does not provide a clear understanding as to the obligation of a future Council and that a line item would provide this. He stated his preference is to leave public art as a separate line item. Council Member Stovall spoke to this not representing a lot of dollars and stated that the Council does not get into the depths of other items. Mr. Dyer spoke to needing proper public discussions. Council Member Johnson stated this is just a question of how to finance, and that there have been years of discussions regarding public art. Council Member Callison concurred that public opinion has been received and that this is a financing issue. She stated that the Committee desires public input and feels this is a community effort. Mr. Lambert stated that he will vote against the motion and wants a mandate sent to Council that they must do it.

Upon a motion made by Council Member Johnson and seconded by Council Member Stovall, the Council voted 5-3 to remove Public Art dollars from bond referendum consideration and to instead fund Public Art with short term funding. Mayor Pro Tem Stahel, Deputy Mayor Pro Tem Lambert, and Council Member Dyer voted in opposition. The motion passed.

The Council resumed discussion of Item 1. City Attorney Wetherbee spoke to bringing back suggestions with regard to the Public Art Ordinance. Mayor Evans spoke to this ordinance needing significant overhauling to which Ms. Wetherbee advised she would get with the Committee, and spoke to expanding the ordinance to include funding and flexibility for existing facilities as well. Mayor Evans recommended that anything not making sense in the ordinance be addressed.

City Manager Muehlenbeck asked for approval of the arrangement of the bond propositions. Deputy Mayor Pro Tem Lambert recommended that the Council establish the six propositions as listed and as follows:

Proposition #1	Fire Facilities	\$22,086,000
Proposition #2	Library Facilities	\$ 2,040,000
Proposition #3	Animal Shelter	\$ 1,382,100
Proposition #4	Park Improvements	\$58,299,000
Proposition #5	Recreation Center	\$ 6,732,000
Proposition #6	Street Improvements	\$55,372,000

Mayor Evans indicated that there were no requests to speak on Item 2. The Council requested that asterisks be removed from designated public art items and anything else reflecting the same.

Director of Budget and Research Rhodes and City Manager Muehlenbeck spoke to either 4 or 5 years on the bond referendum and to this calculating the tax rate impact. Ms. Rhodes advised that most likely it will be 4 years and that this information will be updated and sent out to the Council.

**Discussion and Action on an Ordinance of the City of Plano, Texas Amending Ordinance 99-1-18, Issuance of General Obligation Bonds, Series 1999, in the Principal Amount of \$25,160,000 and Ordinance No. 2000-2-29, Issuance of General Obligation Bonds, Series 2000 in the Principal Amount of 24,300,000 to Correct the Form of the Bond Regarding Permanent Public Improvements within the City, Providing a Repealing Clause, and a Severability Clause; and Providing an Effective Date**

City Attorney Wetherbee advised that this ordinance will correct an inadvertent error on the form of the bond for two bond ordinances issued in 1999 and 2000, stated that the amendments will have no impact on the bond holders, and that the bond ordinance allows alterations of the bonds that are not material in nature and have no impact. She recommended that the ordinance be approved and responded to Mr. Lambert that the wording placed in Sections I and II now is exactly the way it was listed on the ballot voted on by the citizens for the arts.

Jack Lagos, citizen of the City, commended Council Member Dyer, Mayor Pro Tem Stahel and Deputy Mayor Pro Tem Lambert for recommending that the voters decide on an item where there are questions by the Council. He stated that regarding the performance hall that it is clear what the voters intended in May 1998, where no site or city was specific, spoke to voting particulars, and stated that those who voted for building it assumed it would be built in the City of Plano and those who voted against it did not want to build it in Plano. Mr. Lagos spoke to the intent of the proposition, and to two separate Councils reaffirming with the passage of ordinances within the City. He spoke to terms of "boiler plate," "inadvertently placed," "accidentally placed in," and spoke to the "within the City vote," there being nothing inadvertent about it and whether the ordinance was read by Staff. Mr. Lagos stated that the citizens do have remedies and recommended placement on the ballot.

Council Member Stovall stated that as a part of the two presiding Councils, this was an inadvertent typo.

Upon a motion made by Council Member Magnuson and seconded by Council Member Stovall, the Council voted 8-0 to amend Ordinance 99-1-18, Issuance of General Obligation Bonds, Series 1999, in the Principal Amount of \$25,160,000 and Ordinance No. 2000-2-29, Issuance of General Obligation Bonds, Series 2000 in the Principal Amount of 24,300,000 to Correct the Form of the Bond Regarding Permanent Public Improvements within the City, Providing a Repealing Clause, and a Severability Clause; and Providing an Effective Date, and further adopt Ordinance No. 2005-1-37.

**Authorization of the Purchase of Heavy Rescue Vehicle (USAR Truck) as Stipulated in the 2004 UASI Grant in the Amount of \$256,700.00 from Emergency Vehicles of Texas through the Houston/Galveston Area Council of Governments (HGAC) Cooperative Purchasing Program, Contract #HDCACA and Authorizing the City Manager or His Designee to Execute any and all Documents Necessary to Effectuate this Purchase**

City Manager Muehlenbeck stated that Homeland Security Funding grant monies must be obligated and spent by November of this year (to purchase this item) and must therefore be approved now.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Callison, the Council voted 8-0 to approve the authorization of the Purchase of Heavy Rescue Vehicle (USAR Truck) as Stipulated in the 2004 UASI Grant in the Amount of \$256,700.00 from Emergency Vehicles of Texas through the Houston/Galveston Area Council of Governments (HGAC) Cooperative Purchasing Program, Contract #HDCACA and Authorizing the City Manager or His Designee to Execute any and all Documents Necessary to Effectuate this Purchase.

Deputy Mayor Pro Tem Lambert spoke to the process of freedom in this country and to this same freedom allowing persons to agree, disagree, and compromise. He thanked Mr. Lagos and other community members for their input, finding errors in the ordinance, and spoke to appreciating the involvement. He stated he is in favor of what is being done and will be supporting the program, even though he would liked to have had public art on the ballot.

Nothing further was discussed. Mayor Evans adjourned the meeting at 7:43 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" 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>2/2/05</i>
Agenda Coordinator (include phone #): <b>January M. Cook, Ext. 7376</b>					

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

**CAPTION**

Award, rejection of Bids/Proposals, Conditional acceptance of lowest responsible Bid/Proposal to establish an annual fixed price contract for EMS Medical Supplies (C044-05).

**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
<b>BALANCE</b>	0	0	0	0

**FUND(S): GENERAL FUND**

**COMMENTS:** This item approves price quotes. Expenditures will be made in the Fire Department within the approved budget appropriations. The estimated annual amount is \$91,684.36.

**STRATEGIC PLAN GOAL:**    Contracts for purchasing EMS Medical Supplies relates to the City's Goal of "Service Excellence".

**SUMMARY OF ITEM**

**ANNUAL CONTRACT WITH RENEWALS**

Staff recommends bids of Axis Medical Equipment Supply (Items 52, 61, 67 and 76), Blue Ridge Medical, Inc. (Items 1-6, 30, 40-41, 45, 71 and 84), Moore Medical Corporation (Items 7-8, 15-20, 23, 26-27, 29, 31-32, 46, 60, 62-66, 75 and 77-79) and Tri-anim Health Services, Inc. (Items 9-14, 21-22, 24-25, 28, 33-39, 42-44, 47-51, 53-59, 68-70, 72-74, 80-83 and 85-88) in the estimated annual amount of \$91,684.36 be accepted as lowest responsive, responsible bids conditioned upon timely execution of any necessary contract documents. This will establish an annual fixed price contract with two optional one-year renewals for the purchase of EMS Medical Supplies to be utilized by the Fire Department.

List of Supporting Documents:  
Bid Summary

Other Departments, Boards, Commissions or Agencies

**CITY OF PLANO**  
**BID NO. C044-05**  
**EMS MEDICAL SUPPLIES**  
**BID RECAP**

**Bid opening Date/Time:** 12/27/04 @ 3:30 PM

**Number of Vendors Notified/Viewed:** 1,021

**Number of Vendors Submitting "NO BIDS":** 19

**Bidders Non-Responsive to Specifications:** PMI Progressive Medical International  
Alliance Medical  
Ever Ready First Aid Medical Supply Co.  
Kentron Health Care, Inc.  
Belmex Medical Supply

<u>Responsive Bidders:</u>	<u>Items 52, 61, 67 and 76</u>	<u>Items 1-6, 30, 40-41, 45, 71 and 84</u>	<u>Items 7-8, 15-20, 23, 26-27, 29, 31-32, 46, 60, 62-66, 75 and 77-79</u>	<u>Items 9-14, 21-22, 24-25, 28, 33-39, 42-44, 47-51, 53-59, 68-70, 72-74, 80-83 and 85-88</u>
Axis Medical Equip Supply	\$4,141.40	No Bid	\$37,158.50*	\$34,846.40*
Blue Ridge Medical, Inc.	No Bid	\$3,071.00	\$21,782.50*	\$62,140.62*
Moore Medical Corp.	\$5,954.40*	\$4,932.58*	\$15,412.72	\$89,870.82*
Tri-anim Health Srvs, Inc.	\$6,195.36*	\$8,857.34	\$37,518.20*	\$69,059.24
Laerdal Medical Corp.	\$6,984.00*	No Bid	\$23,085.00*	\$ 4,200.00*
MedSupply Partners	No Bid	\$ 207.25*	\$ 771.34*	\$ 1,656.48*
<b>TOTAL AWARD:</b>				<b>\$91,684.36</b>

(\*) Denotes vendor did not bid all items

*January M. Cook*

1/31/05

January M. Cook, Senior Buyer

Date

*b-2*



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" 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>2/2/05</i>	
Agenda Coordinator (include phone #):		<b>January Cook X7376</b>			
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					
<b>CAPTION</b>					
Award, rejection of Bids/Proposals, Conditional acceptance of Best Value Bid/Proposal for the purchase of Certified Law Enforcement Motorcycles (B043-05).					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>04/05</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	60,000	0	60,000
Encumbered/Expended Amount		0	0	0	0
This Item		0	-95,628	0	-95,628
BALANCE		0	-35,628	0	-35,628
FUND(S): <b>GENERAL FUND AND EQUIPMENT REPLACEMENT FUND</b>					
<b>COMMENTS:</b> Funds for (4) motorcycles are included in the FY 2004-05 approved budget. Savings from other ERF rolling stock purchases will be used for the unscheduled replacement of (2) additional motorcycles.					
<b>STRATEGIC PLAN GOAL:</b> Equipment Replacement relates to the City's goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
Staff recommends bid of Renegade Harley Davidson in the amount of \$15,938.00 each be accepted as best value bid meeting specifications conditioned upon timely execution of any necessary contract documents. Based on the City's current needs, staff recommends purchase of six Certified Law Enforcement Motorcycles in the total amount of \$95,628.00.					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Bid Recap					
Memo					

**CITY OF PLANO**  
**BID NO. B043-05**  
**CERTIFIED LAW ENFORCEMENT MOTORCYCLES**  
**BID RECAP**

---

**Bid opening Date/Time:** 12/27/04 @ 3:00 PM  
**Number of Vendors Notified/Viewed:** 706  
**Number of Vendors Submitting "NO BIDS":** 11  
**Bidders Non-Responsive to Specifications:** BMW Motorcycles of North Dallas

**Responsive Bidders:**

Renegade Harley Davidson **\$15,938.00 Each**

*January M. Cook*

1/27/05

\_\_\_\_\_  
January M. Cook, Senior Buyer

\_\_\_\_\_  
Date

**DATE:** January 20<sup>th</sup>, 2004  
**TO:** January M Cook – Senior Buyer/Purchasing Division  
**FROM:** Sergeant Chris Curd – Supervisor / Traffic Division  
**SUBJECT:** Bid Award Recommendation / B043-05 (Police Motorcycles)

I have reviewed the Certified Law Enforcement Motorcycle bids that were opened on December 27<sup>th</sup>, 2004. We have 31 vendors that reviewed the bid B043-05. Of these 31 vendors, the two vendors listed below actually submitted bids to the City of Plano.

**BMW Motorcycles of North Dallas** – BMW of North Dallas submitted a bid that **did not** meet the minimum bid specifications and are therefore deemed as non-responsive.

**Renegade Harley Davidson (Louisiana)**- Renegade Harley submitted a bid that did meet the minimum bid specifications we set forth. Therefore, their bid was evaluated based on the evaluation criteria as listed in the specifications and the following were taken into consideration:

1. The Overall Reputation of the Equipment Bid, as well as any additional factors that may assist in rating the equipment
2. Delivery Schedule
3. Bid Price
4. Maintenance Program Offered.

After a thorough evaluation, it has been determined that the bid submitted by Renegade Harley Davidson is acceptable on all counts.

Based on this information, we recommend that the Certified Law Enforcement Motorcycle bid (B043-05), in the amount of **\$95,628.00**, be awarded to **Renegade Harley Davidson**. This will cover the replacement cost for the 6 motorcycles that are due to go out of service.

Respectfully Submitted,

Sgt. Chris Curd  
Plano Police Department  
Traffic Division.

C-3



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>			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:		<b>02/14/05</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Fire		Initiated	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department Head	William Peterson		Executive Director	<i>[Signature]</i>	Date
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	2-3-05
Agenda Coordinator (include phone #):			Frank Snidow, X7318		
ACTION REQUESTED:			<input type="checkbox"/> ORDINANCE	<input checked="" type="checkbox"/> RESOLUTION	<input type="checkbox"/> CHANGE ORDER
			<input type="checkbox"/> APPROVAL OF BID	<input type="checkbox"/> AWARD OF CONTRACT	<input type="checkbox"/> AGREEMENT
			<input type="checkbox"/> OTHER		
<b>CAPTION</b>					
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTER-JURISDICTIONAL MUTUAL AID AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY, TEXAS, PROVIDING TERMS AND CONDITIONS FOR MUTUAL AID IN THE EVENT OF A DISASTER AND/OR CIVIL EMERGENCY; AUTHORIZING ITS EXECUTION BY THE MAYOR OR, IN HER ABSENCE, THE MAYOR PRO-TEM; AND PROVIDING AN EFFECTIVE DATE.					
<b>FINANCIAL SUMMARY</b>					
<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:					
<b>SUMMARY OF ITEM</b>					
Request for Council authorization to execute an inter-jurisdictional mutual aid agreement with the County of Collin, Texas, for the City of Plano, Texas, to provide mutual aid in the event of a disaster and/or civil emergency.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Inter-Jurisdictional Mutual Aid Agreement for Collin County, Texas Memorandum					

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## *Memorandum*

**Date:** February 2, 2005  
**To:** Bruce Glasscock, Executive Director  
**From:** William Peterson, Fire Chief   
**Subject:** Council Agenda Item  
Inter-Jurisdictional Mutual Aid Agreement for Collin County

Attached is an agenda item requesting authorization for the Mayor to execute an inter-jurisdictional mutual aid agreement with Collin County for mutual aid in the event of a disaster and/or civil emergency. Collin County is providing the mutual aid agreement for all municipalities located within or partially within Collin County.

Should you have any questions on this matter, please feel free to contact me.

FS/dh

Attachment

*d-2*

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTER-JURISDICTIONAL MUTUAL AID AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY, TEXAS, PROVIDING TERMS AND CONDITIONS FOR MUTUAL AID IN THE EVENT OF A DISASTER AND/OR CIVIL EMERGENCY; AUTHORIZING ITS EXECUTION BY THE MAYOR OR, IN HER ABSENCE, THE MAYOR PRO-TEM; 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 Inter-Jurisdictional Mutual Aid Agreement by and between the City of Plano, Texas and Collin County, Texas, providing terms and conditions for mutual aid in the event of a disaster and/or civil emergency; 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 Mayor or, in her absence, the Mayor Pro-Tem, 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 Mayor or, in her absence, the Mayor Pro-Tem, 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.

RESOLUTION NO. \_\_\_\_\_

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DULY PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

*d-4*



an incident requiring Mutual Aid has occurred shall remain in charge at such incident including the direction of such personnel and equipment provided him/her through the operation of such Mutual Aid plans. This Agreement to render aid is expressly not contingent upon a declaration of a major disaster or emergency by the federal government or upon receiving federal funds in connection with such event(s).

**NOW, THEREFORE**, the Parties agree as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as findings of fact for purposes of interpreting the Parties' intent in entering into this Agreement.

2. Definitions. For purposes of this Agreement, the terms listed below will have the following meanings:

(a) "Civil emergency" means an unforeseen combination of circumstances or the resulting consequences thereof within the geographic limits of a given jurisdiction that calls for immediate action or for which there is an urgent need for assistance or relief to protect the general citizenry.

(b) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, energy emergency (as that term is defined in Chapter 418 of the Texas Government Code), acts of terrorism, and other public calamity requiring emergency action.

(c) "Local government" means a county, municipality, special district, or any corporate/political entity organized under the laws of the State of Texas or any State that borders the State of Texas.

(d) "Mutual aid" includes, but is not limited to, such resources as equipment, supplies, and personnel.

(e) "Political subdivision" means county or incorporated city.

3. Party's Emergency Management Plan. Each Party shall prepare and keep current an emergency management plan for its jurisdiction to provide for emergency/disaster mitigation, preparedness, response and recovery, in accordance with Chapter 418 of the Texas Government Code. The emergency management plan shall incorporate the use of available resources, including personnel, equipment and supplies, necessary to provide mutual aid.

The emergency management plan shall be submitted to the Governor's Division of Emergency Management.

4. Emergency Management Director. The County Judge and the Mayor of each municipality participating in this Agreement shall each serve as the Emergency Management Director for his/her respective jurisdiction and shall take all steps necessary for the implementation of this Agreement. Each Emergency Management Director may designate an Emergency Management Coordinator who shall serve as an assistant to the presiding officer of the political subdivision for emergency management purposes.

5. Activation of Agreement. This Agreement shall be activated in the event of either: (a) a declaration of a local state of disaster by a Party pursuant to Chapter 418 of the Texas Government Code; or (b) the finding of a state of civil emergency by the presiding officer of the governing body of a Party; or (c) a declaration of a local state of emergency by a party pursuant to Chapter 433 of the Texas Government Code. The activation of the Agreement shall continue in force and effect whether or not the local disaster declaration or state of civil emergency is still active, until the services of the Party rendering aid are no longer required or when the officer in charge of the forces of the Party rendering determines, in his/her sole discretion, that further assistance should not be provided.

6. Procedures for Requests and Provision of Mutual Aid. The Emergency Management Director or his or her designee may request Mutual Aid assistance by: (1) submitting a written Request for Assistance to another Party to this Agreement (hereinafter referred to as "Assisting Party") or (2) orally communicating a request for Mutual Aid assistance to the Assisting Party, which shall be followed by a written request within 24 hours. Mutual Aid shall not be requested by a Party (hereinafter "Requesting Party") unless it is directly related to the Disaster or Emergency and resources available from the normal responding agencies to the stricken area are deemed to be inadequate, or are predicted to be expended prior to resolution of the situation. All requests for Mutual Aid must be transmitted by the Emergency Management Director of the Requesting Party or by his or her designee.

A. REQUESTS DIRECTLY TO ASSISTING PARTY: The Requesting Party may directly contact the Emergency Management Director of the Assisting Party or his or her designee and provide the necessary information as prescribed in Section 6.B. hereto.

B. REQUIRED INFORMATION BY REQUESTING PARTY. Each request for assistance shall be accompanied by the following information, to the extent known:

- 1) A general description of the damage or injury sustained or threatened;
- 2) Identification of the emergency service function or functions for which assistance is needed (e.g. fire, law enforcement, emergency medical, search and rescue, transportation, communications, public works and engineering, building, inspection, planning and information assistance,

- mass care, resource support, health and other medical services, etc.), and the particular type of assistance needed;
- 3) The amount and type of personnel, equipment, materials, supplies, and/or facilities needed and a reasonable estimate of the length of time that each will be needed; and
  - 4) The location or locations to which the resources are to be dispatched and the specific time by which the resources are needed; and
  - 5) The name and contact information of a representative of the Requesting Party to meet the personnel and equipment of any Assisting Party at each location to which resources are dispatched.

This information may be provided on a form designed for this purpose or by any other available means.

C. ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE. When contacted by a Requesting Party, the Emergency Management Director of the Assisting Party or his or her designee agrees to assess local resources to determine availability of personnel, equipment and other assistance based on current or anticipated needs. All Parties shall render assistance to the extent personnel, equipment and resources are deemed available. No Party shall be required to provide Mutual Aid unless it determines that it has sufficient resources to do so based on current or anticipated events within its own jurisdiction.

D. INFORMATION REQUIRED OF THE ASSISTING PARTY. An Emergency Management Director or his or her designee who determines that the Assisting Party has available personnel, equipment, or other resources, shall so notify the Requesting Party and provide the following information, to the extent known:

- 1) A complete description of the personnel and their expertise and capabilities, equipment, and other resources to be furnished to the Requesting Party;
- 2) The estimated length of time that the personnel, equipment, and other resources will be available;
- 3) The name of the person or persons to be designated as supervisory personnel; and
- 4) The estimated time of arrival for the assistance to be provided to arrive at the designated location.

This information may be provided on a form designed for this purpose or by any other available means.

E. SUPERVISION AND CONTROL: When providing assistance under the terms of this Agreement, the personnel, equipment, and resources of any Assisting Party will be under the operational control of the Requesting Party, the response effort to which **SHALL be organized and functioning within an Incident Command System**

**(ICS) or Unified Command System (UCS) format.** Direct supervision and control of personnel, equipment and resources and personnel accountability shall remain with the designated supervisory personnel of the Assisting Party. The designated supervisory personnel of the Assisting Party shall: maintain daily personnel time records, material records, and a log of equipment hours; be responsible for the operation and maintenance of the equipment and other resources furnished by the Assisting Party; and shall report work progress to the Requesting Party. The Assisting Party's personnel and other resources shall remain subject to recall by the Assisting Party at any time at the discretion of the Assisting Party's designated supervisory personnel, subject to reasonable notice to the Requesting Party.

F. FOOD, HOUSING, and SELF-SUFFICIENCY: Unless specifically instructed otherwise, the Requesting Party shall have the responsibility of providing food and housing for the personnel of the Assisting Party from the time of their arrival at the designated location to the time of their departure. However, Assisting Party personnel and equipment should be, to the greatest extent possible, self-sufficient while working in the Emergency or Disaster area. The Requesting Party may specify only self-sufficient personnel and resources in its request for assistance and in such event shall not be responsible for providing food and housing for the self-sufficient personnel provided by the Assisting Party.

G. COMMUNICATIONS: Unless specifically instructed otherwise, the Requesting Party shall have the responsibility for coordinating communications between the personnel of the Assisting Party and the Requesting Party. Assisting Party personnel should be prepared to furnish their own communications equipment sufficient only to maintain communications among their respective operating units, if such is practicable.

H. RIGHTS AND PRIVILEGES: Personnel who are assigned, designated or ordered by their governing body to perform duties pursuant to this Agreement shall continue to receive the same wages, salary, pension, and other compensation and benefits for the performance of such duties, including injury or death benefits, disability payments, and workers' compensation benefits, as though the service had been rendered within the limits of the jurisdiction where the personnel are regularly employed.

I. TERM OF DEPLOYMENT: The initial duration of a request for assistance will be specified by the Requesting Party, to the extent possible by the situation.

J. SUMMARY REPORT: Within Ten (10) working days of the return of all personnel deployed under this Agreement, the Requesting Party will prepare a Summary Report of the event, and provide copies to each Assisting Party. The report shall, at a minimum, include a chronology of events and description of personnel, equipment and materials provided by one Party to the other.

7. Conditions. The furnishing of any resources under this Agreement is subject to the following conditions:
- (a) The Requesting Party shall specify the amount and type of resources being requested, the location to which the resources are to be dispatched, and the specific time by which such resources are needed;
  - (b) The Assisting Party shall take such action as is necessary to provide and make available the resources requested, provided however, that the Assisting Party, in its sole discretion, shall determine what resources are available to furnish the requested aid; and
  - (c) The Assisting Party shall report to the officer in charge of the Requesting Party's forces at the location to which the resources are dispatched.
8. Coordinating Agency for Mutual Aid. The County shall act as the coordinating agency for mutual aid responses to disasters and to civil emergencies that affect more than one Party hereto. As part of its duties as coordinating agency, the County shall provide an executed initial copy of this agreement to all Parties and shall maintain a current listing of all Parties to this Agreement. Such listing shall include personnel to be contacted in each city, appropriate telephone and facsimile numbers, and other information that would be needed in order to contact each Party in the event of a disaster or civil emergency. County shall periodically furnish copies of such listing to the other Parties to this Agreement.
9. Waiver of Claims Against Parties; Immunity Retained. Each Party hereto waives all claims against the other Parties hereto for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this Agreement, except those caused in whole or in part by the negligence of an officer, employee, or agent of another Party. By entering into this Agreement, and/or furnishing services hereunder, it is expressly understood that no Party waives or relinquishes any immunity or defense on behalf of itself, its officers, employees and agents, whether such immunity or defense is predicated upon statutory or common law, rule or regulation, either State or federal.
10. Costs. All costs associated with the provision of Mutual Aid, including but not limited to compensation for personnel; operation and maintenance of equipment; damage to equipment; medical expenses; clean-up, removal or disposal of hazardous materials or fuel/oil contamination and food, lodging and transportation expenses shall be borne by the Assisting Party for the first twenty-four (24) hours that assistance is provided. Thereafter, all costs associated with the provision of Mutual Aid, including but not limited to compensation for personnel; operation and maintenance of equipment; damage to equipment; medical expenses, clean-up, removal or disposal of hazardous materials or fuel/oil contamination; and food, lodging and transportation expenses shall be paid for by the Assisting Party and reimbursed by the Requesting Party at actual cost, subject to appropriations being budgeted

and made available by the Requesting Party's governing board. Requests for reimbursement must be submitted within ten (10) working days of the return of all personnel deployed under this Agreement. Such request shall identify with specificity each service, labor, or equipment provided and the unit and total costs associated with each. The Assisting Party shall be responsible for creating and maintaining for a period of three years a record of all costs incurred, both reimbursed and un-reimbursed costs, in providing aid under this Agreement. Such costs and reimbursements shall be paid from current funds of the respective Party. All Parties acknowledge that un-reimbursable costs incurred during the initial 24-hour period will not be subject to reimbursement with any available federal funds. Documentation that services were requested and received including costs will be made available to FEMA.

11. INSURANCE.

A. **WORKERS' COMPENSATION COVERAGE:** Each Party shall be responsible for its own actions and those of its employees and is responsible for complying with the Texas Workers' Compensation Act and all other applicable rules and regulations pertaining thereto.

B. **AUTOMOBILE LIABILITY COVERAGE:** Each Party shall be responsible for its own actions and is responsible for complying with the Texas motor vehicle financial responsibility laws to the extent applicable to the rendering of services hereunder.

C. **GENERAL LIABILITY, PUBLIC OFFICIALS LIABILITY, AND LAW ENFORCEMENT LIABILITY:** To the extent permitted by law and without waiving sovereign and/or governmental immunity, each Party shall be solely responsible for any and all claims, demands, suits, actions, damages, and causes for action related to or arising out of or in any way connected with its own actions, and the actions of its personnel in providing Mutual Aid assistance rendered or performed pursuant to the terms and conditions of this Agreement. Each Party agrees to obtain and maintain during the term of this Agreement, general liability, public official's liability and law enforcement liability insurance coverages, if applicable, or maintain a comparable self-insurance program. Copies of such insurance policies shall be furnished by a Party to any requesting Party upon request.

D. **OTHER COVERAGE:** The Assisting Party shall provide and maintain its standard packages of medical and death benefit insurance coverage to its employees while they are assisting the Requesting Party.

12. Equipment and Personnel. During the time mutual aid is being furnished, all equipment used by the Party rendering aid shall continue to be owned, leased, or rented by the Assisting Party. At all times while equipment and personnel of an Assisting Party are traveling to, from, or within the geographical limits of the Requesting Party in accordance with the terms of this Agreement, such personnel and equipment shall be deemed to be employed or used, as the case may be, in the full line and cause of duty of the Assisting Party

In addition, such personnel shall be deemed to be engaged in a governmental function of their respective entity.

13. Expending Funds. Each Party which performs services or furnishes aid pursuant to this Agreement shall do so with funds available from current budgeted revenues of the Party. No Party shall have any liability for the failure to expend funds to provide aid hereunder.

14. Termination. It is agreed that any Party hereto shall have the right to terminate its participation in this Agreement upon ninety (90) days written notice to the other Parties hereto.

15. Term. This Agreement shall become effective as to each Party when approved and executed by that Party. This Agreement shall continue in force and remain binding on each and every Party until such time as the governing body of a Party terminates its participation in this Agreement pursuant to Section 14 of this Agreement. Termination of participation in this Agreement by a Party shall not affect the continued operation of this Agreement between and among the remaining Parties and this Agreement shall continue in force and remain binding on the remaining Parties.

16. Entirety. This Agreement contains all covenants, commitments and agreements of the Parties with respect to the mutual aid to be rendered hereunder during or in connection with a disaster and/or civil emergency. No other oral or written commitments of the Parties with respect to mutual aid under this Agreement shall have any force or effect if not contained herein, except as provided in Section 17 below.

17. Ratification. Each Party hereby ratifies the actions of its personnel taken prior to the date of this Agreement.

18. Other Mutual Aid Agreements. Notwithstanding Section 15, it is understood and agreed that certain signatory Parties may have heretofore contracted or may hereafter contract with each other for mutual aid in civil emergency and/or disaster situations, and it is agreed that this Agreement shall be subordinate to any such individual contract or other agreement. To assist each other in the process of mutual aid response planning, each Party agrees to inform the other Parties of all mutual aid agreements that each Party has with other municipalities, entities, counties, and state or federal agencies and make copies of such agreements available to any interested Party upon request.

Specifically, the existence of this Agreement shall not prevent a municipality, county, rural fire prevention district, emergency services district, fire protection agency, organized volunteer group, or other emergency services entity from providing mutual aid assistance on request from another municipality, county, rural fire prevention district, emergency services district, fire protection agency, organized volunteer group, or other emergency services entity, in accordance with the provisions in Section 418.109 (d) of the Texas Government Code. Additionally, the existence of this Agreement shall not prevent any Local Government

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which is a Party hereto from providing emergency assistance to another Local Government which is not a party hereto, in accordance with the provisions in Section 791.027 of the Texas Government Code.

19. Interlocal Cooperation Act. The Parties agree that mutual aid in the context contemplated herein is a "governmental function and service" and that the Parties are "local governments" as that term is defined herein and in the Interlocal Cooperation Act, Ch. 791 Texas Government Code.

20. Severability. If a provision contained in this Agreement is held invalid for any reason, the invalidity does not affect other provisions of the Agreement that can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.

21. Validity and Enforceability. If any current or future legal limitations affect the validity or enforceability of a provision of this Agreement, then the legal limitations are made a part of this Agreement and shall operate to amend this Agreement to the minimum extent necessary to bring this Agreement into conformity with the requirements of the limitations, and so modified, this Agreement shall continue in full force and effect.

22. Amendment. This Agreement may be amended only by the mutual written consent of the Parties in a writing approved and executed by the Parties in compliance with all applicable laws and regulations.

23. Third Parties. This Agreement is intended to inure only to the benefit of the Parties hereto. This Agreement is not intended to create, nor shall be deemed or construed to create, or confer any rights in/to any third parties.

24. Authority To Execute. The Agreement has been officially authorized by the governing body of each Party hereto and each signatory to this Agreement guarantees and warrants that the signatory has full authority to execute this Agreement and to legally bind the respective Party to this Agreement.

25. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for an action arising under this Agreement shall lie exclusively in Collin County to which this Agreement pertains.

26. Headings. The headings at the beginning of the various provisions of this Agreement have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Agreement.

**\*\*The Rest of this Page is Intentionally Left Blank\*\***

EXECUTED by the Parties hereto, each respective entity acting by and through its duly authorized official as required by law, on multiple counterparts each of which shall be deemed to be an original, on the date specified on the multiple counterpart executed by such entity:

**Collin County, Texas:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Ronald L. Harris  
Collin County Judge

ATTEST:

\_\_\_\_\_  
Name

**City of Plano, Texas:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Pat Evans  
Mayor

ATTEST:

\_\_\_\_\_  
Name

*d-14*



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal <i>WY</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Budget		Initials	Date
Department Head	Karen Rhodes	Executive Director		
Dept Signature:	<i>Karen Rhodes</i>	City Manager	<i>JRM</i>	<i>2/17/05</i>
Agenda Coordinator (include phone #): <b>Lynne Jones - 7109</b>				
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				
<b>CAPTION</b>				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A MODIFICATION TO AN AGREEMENT BY AND BETWEEN THE PLANO ECONOMIC DEVELOPMENT BOARD, INC. AND THE CITY OF PLANO; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2004-05</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
Budget		0	657,662	0
Encumbered/Expended Amount		0	0	0
This Item		0	55,062	0
BALANCE		0	712,724	0
FUND(S): <b>GENERAL FUND</b>				
<b>COMMENTS:</b> Additional funding in the amount of \$55,062 is available from salary savings in the General Fund. <b>STRATEGIC PLAN GOAL:</b> Providing adequate funding to the Plano Economic Development Board relates to the City's Goal of "Premier City for Families" and "Service Excellence".				
<b>SUMMARY OF ITEM</b>				
The additional funding is required for operational purposes in order to remain competitive with surrounding communities and to be able to meet job creation and investment goals.				
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, APPROVING THE TERMS AND CONDITIONS OF A MODIFICATION TO AN AGREEMENT BY AND BETWEEN THE PLANO ECONOMIC DEVELOPMENT BOARD, INC. AND THE CITY OF PLANO; 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 First Modification of Agreement between City of Plano and Plano Economic Development Board, Inc., a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Modification"); and,

WHEREAS, upon full review and consideration of the Modification, 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 Modification, 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 Modification 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 Modification.

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

DULY PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

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THE STATE OF TEXAS	§	<u>First Modification of Agreement</u>
	§	<u>Between City of Plano and</u>
	§	<u>Plano Economic Development</u>
COUNTY OF COLLIN	§	<u>Board</u>

THIS First Modification of Agreement (hereinafter "First Modification") is made and entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, 2005 by and between **PLANO ECONOMIC DEVELOPMENT BOARD, INC.**, a Texas non-profit corporation (hereinafter "Board"), and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation (hereinafter "City"), acting by and through its City Manager or his designee.

**WITNESSETH:**

**WHEREAS**, City and Board entered into an Agreement for services to initiate, promote, monitor and perform activities related to economic development (hereinafter "Services"); and

**WHEREAS**, City and Board desire to further amend said Agreement in certain respects as set forth in this First Modification.

**NOW THEREFORE**, the Agreement is incorporated herein as if written word for word. Except as provided below, all other terms and conditions of the Agreement shall remain unchanged and shall remain in full force and effect. In the event of any conflict or inconsistency between the provisions set forth in this First Modification and the Agreement, the First Modification shall have priority.

IN CONSIDERATION of the foregoing, and for other good and valuable consideration, the parties agree as follows:

**I.**

Beginning on the effective date of this Modification and continuing through the remaining term of the Agreement, subsection 1.01 Purpose/Consideration of Section I. Purposes/Consideration; Priority of Documents; Designees is hereby modified to read in its entirety as follows:

"1.01 Purpose/Consideration. The purpose of this Agreement is to provide terms and conditions under which City shall make available personnel and funding, the cumulative value of which shall be an amount up to **SEVEN HUNDRED TWELVE THOUSAND SEVEN HUNDRED TWENTY-FOUR AND 00/100 DOLLARS**

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**(\$712,724.00)** to be used for business expansion, attraction, redevelopment, and retention within the corporate limits of the City of Plano. City's source of these funds is general revenues derived from collection of property, sales and other taxes, as well as other sources. In consideration of the City of Plano providing and administering funding in the amount of **SEVEN HUNDRED TWELVE THOUSAND SEVEN HUNDRED TWENTY-FOUR AND 00/100 DOLLARS (\$712,724.00)** for the 2004-2005 fiscal year, Board shall abide by the terms and conditions of this Agreement."

**IN WITNESS WHEREOF**, this Modification is effective on the on the date first written above.

**PLANO ECONOMIC DEVELOPMENT BOARD, INC.**

By: \_\_\_\_\_  
Tom Karst  
CHAIRMAN

**CITY OF PLANO, TEXAS**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Thomas H. Muehlenbeck  
CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

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**ACKNOWLEDGMENTS**

STATE OF TEXAS            )  
  )  
COUNTY OF \_\_\_\_\_)

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by **TOM KARST**, Chairman of **PLANO ECONOMIC DEVELOPMENT BOARD, INC.**, a Texas non-profit 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 \_\_\_\_\_, 2005 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of such corporation.

\_\_\_\_\_  
Notary Public, State of Texas

*e-5*



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>02/14/05</b>	Reviewed by Legal <i>[Signature]</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Customer & Utility Services/Tax Administration		Initials	Date
Department Head	Linda Keylon	Asst City Manager	<i>[Signature]</i>	2-4-05
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	2/7/05
Agenda Coordinator (include phone #):		<b>Angela Gurley x-7352</b>		
<b>ACTION REQUESTED:</b> <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				
<b>CAPTION</b>				
Approving and authorizing refunds of property tax overpayments.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(S):</b>				
<b>COMMENTS:</b> Funds are disbursed by the Collin County Tax Office.				
<b>SUMMARY OF ITEM</b>				
Attached for your approval are property tax refunds totalling \$5,747.93.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Refund request listing provided by Collin County Tax Office				

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**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS,  
APPROVING AND AUTHORIZING REFUNDS OF PROPERTY TAX  
OVERPAYMENTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 31.11 of the Texas Property Tax Code authorizes refunds of certain payments of taxes upon application to the City; and

**WHEREAS**, under said Section 31.11 of the Texas Property Tax Code, refunds must be presented to the governing body of the taxing unit for approval; and

**WHEREAS**, the City Council has been presented a list of tax payments made, a copy of which is attached hereto, made a part hereof and marked Exhibit "A", which payments are requested to be refunded because such payments were erroneous or excessive; and

**WHEREAS**, upon full review and consideration of the above, and all matters attendant and related thereto, the City Council is of the opinion that the tax payments should be refunded,

**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, Texas, finds and determines that the tax payments listed in Exhibit "A" were paid erroneously or were in excess of taxes due and shall be refunded in accordance with Section 31.11 of the Texas Property Tax Code.

Section II. The Director of Tax Collections for the City of Plano, Texas, or her designee, is hereby authorized to take the necessary action to effectuate the refunds approved under this Resolution.

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

DULY PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_,  
2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

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<b>FIDO</b>	<b>Account Number</b>	<b>Year</b>	<b>GF / Loan</b>
<b>100001</b>	<b>P-9000-005-0435-A</b>	<b>2003</b>	
EUBANK JIMMY B DDS 2101 TEAKWOOD LN STE 100 PLANO, TX 75075-2056			
	23 City of Plano		<b>\$34.72</b>
<b>FIDO</b>	<b>Account Number</b>	<b>Year</b>	<b>GF / Loan</b>
<b>345220</b>	<b>R-2804-00A-0190-2</b>	<b>2002</b>	<b>0020320875</b>
FIRST AMERICAN REAL ESTATE ATTN EVA SALINAS 1201 ELM ST STE 400 DALLAS, TX 75270			
	23 City of Plano		<b>\$809.36</b>
<b>Batch Total:</b>			<b><u><u>\$844.08</u></u></b>

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**PLANO CITY OPERATIONAL FUNDS**

FIDO	Account Number	Year	GF / Loan
100001	P-9000-003-2100-A CURRY MICHAEL W DDS MS 3604 PRESTON RD STE 500 PLANO, TX 75093-8631 23 City of Plano	2003	\$3.50
100001	P-9000-018-0201-A COMMUNITY CREDIT UNION PO BOX 867119 PLANO, TX 75086-7119 23 City of Plano	2003	\$26.44
100001	P-9000-200-3253-A FRIEDMAN RONALD M MD 6124 W PARKER RD #232 PLANO, TX 75093-8124 23 City of Plano	2003	\$23.60
100001	P-9000-201-0098-A BOSS BOSS CLEANERS 8000 COIT RD STE 1000 PLANO, TX 75025-6822 23 City of Plano	2003	\$14.07
100001	P-9000-202-0563-A NETPOWER TECHNOLOGIES INC 1100 JUPITER RD STE 130 PLANO, TX 75074-7000 23 City of Plano	2003	\$520.48
100001	P-9000-204-1234-A GLOBAL PLACEMENT GROUP 7900 CONSTITUTION GROUP PLANO, TX 75025-3638 23 City of Plano	2003	\$1.68
100001	P-9000-204-1328-A LOCAL DRYWALL & REMODELING CO DON WEATHERS 3628 MARLBOROUGH DR PLANO, TX 75075-6221 23 City of Plano	2003	\$37.33
100001	P-9000-283-1155-A H&R BLOCK 3046 LAVON DR STE 140 GARLAND, TX 75040-8777 23 City of Plano	2003	\$20.61

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**PLANO CITY - GPAP REFUNDS 2**

FIDO	Account Number	Year	GF / Loan
100001	R-4865-00A-0180-2	2002	
PARKER SHERI H 3208 APPLE TREE DR PLANO, TX 75093-8410			
23 City of Plano			\$542.17
Batch Total:			<u><u>\$1,189.88</u></u>

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**Plant City - OPAP REFUNDS-3**

FIDO	Account Number	Year	GF / Loan
100001	P-9000-203-2822-A	2003	
	NUAGE INC COTTON ISLAND 1900 PRESTON RD STE 258 PLANO, TX 75093-5138 23 City of Plano		\$76.21
100001	P-9000-203-2867-A	2003	
	KWIK KAR LUBE 2208 MIDWAY RD PLANO, TX 75093-8404 23 City of Plano		\$771.40
100001	P-9000-290-0369-A	2003	
	GINNYS UNDERWORLD GINNYS INC 1900 PRESTON RD STE 199 PLANO, TX 75093-5136 23 City of Plano		\$12.38
100001	P-9000-295-0906-A	2003	
	ISC SALES KAREN COHEN 4421 TRADITION TRL PLANO, TX 75093-5633 23 City of Plano		\$14.94
100001	P-9000-295-0907-A	2003	
	CLASSIC BEAUTY CONCEPTS DERMOL INC/DIXIE MEDFORD 3801 15TH ST W STE 350 PLANO, TX 75075-7723 23 City of Plano		\$100.67
100001	P-9000-298-0552-A	2003	
	MARTIN & ASSOCIATES BILL MARTIN 1640 KESSER DR PLANO, TX 75025-2835 23 City of Plano		\$3.27
100001	P-9000-299-2210-A	2003	
	PREFERRED CARE INC GENE LUNCEFORD 5212 VILLAGE CREEK DR PLANO, TX 75093-5066 23 City of Plano		\$28.08
100001	P-9001-203-0539-A	2003	
	USA DATAFAX RENTAL INC RE PROPERTY TAX 821 JUPITER RD STE 407 PLANO, TX 75074-7452		\$261.47

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**PLANO CITY OPAP REFUNDS 3**

23 City of Plano \$261.47

FIDO	Account Number	Year	GF / Loan
100001	P-9001-203-1012-A BOYKIN & RED ASSOCIATES PO BOX 8 GORDONVILLE, TX 76245-5651	2003	
	23 City of Plano		\$17.23
100001	P-9001-203-1092-A GRAY JIM REALTOR 8120 DAVIDSON PLANO, TX 75025-2578	2003	
	23 City of Plano		\$30.38
100001	P-9001-203-1122-A NATIONAL STAFFING UNLIMITED INC % NANCY DELAMATER VP 2305 W PARKER RD STE 201 PLANO, TX 75023-7871	2003	
	23 City of Plano		\$24.58
100001	P-9001-203-1199-A PIN LEASING % GENE LUNCEFORD 5212 VILLAGE CREEK DR PLANO, TX 75093-5066	2003	
	23 City of Plano		\$369.71
100001	P-9001-203-5123-A WICKS END 2301 FOUNTAIN HEAD PLANO, TX 75023-6413	2003	
	23 City of Plano		\$3.34
100001	P-9001-203-5208-A QUEST FOODSERVING DISTRIBUTING PO BOX 8 1770 LIBERU RD GORDONVILLE, TX 76245	2003	
	23 City of Plano		\$44.33
100001	P-9001-203-8969-A LEGACY EXECUTIVE SUITES INC 5700 W PLANO PKWY STE 1000 PLANO, TX 75093-2411	2003	
	23 City of Plano		\$48.10
100001	P-9001-203-8977-A CHRISTOPHER LEAP 5072 W PLANO PKWY STE 200 PLANO, TX 75093-4475	2003	
	23 City of Plano		\$14.77

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FIDO	Account Number	Year	GF / Loan
100001	R-4589-00A-0011-1 ROMAN CATHOLIC DIOCESE OF DALLAS % STEVE MALONE 3725 BLACKBURN ST DALLAS, TX 75219-4404 23 City of Plano	2004	\$1,185.26
200587	R-0243-005-0450-1 REPUBLIC TITLE OF TX 2701 W PLANO PKWY STE 100 PLANO, TX 75075-8206 23 City of Plano	2004	\$524.94
329161	P-9000-200-0208-A K&M INDUSTRIES 2700 AVENUE K STE 500 PLANO, TX 75074 23 City of Plano	2003	\$12.55
345631	P-9001-203-1054-A SEITZ JOHN O SEITZ LOIS F 2804 KENTFIELD PLANO, TX 75074 23 City of Plano	2003	\$13.69
345655	P-9001-203-5241-A SPINE CLINIC THE 4709 W PARKER RD STE 500 PLANO, TX 75093 23 City of Plano	2003	\$153.43
347238	P-9001-203-1127-A SANDERS ROB 1405 MUNICIPAL NO 2204 PLANO, TX 75074 23 City of Plano	2003	\$3.24

Batch Total: \$3,713.97

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## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>			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: <b>2/14/05</b>			Reviewed by Legal <i>[Signature]</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Parks and Recreation Department			Initials	Date
Department Head	Don Wendell			Executive Director	<i>[Signature]</i> 2-7-05
Dept Signature:	<i>[Signature: Don Wendell]</i>			City Manager	<i>[Signature]</i> 2/7/05
Agenda Coordinator (include phone #): <b>Linda Benoit (7255)</b>					
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 an Interlocal Cooperation Agreement by and between the City of Plano and the Plano Independent School District providing terms and conditions for the construction of a multi-purpose court at Bob Woodruff Park adjacent to Dooley Elementary School; 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: <b>2004-05</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	112,788	145,212	1,355,000	1,613,000
Encumbered/Expended Amount	-112,788	-9,482	0	-122,270
This Item	0	-34,000	0	-34,000
<b>BALANCE</b>	0	101,730	1,355,000	1,456,730

**FUND(S):    PARK IMPROVEMENT CIP**

**COMMENTS:** Funds are included in the 2004-05 Park Improvement CIP. This item, in the amount of \$34,000 will leave a current year balance of \$101,730 for the Park Improvement project.

**STRATEGIC PLAN GOAL:** This item relates to the City's Goal of Safe, Livable Neighborhoods.

### SUMMARY OF ITEM

The agreement provides for the City of Plano to construct a multi-purpose court at Bob Woodruff Park adjacent to Dooley Elementary School and for the Plano Independent School District to remit to the City one-half of the cost of the improvements not to exceed \$17,000. The estimated cost of the court is \$34,000.

Work to be provided by the City includes design and construction of the court.

Dooley Elementary School is in need of an outdoor multi-purpose court, but no space is available on the school site. A multi-purpose court is needed at Bob Woodruff Park and is a typical feature of a park of its size. The City and PISD will mutually benefit from a court constructed in the park adjacent to the elementary school. The court will be used by elementary school students and park users.



# CITY OF PLANO COUNCIL AGENDA ITEM

Funding is available in the 2004-05 Community Investment Program.

List of Supporting Documents:  
Interlocal Cooperation Agreement  
Location Map

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 AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND THE PLANO INDEPENDENT SCHOOL DISTRICT PROVIDING TERMS AND CONDITIONS FOR THE CONSTRUCTION OF A MULTI-PURPOSE COURT AT BOB WOODRUFF PARK ADJACENT TO DOOLEY ELEMENTARY SCHOOL; 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 the Plano Independent School District providing terms and conditions for the construction of a multi-purpose court at Bob Woodruff Park adjacent to Dooley Elementary School, 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 1.** 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** this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

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**INTERLOCAL COOPERATION AGREEMENT**  
**BY AND BETWEEN THE CITY OF PLANO, TEXAS AND**  
**THE PLANO INDEPENDENT SCHOOL DISTRICT**  
**PROVIDING TERMS AND CONDITIONS FOR THE CONSTRUCTION**  
**OF A MULTI-PURPOSE COURT AT BOB WOODRUFF PARK**

**WHEREAS**, the Plano Independent School District ("District") and the City of Plano, Texas ("City") desire to enter into an agreement concerning the design and construction of a multi-purpose court at Bob Woodruff Park adjacent to Dooley Elementary School, both located in the 2000 block of San Gabriel Drive, in Plano, Collin County, Texas; and

**WHEREAS**, the Interlocal Cooperation Act (Texas Government Code Chapter 791) authorized 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 District have determined that the construction may be accomplished most economically by implementing this agreement.

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

**WITNESSETH:**

**ARTICLE I.**

The City shall arrange for the design and construction of a multi-purpose court at Bob Woodruff Park and Dooley Elementary School, hereinafter called the "Project". The multi-purpose court will be designed to meet City standards and the needs of elementary school children. The City grants non-exclusive access to the court for Dooley Elementary School during school hours. The City will not reserve the court or schedule use during school hours.

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The Project shall include, but not be limited to, the terms identified in the attached Exhibit "A".

ARTICLE II.

The City shall prepare plans and specifications for the improvements and submit the same to District for its approval, which shall not be unreasonably withheld. The City will administer both the design and construction contracts for the Project. In all such activities, the City shall comply with all state statutory requirements. The City shall provide the District with a copy of the executed construction contracts for the Project.

The District will assign a staff member to represent the District throughout the construction of the Project. The City will include the District's representative in regular progress meetings throughout the construction of the Project. Progress meetings will take place no less frequently than every 60 days until the Project is complete.

ARTICLE III.

The City and District estimate the total cost of the Project to be \$34,000.00. The District's share of the cost of the project will be 50% of the cost of construction but not to exceed \$17,000. The City will provide financial accounting upon completion of the Project, based on Project invoices approved for payment by the City. The District will reimburse the City within 30 days of receipt of each reimbursement request. The Project is scheduled to be completed no later than May 2005.

ARTICLE IV.

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

ARTICLE V.

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

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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 VI.

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 VII.

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 VIII.

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

ARTICLE IX.

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 X.

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: Julie Fort / dg  
Name: JULIE FORT  
Title: Abernathy, Roeder, Boyd & Joplin, P.C.  
Date: 1/24/05  
APPROVED, VIA EMAIL 12/20/04

PLANO INDEPENDENT SCHOOL DISTRICT

By: Richard K. Matkin  
Name: Richard K. Matkin  
Title: Associate Superintendent  
Date: 1/24/05

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name: Diane C. Wetherbee  
Title: City Attorney  
Date: \_\_\_\_\_

CITY OF PLANO, TEXAS

By: \_\_\_\_\_  
Name: Thomas H. Muehlenbeck  
Title: City Manager  
Date: \_\_\_\_\_

**ACKNOWLEDGMENTS**

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN §

This instrument was acknowledged before me on the 24 day of JANUARY, 2005 by RICHARD K. MATKIN, ASSOCIATE SUPERINTENDENT PLANO INDEPENDENT SCHOOL DISTRICT, on behalf of said entity.



Denise M. Gillespie  
Notary Public in and for the  
State of Texas

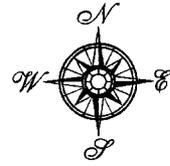
STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 200\_\_ by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas



# Exhibit "A" Location Map



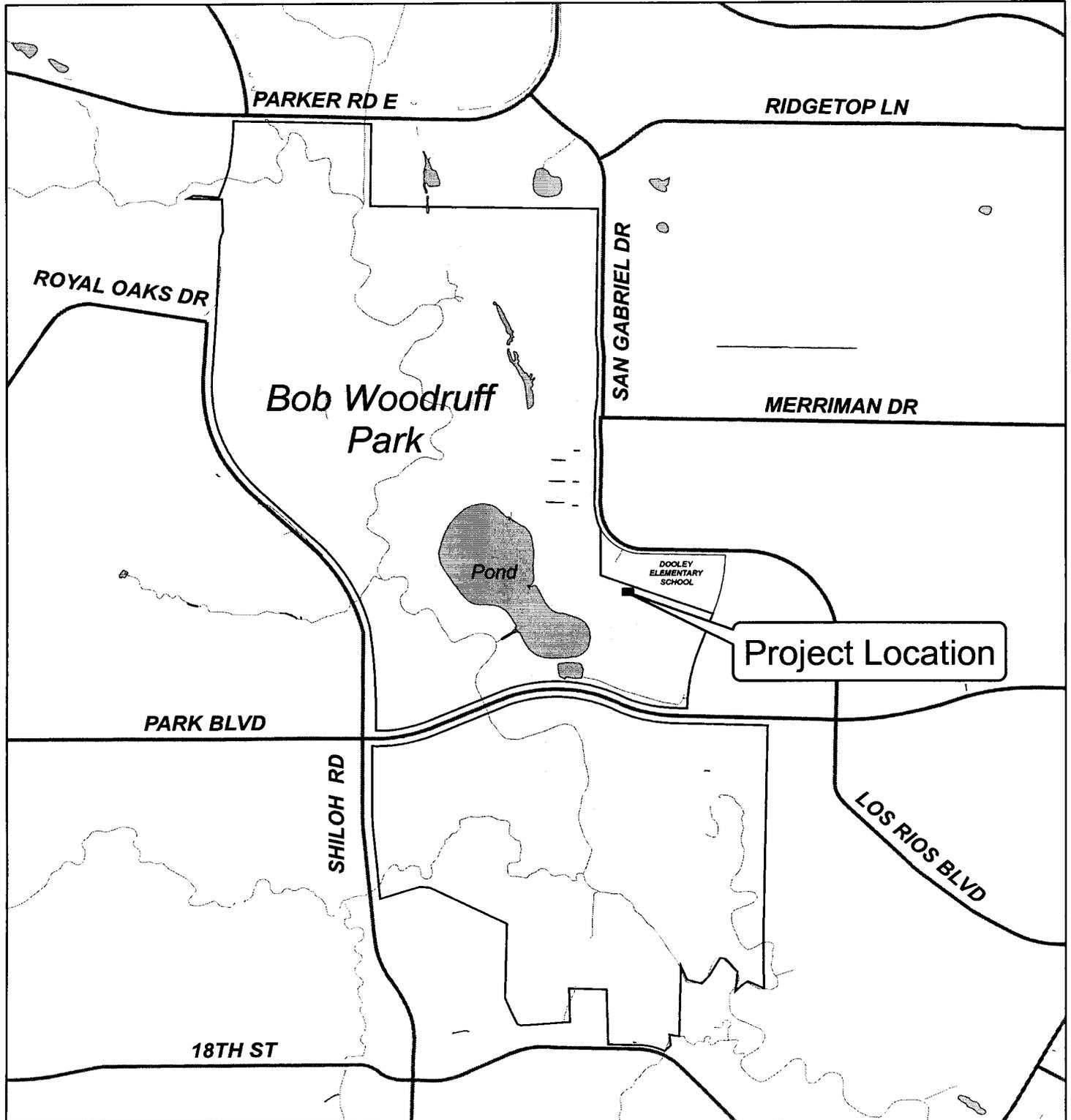
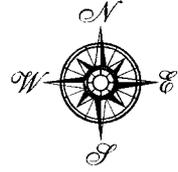
200 100 0 200 Feet



8-10

# Location Map

## Bob Woodruff Park



g 11



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		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: <b>02/14/05</b>		Reviewed by Legal <i>[Signature]</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan L. Upchurch	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	2/8/05
Agenda Coordinator (include phone #): <b>Irene Pegues (7198)</b>		<b>Project No. 5274</b>		
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				
<b>CAPTION</b>				
To authorize an agreement for the installation of a switchgear at the southeast corner of 15 <sup>th</sup> Street and G Avenue by TXU Electric Delivery Company, and authorizing the City Manager or his designee to take such action and execute such documents as necessary to effectuate the agreement in an amount not to exceed \$25,785.42; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: <b>2004-05</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	55,393	159,607	0	215,000
Encumbered/Expended Amount	-55,393	-142,538	0	-197,931
This Item	0	-25,785	0	-25,785
BALANCE	0	-8,716	0	-8,716
FUND(S): <b>STREET IMPROVEMENT CIP</b>				
<b>COMMENTS:</b> Funds are included in the 2004-05 Street Improvement CIP. This item, in the amount of \$25,785 will exceed the current year balance by \$8,716 for the 15 <sup>th</sup> Street – G Avenue to I Avenue project. The overage will be funded through savings and reallocation from the Traffic Analysis Grade Separation project.				
<b>STRATEGIC PLAN GOAL:</b> This item relates to the City's Goal of Safe and Efficient Travel.				
<b>SUMMARY OF ITEM</b>				
The installation of a switchgear at the southeast corner of 15 <sup>th</sup> Street and G Avenue is to avoid additional costs at a later date to comply with the 15 <sup>th</sup> Street Improvements project that will require that all overhead utilities be relocated underground east of G Avenue when the project is constructed next year.				
TXU Electrical Delivery Company is the sole source provider for the installation/relocation of their own facilities.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Location Map		N/A		
TXU Service Agreement				

*A-1*

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A SERVICE AGREEMENT BY AND BETWEEN TXU ELECTRIC DELIVERY COMPANY AND THE CITY OF PLANO, TEXAS FOR THE INSTALLATION OF SWITCHGEAR AT THE SOUTHEAST CORNER OF 15th STREET AND AVENUE G TO FACILITATE THE FUTURE RELOCATION OF OVERHEAD ELECTRICAL LINES; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, TXU Electric Delivery Company ("TXU") maintains overhead electrical power lines in the area of 15th Street and Avenue G; and

**WHEREAS**, THE City's 15th Street Improvement Project calls for the relocation of the overhead electric lines underground; and

**WHEREAS**, TXU will have to install a switchgear box above ground at the southeast corner of 15th Street and Avenue G to facilitate the relocation of overhead power lines to underground; and

**WHEREAS**, the City Council has been presented a proposed Service Agreement by and between TXU and City of Plano which sets out the terms for the installation of switchgear at the above-mentioned location, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

**WHEREAS**, TXU is the sole source provider of the equipment and labor for the installation of the switchgear for their electrical facilities at the intersection of 15th Street and Avenue G; and

**WHEREAS**, the City Council is of the opinion that the service and equipment and service necessary for the relocation of the overhead electrical lines at this location is available from only one source, TXU, 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)*; and

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**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;

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

**Section I.** The City Council hereby finds and determines that TXU is the sole source provider of the equipment and labor for the switchgear installation at the intersection of 15th Street and Avenue G , therefore, the equipment and service is exempt from competitive bid as provided for in *V.T.C.A., Local Government Code, Section 252.022(a)(7)*.

**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, is hereby in all things approved.

**Section III.** The City Manager or his designee is hereby authorized to take such action and execute such documents with TXU, the sole source provider, as necessary to effectuate the installation of the switchgear at the above-referenced location in an amount not to exceed the sum of **TWENTY FIVE THOUSAND SEVEN HUNDRED EIGHTY-FIVE AND 42/100 DOLLARS (\$25,785.42)**.

**Section IV.** This Resolution shall become effective from and after its passage.

**DULY PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY





TXU Electric Delivery  
103 W. McDermott, Suite 200  
Allen, TX 75013

1/24/2005

Mr. Dennis Freeman  
City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358

RE: Electric Facilities Extension for 15th Street Condos at 15th & G

Dear Mr. Freeman:

City of Plano ('Customer') has requested that TXU Electric Delivery Company ('TXU Electric Delivery' or 'Company') provide additional electric facilities sufficient to provide electric service for 0 kW at 15th & G

Pursuant to company's Tariff for Retail Delivery Service, Customer is responsible for \$ 25,785.42 as payment for the Customer's portion of the cost of installation of Company's additional electric delivery facilities, such payment to be and remain the property of the Company. Customer's payment in full is due at the time this agreement is returned to Company.

Company at all times shall have title to and complete ownership and control over said facilities.

This agreement supersedes all previous agreements or representation, either written or oral, between Company and customer made with respect to the matters herein contained, and when duly executed constitutes the agreement between the parties hereto and is not binding upon Company unless and until signed by one of its duly authorized representatives.

This agreement and the cost set forth therein, if not accepted within 30 days of the date of this letter, will be of no force and effect. Acceptance shall consist of delivery of an executed copy of this agreement to Company along with Customer's payment as set forth above.

Please be aware that the start date of this project will be no earlier than two weeks preceding the execution of this agreement along with any payment that may be required pursuant to Company's Tariff for Retail Delivery Service. A more definitive installation schedule will be provided upon your delivery of this agreement and payment to assist in your planning for this project.

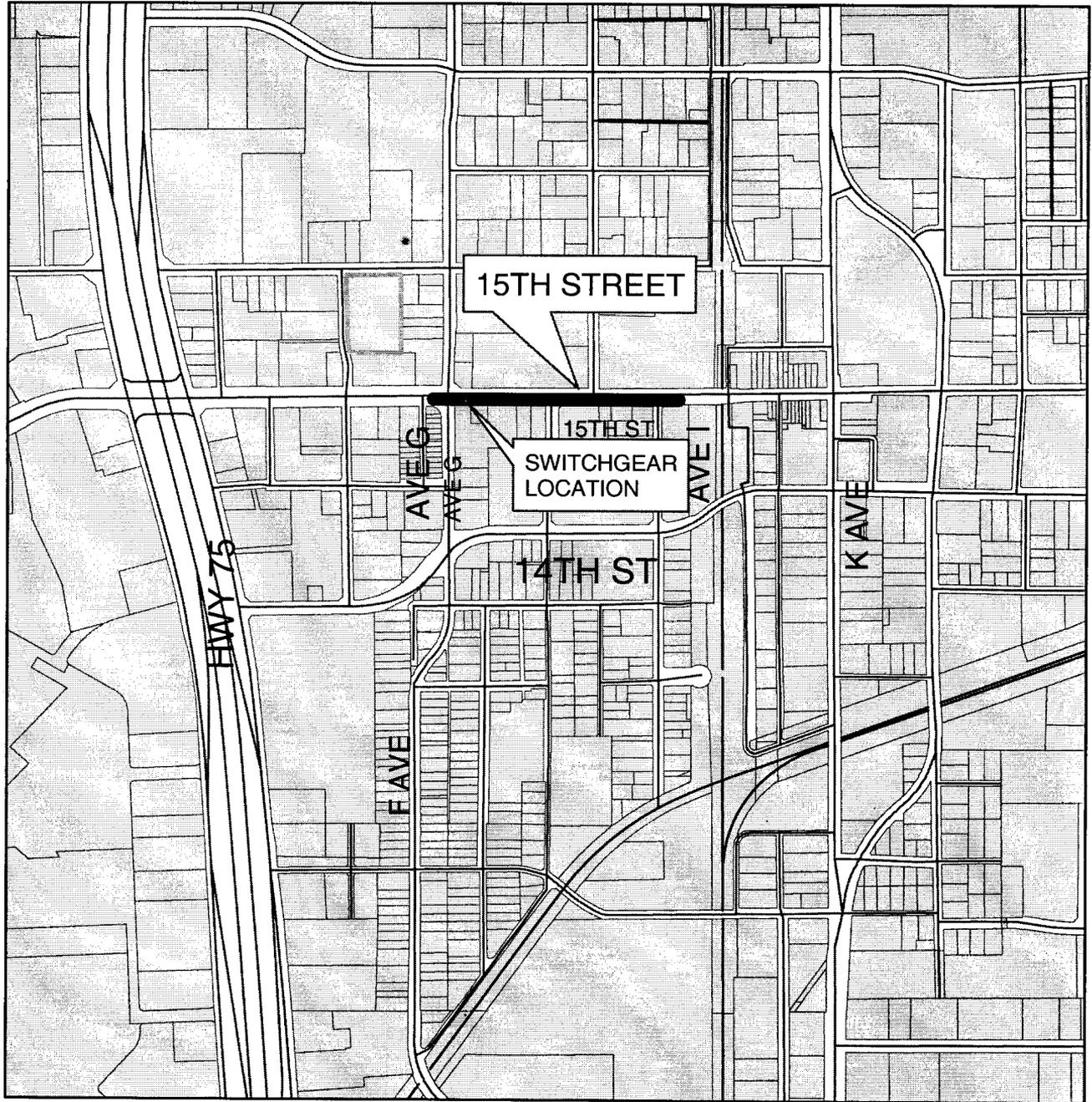
Sincerely,  
  
Danny Lilley  
PMDS Project Manager

If City of Plano agrees to the conditions set forth in this agreement, please execute both original copies and return one executed copy to me with your payment of \$ 25,785.42. The additional copy is for your files.

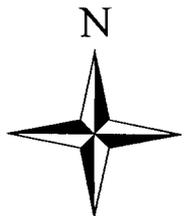
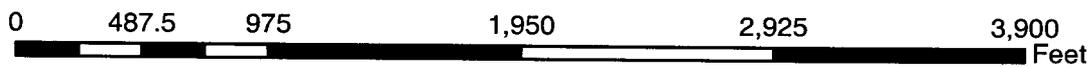
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

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# 15TH STREET AVE G TO AVE I



CITY OF PLANO  
ENGINEERING DEPARTMENT



*B-5*



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal <i>RE</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan J. Upchurch	Executive Director		
Dept Signature:	<i>Alan Upchurch</i>	City Manager	<i>DM</i>	<i>2/18/05</i>
Agenda Coordinator (include phone #):		<b>Irene Pegues (7198)</b>	<i>IP</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				
<b>CAPTION</b>				
Approving and granting a 2872 square foot water line easement on City property at the southwest corner of 15 <sup>th</sup> Street and H Avenue, Plano, Collin County, Texas, authorizing its execution by the City Manager, or in his absence his designee, and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
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:				
<b>SUMMARY OF ITEM</b>				
This water line easement is needed to provide a looped water line for the 15 <sup>th</sup> Street Village No. 2 Addition. The easement is on City property which is under contract for sale to Richard Howe, developer of the 15 <sup>th</sup> Street Village project. The developer will install the water line at his cost.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Location Map		N/A		

*i-1*

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING AND GRANTING A 2872 SQUARE FOOT WATER LINE EASEMENT ON CITY PROPERTY AT THE SOUTHWEST CORNER OF 15<sup>TH</sup> STREET AND H AVENUE, PLANO, COLLIN COUNTY, TEXAS, AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE HIS DESIGNEE, AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, a water line easement on City property is needed to provide service to the 15<sup>th</sup> Street Village No. 2 Addition, copy of the water line easement is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter the "Easement") and

**WHEREAS**, upon full review and consideration of the Easement, 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 his designee, shall be authorized to execute the Easement 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 City Council hereby authorizes the granting of the Easement and determines that the Easement is acceptable and is hereby in all things approved.

**Section II.** The City Manager or in his absence his designee, is hereby authorized to execute the Easement and all other documents in connection with said Easement on behalf of the City of Plano.

**Section III.** This Resolution shall become effective from and after its adoption.

**DULY PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

*1-2*

**WATER LINE EASEMENT  
15<sup>th</sup> Street Village No. 2 Addition**

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF COLLIN   §

**KNOW ALL MEN BY THESE PRESENTS:**

THAT, the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter called "Grantee", the receipt and sufficiency of which is hereby acknowledged, does hereby GIVE, GRANT, and CONVEY to the Grantee, its successors and assigns, the easement and right to construct, reconstruct and perpetually maintain **Water Line** facilities (the "Facilities"), together with all incidental improvements and all necessary laterals in, upon and across the real property located in Collin County, Texas, as more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference as if fully set forth herein (the "Easement Property").

**TO HAVE AND TO HOLD** the same perpetually unto the Grantee, its successors and assigns, together with the right and privilege at all times to enter the Easement Property, or any part thereof, with the right of access across Grantor's adjacent property, for the purpose of constructing, reconstructing and maintaining the Facilities, and all incidental improvements and for making connections therewith. The Grantee, its successors and assigns, shall have the right to construct, reconstruct and perpetually maintain additional Facilities at all times in the future within the Easement Property.

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The captions, titles, or headings used in this document are for convenience only and shall not be deemed to construe or limit the meaning of the language of this easement.

This easement may be assigned in whole or in part.

**SIGNED** this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**CITY OF PLANO**

**By:** \_\_\_\_\_  
**Name:** Thomas H. Muehlenbeck  
**Title:** City Manager  
**Address:** 1520 Avenue K  
 Plano, TX 75074

**ACKNOWLEDGMENT**

**STATE OF TEXAS**        §  
                                      §  
**COUNTY OF COLLIN**   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by **THOMAS H. MUEHLENBECK, CITY MANAGER** of the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, for and on behalf of said home rule municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**After Recording Return to:**  
Charles M. Davis, P.E.  
Engineering Department  
P. O. Box 860358  
Plano, TX 75086-0358

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10' Water Easement  
2,872 Square Feet or 0.07 Acre

SITUATED in the State of Texas, County of Collin and City of Plano, being part of the Joseph Klepper Survey, Abstract No. 213, being part of a 1.185 acre City of Plano tract of land as recorded under County Clerk No. 92-0063772 of the Collin County Land Records with said premises being more particularly described as follows:

COMMENCING at a ½-inch iron rod found marking the northwest corner of said 1.185 acre tract and an interior corner of Lot 2, Block A of 15<sup>th</sup> Street Village No. 2;

THENCE with the most northerly north line of said 1.185 acre tract and a south line of said Lot 2, South 89°46'58" East, 22.35 feet to the POINT OF BEGINNING and northwest corner of the herein described premises;

THENCE continuing with the most northerly north line of said 1.185 acre tract and a south line of Lot 2, South 89°46'58" East, 15.82 feet to the most northerly northeast corner of said premises;

THENCE with the easterly and northeasterly line of said premises as follows: South 00°12'32" East, 66.11 feet to an angle break; South 45°12'33" East, 6.23 feet to an angle break; North 89°36'27" East, 204.90 feet to the most easterly northeast corner of said premises in the most easterly east line of said 1.185 acre tract and the west right-of-way line of "H" Avenue;

THENCE with the most easterly east line of said premises, 1.185 acre tract and the west right-of-way line of "H" Avenue, South 00°10'03" West, 10.00 feet to the southeast corner of said premises;

THENCE departing said west right-of-way line and along the southerly and southwesterly line of said premises as follows: South 89°36'26" West, 208.97 feet to an angle break; North 45°12'33" West, 14.53 feet to an angle break; North 00°12'31" West, 64.53 feet to an angle break; North 45°08'15" West, 8.24 feet to the point of beginning and containing 2,872 square feet or 0.07 acre of land.



*l-5*

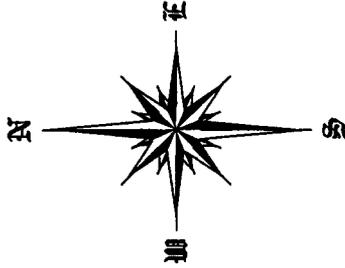
# 10' Water Easement

2,872 Sq.Ft.  
0.07 Acre

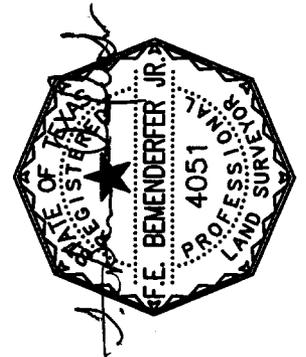
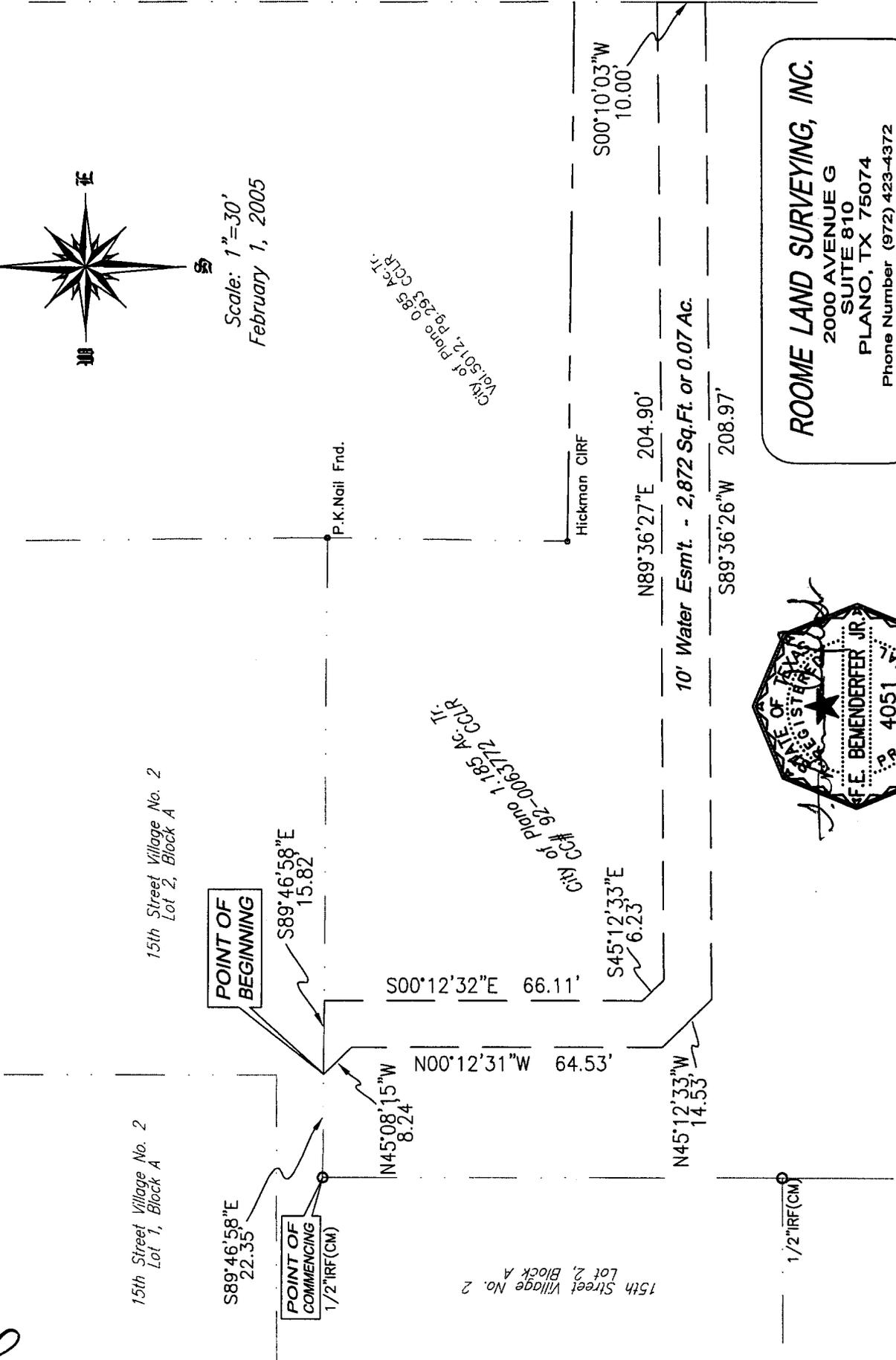
*4-2*

RESOLUTION NO. \_\_\_\_\_

EXHIBIT "A" PAGE 4 OF 4  
"H" Avenue



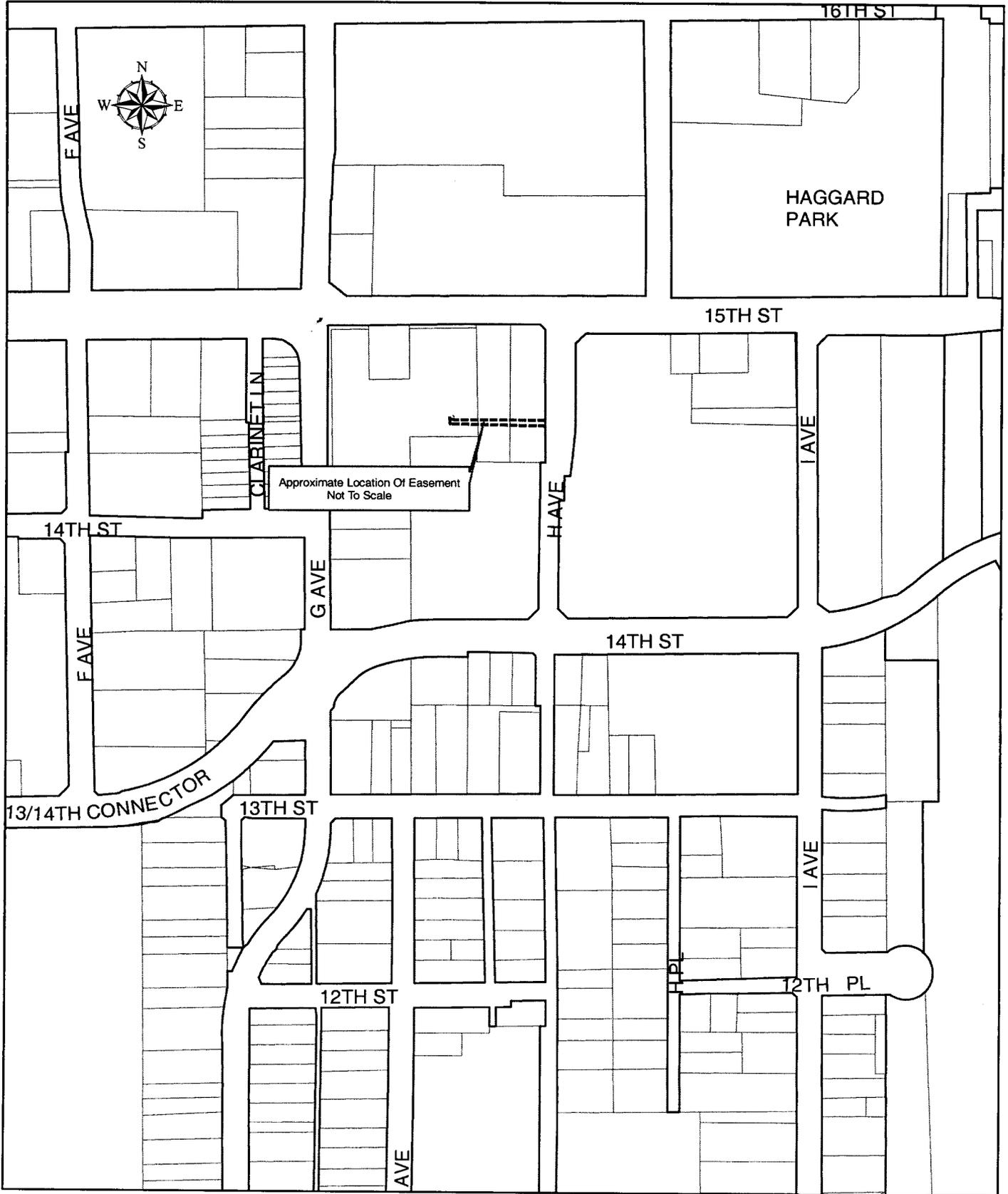
Scale: 1"=30'  
February 1, 2005



**ROOME LAND SURVEYING, INC.**  
2000 AVENUE G  
SUITE 810  
PLANO, TX 75074  
Phone Number (972) 423-4372  
Fax Number (972) 423-7523

P:/AC/200501/AC48545.dwg

# 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	<b>2/14/05</b>		Reviewed by Legal <i>JK</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> 2/18/05
Agenda Coordinator (include phone #): <b>Lynne Kemper - 7109</b>				

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

### CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD IN CONJUNCTION WITH THE GENERAL ELECTION IN AND THROUGHOUT THE CITY OF PLANO, TEXAS, ON SATURDAY MAY 7, 2005 FOR THE PURPOSE OF SUBMITTING PROPOSITIONS TO THE QUALIFIED VOTERS OF THE CITY FOR AMENDMENT OF THE CITY CHARTER AS FOLLOWS: PROVIDE FOR THE POWERS OF THE CITY TO BE AMENDED TO DELETE THE REFERENCE THAT THE CITY MAY BE SUED; PROVIDE THAT COUNCIL MEMBERS SHALL HOLD OFFICE FOR TWO YEARS BE AMENDED TO MAKE THE TERM OF OFFICE THREE YEARS EFFECTIVE MAY 7, 2005; PROVIDE THAT THE QUALIFICATIONS OF COUNCIL MEMBERS FOR THE CITY OF PLANO BE AMENDED TO DELETE THE REQUIREMENT OF OWNING TAXABLE PROPERTY WITHIN THE CITY; PROVIDE THAT THE QUALIFICATIONS OF APPOINTEES TO CITY BOARDS AND COMMISSIONS BE AMENDED TO DELETE THE REQUIREMENT OF OWNING TAXABLE PROPERTY WITHIN THE CITY; PROVIDE THAT THE PUBLICATION IN THE NEWSPAPER OF THE ORDINANCE GRANTING A FRANCHISE BE PUBLISHED ONCE EACH WEEK FOR FOUR WEEKS BE AMENDED TO LIMIT PUBLICATION TO THE ORDINANCE CAPTION; PROVIDE THAT THE TIME PERIOD FOR FILING A SUIT AGAINST THE CITY BE REVISED TO BE LIMITED TO THE TIME PERIOD ALLOWED BY LAW, BUT IN NO EVENT, NOT LATER THAN TWO YEARS, WHICHEVER PERIOD IS SHORTER; DESIGNATING LOCATIONS OF POLLING PLACES FOR SUCH SPECIAL ELECTION; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; 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
<b>BALANCE</b>	0	0	0	0

**FUND(s):**

**COMMENTS:**

### SUMMARY OF ITEM

This ordinance orders a special election for the purpose of submitting propositions to the voters for amendment of the City Charter.



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

List of Supporting Documents: n/a	Other Departments, Boards, Commissions or Agencies n/a

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD IN CONJUNCTION WITH THE GENERAL ELECTION IN AND THROUGHOUT THE CITY OF PLANO, TEXAS, ON SATURDAY MAY 7, 2005 FOR THE PURPOSE OF SUBMITTING PROPOSITIONS TO THE QUALIFIED VOTERS OF THE CITY FOR AMENDMENT OF THE CITY CHARTER AS FOLLOWS: PROVIDE FOR THE POWERS OF THE CITY TO BE AMENDED TO DELETE THE REFERENCE THAT THE CITY MAY BE SUED; PROVIDE THAT COUNCIL MEMBERS SHALL HOLD OFFICE FOR TWO YEARS BE AMENDED TO MAKE THE TERM OF OFFICE THREE YEARS EFFECTIVE MAY 7, 2005; PROVIDE THAT THE QUALIFICATIONS OF COUNCIL MEMBERS FOR THE CITY OF PLANO BE AMENDED TO DELETE THE REQUIREMENT OF OWNING TAXABLE PROPERTY WITHIN THE CITY; PROVIDE THAT THE QUALIFICATIONS OF APPOINTEES TO CITY BOARDS AND COMMISSIONS BE AMENDED TO DELETE THE REQUIREMENT OF OWNING TAXABLE PROPERTY WITHIN THE CITY; PROVIDE THAT THE PUBLICATION IN THE NEWSPAPER OF THE ORDINANCE GRANTING A FRANCHISE BE PUBLISHED ONCE EACH WEEK FOR FOUR WEEKS BE AMENDED TO LIMIT PUBLICATION TO THE ORDINANCE CAPTION; PROVIDE THAT THE TIME PERIOD FOR FILING A SUIT AGAINST THE CITY BE REVISED TO BE LIMITED TO THE TIME PERIOD ALLOWED BY LAW, BUT IN NO EVENT, NOT LATER THAN TWO YEARS, WHICHEVER PERIOD IS SHORTER; DESIGNATING LOCATIONS OF POLLING PLACES FOR SUCH SPECIAL ELECTION; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AND PROVIDING AN EFFECTIVE DATE.

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

**Section I.** A Special Election is hereby ordered to be held in conjunction with the General Election in and throughout the City of Plano, Texas, on Saturday, the 7<sup>th</sup> day of May, 2005, at which time there shall be submitted to the qualified voters of the City the following propositions for amendment to the Charter of the City of Plano:

**Proposition No. 1:** Shall section 2.01 of Article 2 of the City Charter providing for the powers of the City be amended to delete the reference that the City may be sued?

**Proposition No. 2:** Shall section 3.01(d) of Article 3 of the City Charter providing that Council Members shall hold office for two years be amended to make the term of office three years effective for members elected on and after May 7, 2005?

Proposition No. 3: Shall section 3.02 of Article 3 of the City Charter providing for the qualifications of Council Members be amended to delete the requirement of owning taxable property within the City in order to be consistent with case law?

Proposition No. 4: Shall section 4.07 of Article 4 of the City Charter providing for the qualifications of appointees to City boards and commissions be amended to delete the requirement of owning taxable property within the City?

Proposition No. 5: Shall sections 10.02 and 10-A. of Article 10 of the City Charter requiring publication in the newspaper of the ordinance granting a franchise be published once each week for four weeks be amended to limit publication to the ordinance caption?

Proposition No. 6: Shall section 11.06 of Article 11 of the City Charter regarding the time period for filing a suit against the City be revised to be limited to the time period allowed by law but in no event not later than two years, whichever period is shorter?

**Section II.** The ballots for said election shall conform to the requirements of the Texas Election Code and the propositions shall read on the official ballot as set forth in Exhibit "A" attached hereto and incorporated herein.

**Section III.** The polling places and the County Election Precincts whose qualified voters shall cast ballots at such locations in this City of Plano Special Election are as follows:

- (1) Armstrong Middle School, 3805 Timberline Drive  
Collin County Election Precincts numbered 52,  
61, 68, 103 and 141;
- (2) Bethany Elementary School, 2418 Micarta Drive  
Collin County Election Precincts numbered 34, 107, 119,  
121, 135 and 139;
- (3) Bowman Middle School, 2501 Jupiter Road  
Collin County Election Precincts numbered 23, 46,  
47, 50, 51, 152 and 158;
- (4) Brinker Elementary School, 3800 John Clark Parkway  
Collin County Election Precincts numbered 90, 109,  
116, 123, 137 and  
Denton County Election Precinct numbered 229;
- (5) Carpenter Middle School, 1501 Cross Bend Road  
Collin County Election Precincts numbered 21, 54,  
62 and 66;

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- (6) Haggard Middle School, 2401 Westside Drive  
Collin County Election Precincts numbered 15, 19,  
53, 65, 70 and 71;
- (7) Hendrick Middle School, 7400 Red River Drive  
Collin County Election Precincts numbered 58, 77 and 91;
- (8) Hughston Elementary School, 2601 Cross Bend Road  
Collin County Election Precincts numbered 31, 32,  
63 and 76;
- (9) Robinson Middle School, 6701 Preston Meadow Drive  
Collin County Election Precincts numbered 14, 81, 86,  
89, 108, 112 and 124;
- (10) Schimelpfenig Middle School, 2400 Maumelle Drive  
Collin County Election Precincts numbered 64 and 69;
- (11) Shepton High School, 5505 Plano Parkway  
Collin County Election Precincts numbered 28, 75,  
105 and 143;
- (12) Thomas Elementary School, 6537 Blue Ridge Trail  
Collin County Election Precincts numbered 39 and 85; and
- (13) Wilson Middle School, 1001 Custer Road  
Collin County Election Precincts numbered 26,  
49, 67, 72 and 138.

Polling places on May 7, 2005 shall be open from 7:00 a.m. until 7:00 p.m.

**Section IV.** Votes for said election shall be cast utilizing touch-screen devices with Diebold's ACCUVOTE TS R6v.4.1.15 direct recording devices (DRE's) for early voting and election day and optical-scan ballots with Diebold's ACCUVOTE OS v.1.9.4w for early voting by mail.

**Section V.** The early voting by personal appearance for the above-designated election shall be conducted in the following locations:

Main Early Voting Location

Collin County Elections Department  
2010 Redbud Boulevard  
Suite 102  
McKinney, TX 75069

Branch Early Voting Locations

Carpenter Park Recreation Center  
6701 Coit Road  
Plano, Texas 75024

Christ United Methodist Church  
3101 Coit Road  
Plano, Texas 75075

Harrington Library  
1501 18th Street  
Plano, Texas 75074

Plano Independent School District Administration Center  
2700 West 15th Street  
Plano, Texas 75075

Christopher A. Parr Library  
6200 Windhaven Parkway  
Plano, Texas 75093

Collin County Community College – Spring Creek Campus  
2800 East Spring Creek Parkway  
Plano, Texas 75074

Beginning on April 20, 2005, and continuing through May 3, 2005, said places of early voting shall remain open for at least eight (8) hours of early voting of each day which is not a Saturday, except for Saturday, April 23, 2005. No early voting shall be conducted on any Sunday or official State holiday during this period. Said places of voting shall remain open between the hours of 8:00 a.m. and 5:00 p.m. The main early polling place and the branch polling places shall also be open on Thursday, April 21, 2005, from 8:00 a.m. to 7:00 p.m.

Applications for ballots by mail shall be mailed to:

Sharon Rowe, Elections Administrator  
Collin County Elections Department  
2010 Redbud Boulevard  
Suite 102  
McKinney, TX 75069

Applications for ballots by mail must be received no later than the close of business on Friday, April 29.

**Section VI.** The recommendations of the City and the School District(s) will be the accepted guidelines of four (4) clerks to be secured to work in each polling place. The presiding election judge of each polling place, however, will use his/her discretion to determine when additional manpower is needed during peak voting hours.

**Section VII.** The City Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this election.

**Section VIII.** This Ordinance shall become effective immediately upon its passage.

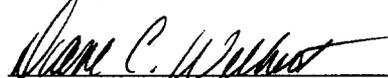
**DULY PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

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**EXHIBIT "A"**  
**(OFFICIAL BALLOT)**

Place an "x" in the square beside the statement indicating the way you wish to vote.

Proposition No. 1: Shall section 2.01 of Article 2 of the City Charter providing for the powers of the City be amended to delete the reference that the City may be sued?

Proposition No. 2: Shall section 3.01(d) of Article 3 of the City Charter providing that Council Members shall hold office for two years be amended to make the term of office three years effective for members elected on and after May 7, 2005?

Proposition No. 3: Shall section 3.02 of Article 3 of the City Charter providing for the qualifications of Council Members be amended to delete the requirement of owning taxable property within the City in order to be consistent with case law?

Proposition No. 4: Shall section 4.07 of Article 4 of the City Charter providing for the qualifications of appointees to City boards and commissions be amended to delete the requirement of owning taxable property within the City?

Proposition No. 5: Shall sections 10.02 and 10-A. of Article 10 of the City Charter requiring publication in the newspaper of the ordinance granting a franchise be published once each week for four weeks be amended to limit publication to the ordinance caption?

Proposition No. 6: Shall section 11.06 of Article 11 of the City Charter regarding the time period for filing a suit against the City be revised to be limited to the time period allowed by law but in no event not later than two years, whichever period is shorter?

J8



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal <i>MD</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Budget & Research	Initials	Date	
Department Head	Karen Rhodes	Executive Director		
Dept Signature:	<i>Karen Rhodes</i>	City Manager	<i>EM</i>	<i>2/14/05</i>
Agenda Coordinator (include phone #):		<b>Elizabeth Dorrance x7146</b>		
<b>ACTION REQUESTED:</b> <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				
<b>CAPTION</b>				
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO TEXAS, CALLING A BOND ELECTION TO BE HELD WITHIN THE CITY ON MAY 7, 2005, FOR THE PURPOSE OF AUTHORIZING GENERAL OBLIGATION BONDS; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION AND OTHER PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2004-05</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
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): <b>N/A</b>				
COMMENTS:				
<b>SUMMARY OF ITEM</b>				
This Ordinance provides for a bond election in May containing six propositions for various public improvements, including construction and renovation of buildings, acquisition and enhancement of land, purchase of equipment and street improvements.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
2005 Bond Referendum Ordinance				

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, CALLING A BOND ELECTION TO BE HELD WITHIN THE CITY ON MAY 7, 2005, FOR THE PURPOSE OF AUTHORIZING GENERAL OBLIGATION BONDS; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION AND OTHER PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City Plano, Texas (the "City") has determined that an election should be held in the City for the purpose of submitting certain propositions for the issuance of general obligation bonds for the purposes stated in the listed propositions; and

WHEREAS, the City Council finds and declares that the meeting at which this Ordinance is considered is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore

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

**Section 1. Findings.** The statements contained in the preamble of this Ordinance are true and correct and are hereby adopted as findings of fact and as a part of the operative provisions hereof.

**Section 2. Election Ordered.** An election (the "Election") shall be held in and throughout the City of Plano, Texas, on Saturday, May 7, 2005 (the "Election"), which date is a uniform election date as defined in the Texas Election Code, as amended (the "Code") and is not less than 62 days from the date of adoption of this Ordinance as required by the Code. At the Election the following propositions (the "Propositions") shall be submitted to the qualified voters of the City in accordance with law:

**PROPOSITION NO. 1**

"Shall the City Council of the City of Plano, Texas, be authorized to issue general obligation bonds of the City, in one or more series or issues, in the aggregate principal amount of \$21,700,000, with the bonds of each series or issue, respectively, to mature serially in such installments as may be fixed by the City Council, the maximum maturity being not more than forty (40) years from their date, to be issued and sold at any price or prices and to bear interest at any rate or rates as shall be determined within the discretion of the City Council at the time of issuance, for the purpose of providing funds for permanent public improvements, to wit: acquiring, constructing and equipping new fire stations, a logistics facility and emergency operations facilities; improving, expanding, renovating, reconfiguring and equipping existing fire stations and emergency operations facilities; purchasing fire fighting vehicles and equipment; the



acquisition of land; and to provide for the payment of the principal of and interest on the bonds by levying a tax sufficient to pay the annual interest on and to create a sinking fund sufficient to pay said bonds as they mature?

PROPOSITION NO. 2

“Shall the City Council of the City of Plano, Texas, be authorized to issue general obligation bonds of the City, in one or more series or issues, in the aggregate principal amount of \$2,000,000, with the bonds of each series or issue, respectively, to mature serially in such installments as may be fixed by the City Council, the maximum maturity being not more than forty (40) years from their date, to be issued and sold at any price or prices and to bear interest at any rate or rates as shall be determined within the discretion of the City Council at the time of issuance, for the purpose of providing funds for permanent public improvements, to wit: improving, renovating, expanding, furnishing and equipping library facilities, and to provide for the payment of the principal of and interest on the bonds by levying a tax sufficient to pay the annual interest on and to create a sinking fund sufficient to pay said bonds as they mature?

PROPOSITION NO. 3

“Shall the City Council of the City of Plano, Texas, be authorized to issue general obligation bonds of the City, in one or more series or issues, in the aggregate principal amount of \$1,355,000, with the bonds of each series or issue, respectively, to mature serially in such installments as may be fixed by the City Council, the maximum maturity being not more than forty (40) years from their date, to be issued and sold at any price or prices and to bear interest at any rate or rates as shall be determined within the discretion of the City Council at the time of issuance, for the purpose of providing funds for permanent public improvements, to wit: renovating, constructing, improving, expanding and equipping the Plano Animal Shelter, and to provide for the payment of the principal of and interest on the bonds by levying a tax sufficient to pay the annual interest on and to create a sinking fund sufficient to pay said bonds as they mature?

PROPOSITION NO. 4

“Shall the City Council of the City of Plano, Texas, be authorized to issue general obligation bonds of the City, in one or more series or issues, in the aggregate principal amount of \$57,775,000, with the bonds of each series or issue, respectively, to mature serially in such installments as may be fixed by the City Council, the maximum maturity being not more than forty (40) years from their date, to be issued and sold at any price or prices and to bear interest at any rate or rates as shall be determined within the discretion of the City Council at the time of issuance, for the purpose of providing funds for permanent public improvements, to wit: renovating, constructing, developing, improving, expanding, equipping and acquiring land and needed rights-of-way for parks and

recreation facilities, and to provide for the payment of the principal of and interest on the bonds by levying a tax sufficient to pay the annual interest on and to create a sinking fund sufficient to pay said bonds as they mature?

PROPOSITION NO. 5

“Shall the City Council of the City of Plano, Texas, be authorized to issue general obligation bonds of the City, in one or more series or issues, in the aggregate principal amount of \$6,600,000, with the bonds of each series or issue, respectively, to mature serially in such installments as may be fixed by the City Council, the maximum maturity being not more than forty (40) years from their date, to be issued and sold at any price or prices and to bear interest at any rate or rates as shall be determined within the discretion of the City Council at the time of issuance, for the purpose of providing funds for permanent public improvements, to wit: improving, renovating, expanding, furnishing and equipping the Carpenter Park Recreation Center, and to provide for the payment of the principal of and interest on the bonds by levying a tax sufficient to pay the annual interest on and to create a sinking fund sufficient to pay said bonds as they mature?

PROPOSITION NO. 6

“Shall the City Council of the City of Plano, Texas, be authorized to issue general obligation bonds of the City, in one or more series or issues, in the aggregate principal amount of \$55,372,000, with the bonds of each series or issue, respectively, to mature serially in such installments as may be fixed by the City Council, the maximum maturity being not more than forty (40) years from their date, to be issued and sold at any price or prices and to bear interest at any rate or rates as shall be determined within the discretion of the City Council at the time of issuance, for the purpose of providing funds for permanent public improvements, to wit: developing, engineering, constructing, reconstructing, improving, repairing, extending, expanding and enhancing streets, thoroughfares, alleys, sidewalks, bridges, intersections, and other public ways, including participation in joint projects with federal, state and local public entities and agencies, computerized signalization and monitoring equipment and other traffic controls, grade separations, street lighting, noise abatements, necessary and related storm drainage facilities and improvements, and the acquisition of any needed rights-of-way therefor, and to provide for the payment of the principal of and interest on the bonds by levying a tax sufficient to pay the annual interest on and to create a sinking fund sufficient to pay said bonds as they mature?

**Section 3. Ballots and Propositions.** (a) Voting at the Election, and early voting therefor, shall be by the use of lawfully approved voting systems and ballots.

(b) The preparation of the necessary equipment and the official ballots for the Election shall conform to the requirements of the Code so as to permit the electors to vote

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“FOR” or “AGAINST” the aforesaid Propositions which shall be set forth on the ballots substantially in the following form:

PROPOSITION NO. 1

THE ISSUANCE OF \$21,700,000 GENERAL OBLIGATION BONDS FOR FIRE FIGHTING, LOGISTICS FACILITY AND EMERGENCY OPERATIONS FACILITIES AND EQUIPMENT

PROPOSITION NO. 2

THE ISSUANCE OF \$2,000,000 GENERAL OBLIGATION BONDS FOR LIBRARY FACILITIES

PROPOSITION NO. 3

THE ISSUANCE OF \$1,355,000 GENERAL OBLIGATION BONDS FOR EXPANSION OF THE PLANO ANIMAL SHELTER

PROPOSITION NO. 4

THE ISSUANCE OF \$57,775,000 GENERAL OBLIGATION BONDS FOR PARKS AND RECREATION FACILITIES

PROPOSITION NO. 5

THE ISSUANCE OF \$6,600,000 GENERAL OBLIGATION BONDS FOR EXPANSION OF CARPENTER PARK RECREATION CENTER

PROPOSITION NO. 6

THE ISSUANCE OF \$55,372,000 GENERAL OBLIGATION BONDS FOR STREET IMPROVEMENTS

**Section 4. Compliance with Code.** That the manner of conducting the Election must be in accordance with this ordinance, the Charter of the City and the laws of the State of Texas applicable to the holding of a bond election. The official ballots, together with such other election materials as are required by the Texas Election Code, must be printed in both English and Spanish languages and must contain such provisions, markings, and language as may be required by law.

**Section 5. Persons Qualified to Vote.** All resident qualified electors of the City shall be eligible to vote at the Election.

**Section 6. Election Precincts, Voting Locations and Voting Hours on Election Day.** The respective City election precincts (the “Election Precincts”) for the Election shall

consist of the territory within those Collin County election precincts and the Denton County election precinct which are located within the corporate limits of the City, and which bear the precinct numbers set forth in Exhibit A attached hereto and incorporated herein. The voting location for voting on Election Day for each Election Precinct shall be as set forth in Exhibit A. On Election Day the polls shall be open from 7:00 a.m. to 7:00 p.m.

**Section 7. Early Voting Locations, Dates and Times.** (a) Sharon Rowe, the Collin County Elections Administrator, is hereby appointed as Early Voting Clerk. Early voting by personal appearance for all election precincts shall be held at the locations, at the times and on the days set forth below:

Main Early Voting Location

Collin County Elections Department  
2010 Redbud Boulevard  
Suite 102  
McKinney, Texas 75069

Branch Early Voting Locations

Carpenter Park Recreation Center  
6701 Coit Road  
Plano, Texas 75024

Christopher A. Parr Library  
6200 Windhaven Parkway  
Plano, Texas 75093

Christ United Methodist Church (temporary location)  
3101 Coit Road  
Plano, Texas 75075

Collin County Community College – Spring Creek Campus  
2800 East Spring Creek Parkway  
Plano, Texas 75074

Harrington Library  
1501 18th Street  
Plano, Texas 75074

Plano Independent School District Administration Center  
2700 West 15th Street  
Plano, Texas 75075

Beginning on April 20, 2005, and continuing through May 3, 2005, said places of early voting shall remain open for at least eight (8) hours of early voting of each day which is not a Saturday, except for Saturday, April 23, 2005. No early voting shall be conducted on any

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Sunday or official State holiday during this period. Said places of early voting shall remain open between the hours of 8:00 a.m. and 5:00 p.m. The main early voting location and the branch early voting locations shall also be open on Thursday, April 21, 2005, from 8:00 a.m. to 7:00 p.m.

(b) Applications for early voting by mail must be received no later than the close of business on Friday, April 29, 2005. Applications for ballot by mail shall be sent to:

Sharon Rowe, Elections Administrator  
Collin County Elections Department  
2010 Redbud Boulevard  
Suite 102  
McKinney, Texas, 75069

**Section 8. Appointment of Election Officers.** Prior to the Election Day, the City Council shall appoint the Presiding Judge and Alternate Presiding Judge(s) to serve at the Election, the Early Voting Ballot Board and such other officials as are necessary and appropriate to conduct the Election in accordance with the Code.

**Section 9. Notice of Election.** The City Secretary is hereby authorized and directed to give notice of this bond election by causing a notice containing a substantial copy of this Ordinance, in both English and Spanish, to be:

(a) posted at three (3) public places within the City and also at the City Hall not later than the 21st day prior to the date upon which the Election is to be held; and

(b) published on the same day in each of two (2) successive weeks in a newspaper of general circulation published within the City, the date of the first publication to be not less than fourteen (14) days prior to the date of the Election and one of the such dates of publication not being more than thirty (30) days prior to the date of the Election.

**Section 10. Necessary Actions.** The Mayor and the City Secretary of the City, in consultation with the City Attorney and bond counsel are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Code and the Federal Voting Rights Act in carrying out and conducting the Election, whether or not expressly authorized herein.

**Section 11. Effective Date.** This ordinance shall take effect immediately from and after its approval and adoption in accordance with the requirements of the Charter of the City.

PASSED, APPROVED AND EFFECTIVE THIS \_\_\_\_\_ day of February, 2005.

---

Mayor  
City of Plano, Texas

ATTEST:

---

City Secretary  
City of Plano, Texas

[SEAL]

*Signature Page for Election Ordinance*

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EXHIBIT A

ELECTION PRECINCTS AND ELECTION DAY POLLING PLACES

CITY ELECTION PRECINCTS	COLLIN COUNTY ELECTION PRECINCTS <sup>1</sup>	POLLING PLACE
1	52, 61, 68, 103 & 141	Armstrong Middle School 3805 Timberline Drive Plano, Texas
2	34, 107, 119, 121, 135 & 139	Bethany Elementary School 2418 Micarta Drive Plano, Texas
3	23, 46, 47, 50, 51, 152 & 158	Bowman Middle School 2501 Jupiter Road Plano, Texas
4	90, 109, 116, 123 & 137 and Denton County Election Precinct 229	Brinker Elementary School 3800 John Clark Parkway Plano, Texas
5	21, 54, 62 & 66	Carpenter Middle School 1501 Cross Bend Road Plano, Texas
6	15, 19, 53, 65, 70 & 71	Haggard Middle School 2401 Westside Drive Plano, Texas
7	58, 77 & 91	Hendrick Middle School 7400 Red River Drive Plano, Texas
8	31, 32, 63 & 76	Hughston Elementary School 2601 Cross Bend Road Plano, Texas
9	14, 81, 86, 89, 108, 112 & 124	Robinson Middle School 6701 Preston Meadow Drive Plano, Texas
10	64 & 69	Schimelpfenig Middle School 2400 Maumelle Plano, Texas
11	28, 75, 105 & 143	Shepton High School 5505 Plano Parkway Plano, Texas
12	39 & 85	Thomas Elementary School 6537 Blue Ridge Trail Plano, Texas
13	26, 49, 67, 72 & 138	Wilson Middle School 1001 Custer Road Plano, Texas

<sup>1</sup> As noted, City Election Precinct 4 also contains one Denton County Election Precinct.

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal	<i>AW</i> <input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Secretary	Initials	Date	
Department Head	Elaine Bealke	Executive Director		
Dept Signature:	<i>Elaine Bealke</i>	City Manager	<i>[Signature]</i>	<i>2/17/05</i>
Agenda Coordinator (include phone #): <b>Di Zucco - x7551</b>				
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				
<b>CAPTION</b>				
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, ORDERING AN ELECTION TO BE HELD ON MAY 7, 2005 FOR THE PURPOSE OF ELECTING FOUR (4) MEMBERS OF COUNCIL, PLACE NO. 1 (DISTRICT 1), PLACE NO. 3 (DISTRICT 3), PLACE NO. 5, AND PLACE NO. 7, TO THE CITY COUNCIL TO HOLD OFFICE FOR A PERIOD OF TWO YEARS (THREE YEARS IF THE CHARTER AMENDMENT REGARDING TERMS OF OFFICE PASSES); DESIGNATING LOCATIONS OF POLLING PLACES; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AND PROVIDING AN EFFECTIVE DATE.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(S):</b> FISCAL IMPACT WILL BE PLACED ON THE AGENDA WITH RESOLUTION AUTHORIZING A CONTRACT WITH THE COLLIN COUNTY ELECTION ADMINISTRATOR				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, ORDERING AN ELECTION TO BE HELD ON MAY 7, 2005 FOR THE PURPOSE OF ELECTING FOUR (4) MEMBERS OF COUNCIL, PLACE NO. 1 (DISTRICT 1), PLACE NO. 3 (DISTRICT 3), PLACE NO. 5, AND PLACE NO. 7, TO THE CITY COUNCIL TO HOLD OFFICE FOR A PERIOD OF TWO YEARS (THREE YEARS IF THE CHARTER AMENDMENT REGARDING TERMS OF OFFICE PASSES); DESIGNATING LOCATIONS OF POLLING PLACES; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AND PROVIDING AN EFFECTIVE DATE.

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

**Section I.** A General election be and is hereby ordered to be held on Saturday, May 7, 2005, for the purpose of electing four (4) City Council Members to fill the following expiring terms on the Plano City Council: Place No. 1 (District 1), Place No. 3 (District 3), Place No. 5, and Place No. 7 each such term being for a period of two (2) years.\*

**Section II.** The filing deadline for candidates for Place No. 1 (District 1), Place No. 3 (District 3), Place No. 5, and Place No. 7 shall be March 7, 2005.

**Section III.** The polling places and the county election precincts whose qualified voters shall cast ballots at such locations in the City of Plano for the 2005 General election are as follows:

- (1) Armstrong Middle School, 3805 Timberline Drive  
Collin County Election Precincts numbered 52,  
61, 68, 103 and 141;
- (2) Bethany Elementary School, 2418 Micarta Drive  
Collin County Election Precincts numbered 34, 107, 119,  
121, 135 and 139;
- (3) Bowman Middle School, 2501 Jupiter Road  
Collin County Election Precincts numbered 23, 46,  
47, 50, 51, 152 and 158;
- (4) Brinker Elementary School, 3800 John Clark Parkway

\* At this same election is a Charter Amendment that extends the term of office to three years. If this proposition passes, the above members will serve a three (3) year term.

- (5) Carpenter Middle School, 1501 Cross Bend Road  
Collin County Election Precincts numbered 21, 54,  
62 and 66;
- (6) Haggard Middle School, 2401 Westside Drive  
Collin County Election Precincts numbered 15, 19,  
53, 65, 70 and 71;
- (7) Hendrick Middle School, 7400 Red River Drive  
Collin County Election Precincts numbered 58, 77 and 91;
- (8) Hughston Elementary School, 2601 Cross Bend Road  
Collin County Election Precincts numbered 31, 32,  
63 and 76;
- (9) Robinson Middle School, 6701 Preston Meadow Drive  
Collin County Election Precincts numbered 14, 81, 86,  
89, 108, 112 and 124;
- (10) Schimelpfenig Middle School, 2400 Maumelle Drive  
Collin County Election Precincts numbered 64 and 69;
- (11) Shepton High School, 5505 Plano Parkway  
Collin County Election Precincts numbered 28, 75,  
105 and 143;
- (12) Thomas Elementary School, 6537 Blue Ridge Trail  
Collin County Election Precincts numbered 39 and 85; and
- (13) Wilson Middle School, 1001 Custer Road  
Collin County Election Precincts numbered 26,  
49, 67, 72 and 138.

Polling places on May 7, 2005 shall be open from 7:00 a.m. until 7:00 p.m.

Section IV. Votes for said election shall be cast utilizing touch-screen devices with Diebold's ACCUVOTE TS R6v.4.1.15 direct recording devices (DRE's) for early voting and election day and optical-scan ballots with Diebold's ACCUVOTE OS v.1.9.4w for early voting by mail.

**Section V.** The early voting by personal appearance for the above-designated election shall be conducted in the following locations:

Main Early Voting Location

Collin County Elections Department  
2010 Redbud Boulevard  
Suite 102  
McKinney, TX 75069

Branch Early Voting Locations

Carpenter Park Recreation Center  
6701 Coit Road  
Plano, Texas 75024

Christ United Methodist Church (temporary location)  
3101 Coit Road  
Plano, Texas 75075

Harrington Library  
1501 18th Street  
Plano, Texas 75074

Plano Independent School District Administration Center  
2700 West 15th Street  
Plano, Texas 75075

Christopher A. Parr Library  
6200 Windhaven Parkway  
Plano, Texas 75093

Collin County Community College – Spring Creek Campus  
2800 East Spring Creek Parkway  
Plano, Texas 75074

Beginning on April 20, 2005, and continuing through May 3, 2005, said places of early voting shall remain open for at least eight (8) hours of early voting of each day which is not a Saturday, except for Saturday, April 23, 2005. No early voting shall be conducted on any Sunday or official State holiday during this period. Said places of voting shall remain open between the hours of 8:00 a.m. and 5:00 p.m. The main early polling place and the branch polling places shall also be open on Thursday, April 21, 2005, from 8:00 a.m. to 7:00 p.m.

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Applications for ballots by mail shall be mailed to:

Sharon Rowe, Elections Administrator  
Collin County Elections Department  
2010 Redbud Boulevard  
Suite 102  
McKinney, TX 75069

Applications for ballots by mail must be received no later than the close of business on Friday, April 29.

**Section VI.** The recommendations of the City and the School District(s) will be the accepted guidelines of four (4) clerks to be secured to work in each polling place. The presiding election judge of each polling place, however, will use his/her discretion to determine when additional manpower is needed during peak voting hours.

**Section VII.** The City Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this election.

**Section VIII.** This ordinance shall become effective immediately upon its passage.

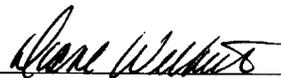
Duly passed and approved this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
**Pat Evans, MAYOR**

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Diane Wetherbee, CITY ATTORNEY

*0-5*



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>		Reviewed by Legal <i>aw</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Department:	City Secretary		Initials	Date
Department Head	Elaine Bealke		Executive Director	
Dept Signature:	<i>Elaine Bealke</i>		City Manager	<i>[Signature]</i> 2/26/05
Agenda Coordinator (include phone #): <b>Sharon Kotwitz - x7120</b>				
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				
<b>CAPTION</b>				
To adopt and enact Supplement Number 67 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<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: This item has no fiscal impact				
<b>SUMMARY OF ITEM</b>				
Adoption of this ordinance enables this supplement to be admissable in court.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS ADOPTING AND ENACTING SUPPLEMENT NUMBER 67 TO THE CODE OF ORDINANCES FOR THE CITY OF PLANO; PROVIDING FOR AMENDMENT TO CERTAIN SECTIONS OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Plano, Texas adopted a new Code of Ordinances upon adoption of Ordinance No. 87-3-14, on March 9, 1987; and

**WHEREAS**, Sections V and VI of Ordinance No. 87-3-14 provide for amendment to said Code of Ordinances; and

**WHEREAS**, §3.11 of the City of Plano Charter provides that the City Council has the power to have its ordinances codified and printed in Code form, and that such printed form shall have full force and effect without the necessity of publishing the same or any part thereof in a newspaper; and

**WHEREAS**, the Code of Ordinances of the City of Plano, Texas has been revised by previous amendments duly passed as individual ordinances by the City Council and such amendments are reflected on Supplement Number 67;

**WHEREAS**, The City Council wishes to adopt the ordinance codification version appearing in Supplement 67 of the Plano Code of Ordinances in order for the printed Code form to be considered identical to the original ordinance and to eliminate any confusion or differences in the format of the original ordinance.

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

**Section I.** The City Council hereby adopts the printed Code form of the ordinances contained in Supplement 67 as prepared by the codifier.

**Section II.** This Ordinance shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 14th day of January 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Human Resources		Initials	Date	
Department Head	LaShon Ross		Executive Director	<i>LR</i>	<i>2-2-05</i>
Dept Signature:	<i>LaShon Ross</i>		City Manager	<i>John</i>	<i>2/2/05</i>
Agenda Coordinator (include phone #):		<b>Cathy Persons, ext. 5155</b>			

**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. 2005-1-21; establishing the number of certain classifications within the Police and Fire Departments for fiscal year 2004-2005; establishing the authorized number and effective dates of such positions for each classification effective October 4, 2004 and February 14, 2005 and April 1, 2005 and July 1, 2005 respectively; establishing a salary plan for the Police and Fire Departments effective October 4, 2004; and providing a repealer clause, a severability clause and an effective date.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2004-2005</b>	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
<b>BALANCE</b>	0	0	0	0

**FUND(s):    GENERAL FUND**

**COMMENTS:** This item has no fiscal impact to the 2004-05 Operating Budget. The addition of a Police Department Lieutenant position and the elimination of 2 vacant positions (1 Alarms Assistant position and 1 Analyst) requires no additional funding for the remainder of 2004-2005 to the Police Department Budget.

**STRATEGIC PLAN GOAL:** The addition of a Police Lieutenant position relates to the City's Goal of "Service Excellence".

**SUMMARY OF ITEM**

The Police Department is requesting authority to move forward with the addition of one Lieutenant position. The addition of one (1) Police Lieutenant position on February 14, 2005 will have a narrowly defined responsibility for ESU (Emergency Services Unit) management, Homeland Security, and Emergency Preparedness initiatives on a full-time basis. The ESU function represents one of the highest potentials for liability within the Police Department. The current Administrative Lieutenant time has been fully consumed by issues related to Homeland Security, Emergency Preparedness and the readiness and management of ESU, therefore not allowing attention to the daily administrative issues. The necessity for this position has existed for some time; however budget considerations would not allow the creation of this position. The vacant Analyst and Alarm Assistant positions currently offer the opportunity to address this pressing need.



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>List of Supporting Documents:</b> Memorandum Ordinance Compensation Plan (Fire) - Exhibit A Compensation Plan (Police) - Exhibit B	<b>Other Departments, Boards, Commissions or Agencies</b>

1-2



PO Box 860358  
Plano, Texas 75086-0358  
(972) 941-7000  
Fax: (972) 941-0099  
<http://www.ci.plano.tx.us>

## MEMORANDUM

**Date:** January 21, 2005  
**To:** Bruce D. Glasscock, Executive Director  
**From:** Gregory W. Rushin, Chief of Police  
**Subject:** Justification for Creation of Civil Service Police Lieutenant Sworn Position

---

I am requesting authorization to create a Civil Service Police Lieutenant Sworn Position through the dissolution of two vacant non-sworn positions. I propose dissolving the Intelligence Analyst position and an Alarm Assistant position, which will result in a savings of \$43,705 in the current fiscal year and a savings of \$10,915 in subsequent fiscal years. The functions of the Analyst and Assistant positions will be assumed by incumbent employees and I anticipate their dissolution will have no adverse impact on Department operations.

Currently, the Administrative Lieutenant to the Chief of Police is responsible for the Department's initiatives regarding Homeland Security and Emergency Preparedness, administrative tasks associated with daily operations of the Department, and the Emergency Services Unit (ESU). The ESU is staffed with fifty-four employees and contains the Department's tactical response team. The ESU function represents one of the highest potentials for liability within the Department. The Administrative Lieutenant's duties have become fully consumed by issues related to Homeland Security, Emergency Preparedness, and the readiness and management of the ESU because of their increased importance in recent years. The increased attention to these sensitive matters has diminished the Administrative Lieutenant's ability to address daily administrative issues, essentially causing a void of one lieutenant in the Chief's Office.

The proposed Lieutenant position will have a narrowly defined responsibility for ESU management, Homeland Security, and Emergency Preparedness initiatives on a full-time basis. The creation of the position is imperative to achieving the goals, related to those functions, contained in our five-year Strategic Plan. The created position will have the added benefit of ensuring effective management of the potential liability associated with ESU, Homeland Security, and Emergency Preparedness and will allow the Administrative Lieutenant to return to a focus on daily administrative tasks in the Office of the Chief of Police important to the efficient operation of the Department. The necessity of this position has existed for some time; however budget considerations would not allow the creation of this position. The vacant Analyst and Assistant positions currently offer us the opportunity to address this pressing need.

Approved:

Bruce D. Glasscock  
Executive Director

GWR/ks

Attachment

Date:

1-25-05

Disapproved:

7-3

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PLANO, TEXAS REPEALING ORDINANCE NO. 2005-1-21; ESTABLISHING THE NUMBER OF CERTAIN CLASSIFICATIONS WITHIN THE POLICE AND FIRE DEPARTMENTS FOR FISCAL YEAR 2004-2005; ESTABLISHING THE AUTHORIZED NUMBER AND EFFECTIVE DATES OF SUCH POSITIONS FOR EACH CLASSIFICATION EFFECTIVE OCTOBER 4, 2004 AND FEBRUARY 14, 2005 AND APRIL 1, 2005 AND JULY 1, 2005 RESPECTIVELY; ESTABLISHING A SALARY PLAN FOR THE POLICE AND FIRE DEPARTMENTS EFFECTIVE OCTOBER 4, 2004; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, on January 24, 2005 by Ordinance No. 2005-1-21, the City Council of the City of Plano, Texas, established classification and salaries for each of the sworn personnel positions within the Police and Fire Departments of the City of Plano; and

WHEREAS, the City Council has since reviewed the positions for sworn personnel within the Police Department of the City of Plano and is of the opinion that the number of Police Lieutenant positions should be revised effective February 14, 2005; and

WHEREAS, in compliance with Chapter 143 of the Texas Local Government Code, V.T.C.A., as amended, the City Council desires to adopt the specified number of positions effective October 4, 2004, February 14, 2005, April 1, 2005 and July 1, 2005; and the classification and salary plan for the sworn personnel of the Police and Fire Departments of the City of Plano, Texas as set forth in attached Exhibits "A" and "B" with such salary plan effective October 4, 2004.

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

**Section I.** Ordinance No. 2005-1-21 duly passed and approved by the City Council of the City of Plano, Texas on January 24, 2005, is repealed in its entirety effective February 14, 2005.

**Section II.** The number of positions in the City of Plano Police and Fire Departments effective October 4, 2004, February 14, 2005, April 1, 2005 and July 1, 2005, and the classification and salary plan of the City of Plano Police and Fire Departments for City of Plano fiscal year 2004-2005, effective October 4, 2004, all as set out on attached Exhibit "A" and Exhibit "B", are hereby approved, adopted, and established.

**Section III.** Any and all advancements from one service plateau to the next, within the salary structure set out in Exhibit "A" and Exhibit "B", are hereby approved, adopted, and established, and shall thereafter be permitted at the start of the first payroll period following completion of the required number of continuous service months.

71-4

**Section IV.** All provisions of the Ordinances of the City of Plano, codified and 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.** Upon passage, this Ordinance shall become effective February 14, 2005.

DULY PASSED AND APPROVED, this, the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane Wetherbee, CITY ATTORNEY

21-5

**CITY OF PLANO  
2004-2005 CIVIL SERVICE  
COMPENSATION PLAN  
Effective 10/04/04**

**FIRE**

RANGE	POSITION	# Positions Effective	BASE	12 MOS.		36 MOS.		<48 MOS.		48 MOS.		96 MOS.		144 MOS.	
				NON-PMDC	NON-PMDC	NON-PMDC	NON-PMDC	PMDC	PMDC	PMDC	PMDC	PMDC	PMDC		
FCS 001	Fire Rescue	10/01/04 - 177	4039	4324	4763	4906	5023	5153	5333						
	Specialist**	07/01/05 - 186	48,463	51,891	57,157	58,873	60,278	61,841	63,997						
	Hourly:		16,6424	17,8197	19,6281	20,2174	20,7000	21,2366	21,9770						
FCS 002	Fire Apparatus Operator**	10/01/04 - 48	5238			5426	5530	5667	5857						
	Monthly:		62,854			65,112	66,364	68,002	70,284						
	Hourly:		21,5846			22,3600	22,7900	23,3525	24,1360						
FCS 003	Lieutenant**	10/01/04 - 17	5884			6052	6169	6313	6536						
	Monthly:		70,613			72,625	74,033	75,761	78,429						
	Hourly:		24,2490			24,9400	25,4235	26,0169	26,9330						
FCS 004	Captain**	10/01/04 - 32	6607			6750	6892	7036	7252						
	Monthly:		79,289			81,005	82,709	84,437	87,025						
	Hourly:		27,2285			27,8178	28,4030	28,9964	29,8850						
FMC 005	Battalion Chief*	10/01/04 - 5 04/01/05 - 8	8011												
	Monthly:		96,136												
	Hourly:		46,2193												
FMC 006	Assistant Fire Chief*	10/01/04 - 3	8956 ***												
	Monthly:		107,463												
	Hourly:		51,6647												
Assignment Pay for Paramedic Services Included															

\* Hourly rate based on 2080 hours annually

\*\* Hourly rate based on 2912 hours annually

\*\*\* Salary effective 04/01/05

7-6

**CITY OF PLANO**  
**2004-2005 CIVIL SERVICE COMPENSATION PLAN**  
 Effective 10/04/04

**POLICE**

RANGE	POSITION	# POSITIONS Effective	BASE	6 MOS.	12 MOS.	18 MOS.	24 MOS.	30 MOS.	36 MOS.
PCS 001	Police Officer	10/01/04 - 284	4073	4211	4349	4541	4691	4851	5097
		04/01/05 - 289	48,878	50,526	52,192	54,497	56,290	58,212	61,167
		Hourly:	23,4993	24,2914	25,0922	26,2003	27,0624	27,9866	29,4072
PCS 002	Sergeant	10/01/04 - 35	5786		6009				
		Annual:	69,436		72,105				
		Hourly:	33,3825		34,6657				
PCS 003	Lieutenant	10/01/04 - 11	6460		6847				
		02/14/05 - 12	77,515		82,161				
		Hourly:	37,2669		39,5007				
PCS 004	Captain	10/01/04 - 3	7360		7802				
		Annual:	88,325		93,619				
		Hourly:	42,4638		45,0091				
PCS 005	Asst. Police Chief	10/01/04 - 1	8386		8845		9328		
		Annual:	100,636		106,135		111,935		
		Hourly:	48,3825		51,0265		53,8150		
Recruit:									
PCS									
01A									
Monthly:			3774						
Annual:			45,290						
Hourly:			21,7742						

7-7



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Fire	Executive Director	<i>[Signature]</i>	Date
Department Head	William Peterson	City Manager	<i>[Signature]</i>	01.27.05
Dept Signature:	<i>[Signature]</i>			1/27/05
Agenda Coordinator (include phone #):		Frank Snidow, x7318		

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

### CAPTION

AWARD OF CONTRACT FOR CLEANING AND REPAIR OF FIREFIGHTING TURNOUT GEAR TO SOLUTIONS SAFETY SERVICES, INC., THROUGH AN INTERLOCAL AGREEMENT WITH CITY OF DALLAS PURSUANT TO CHAPTER 271, SECTION 271.102 OF THE LOCAL GOVERNMENT CODE, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE THE PURCHASE.

### FINANCIAL SUMMARY

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	04/05, 05/06 & 06/07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	281,152	0	281,152
Encumbered/Expended Amount		0	-107,044	0	-107,044
This Item		0	-45,000	0	-45,000
<b>BALANCE</b>		0	129,108	0	129,108

**FUND(S):**    **GENERAL FUND**

**COMMENTS:** Funds for the inspection, cleaning, and repair of firefighting gear are included in the FY 2004-05 approved budget. A \$45,000 expenditure will take place each year for three fiscal years under this contract. The balance of funds will be used for other Fire Department clothing purchases.

**STRATEGIC PLAN GOAL:** Inspection, Cleaning, and Repair of Fire Department gear relates to the City's Goal of "Service Excellence".

### SUMMARY OF ITEM

Staff recommends approval and award of contract for Clean and Repair of Firefighting Turnout Gear in an estimated amount of \$135,000. Solutions Safety, Inc. is the contracted vendor with City of Dallas for this service (City of Dallas Bid No. BH0216). This award is through an Interlocal Agreement with City of Dallas, pursuant to Chapter 271, Section 271.102 of the Local Government Code.

List of Supporting Documents: \_\_\_\_\_ Other Departments, Boards, Commissions or Agencies

Memorandum \_\_\_\_\_

*[Handwritten mark]*



## *Memorandum*

**Date:** January 27, 2005

**To:** Bruce Glasscock, Executive Director

**From:** William Peterson, Fire Chief 

**Subject:** Award of Contract for Clean and Repair of  
Firefighter Turnout Gear

Attached is the Council agenda item requesting authorization for the Fire Department to spend approximately \$45,000 per year for three fiscal years for inspection, cleaning, and repair of firefighting turnout gear through a City of Dallas Contract (City of Dallas Bid No. BH0216).

If you have any questions or require additional information, please advise.

0-2



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Technology Services	Executive Director	<i>[Signature]</i>	Date: <b>2.2.05</b>
Department Head	David Stephens	City Manager	<i>[Signature]</i>	<b>2/2/05</b>
Dept Signature:	<i>David Stephens</i>	Agenda Coordinator (include phone #):	<b>Kathy Kargol, ext 7342</b>	
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 STATE CONTRACT				
<b>CAPTION</b>				
Approval to enter into a Service Agreement through the Department of Information Resources (DIR) with IBM in an amount of \$36,627; and authorizing the City Manager or his designee to execute all necessary documents to effectuate the purchase (DIR# SDD-190)				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2004-05</b>	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	1,942,472	0
Encumbered/Expended Amount		0	-726,523	0
This Item		0	-36,627	0
BALANCE		0	1,179,322	0
FUND(S): <b>TECHNOLOGY SERVICES FUND</b>				
<b>COMMENTS:</b> Funds are included in the 2004-05 Technology Services budget. The remaining balance will be used throughout the year for other maintenance agreements.				
<b>STRATEGIC PLAN GOAL:</b> Server maintenance agreements relate to the City's Goal of "Service Excellence".				
<b>SUMMARY OF ITEM</b>				
Technology Services recommends Council approve an expenditure of \$36,627 through the Department of Information Resources (DIR) to IBM for a maintenance support contract on our network servers. 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 government to seek competitive bids for the items. Contract number DIR# SDD-190.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Staff Memo				

# Memorandum

**To:** David Stephens, Director of Technology Services

**CC:**

**From:** Chester M. Helt, Infrastructure Manager

**Date:** 1/24/2005

**Re:** IBM Server Maintenance

---

It is time for us to extend the maintenance on the majority of our infrastructure network servers. The servers covered as a part of this agenda item all have their three year maintenance expiring this calendar year. We have obtained pricing from IBM, a State of Texas, DIR vendor, to obtain maintenance for these servers for one additional year.

By extending the maintenance on these servers, we extend the life of the device for an additional year. Should any mechanical issues occur to the server in this year, IBM would replace the defective part. As these servers have aged, we have had several occurrences this last year that have required IBM provide service to several of these existing servers.

The quote obtained to extend the maintenance by one year is \$ 36,627.00. We recommend Council approve the purchase of this additional year of maintenance.

P-2



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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:	<b>2/14/05</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Technology Services		Initials	Date
Department Head	David Stephens	Executive Director	<i>[Signature]</i>	2-2-05
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	2/2/05
Agenda Coordinator (include phone #): <b>Kathy Kargol, ext 7342</b>				
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 STATE CONTRACT				
<b>CAPTION</b>				
Approval to enter into a Service Agreement through the Department of Information Resources (DIR) with Internetwork Experts in an amount of \$126,743; and authorizing the City Manager or his designee to execute all necessary documents to effectuate the purchase (DIR-BUSOP-012)				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2004-05</b>	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	1,942,472	0
Encumbered/Expended Amount		0	-726,523	0
This Item		0	-126,743	0
BALANCE		0	1,089,206	0
FUND(S): <b>TECHNOLOGY SERVICES FUND</b>				
<b>COMMENTS:</b> Funds are included in the 2004-05 Technology Services budget. The remaining balance will be used throughout the year for other maintenance agreements.				
<b>STRATEGIC PLAN GOAL:</b> Network switches and other infrastructure support services relate to the City's Goal of "Service Excellence".				
<b>SUMMARY OF ITEM</b>				
Technology Services recommends Council approve an expenditure of \$126,743 through the Department of Information Resources (DIR) to Internetwork Experts for a maintenance support contract on Cisco network infrastructure switches. 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 government to seek competitive bids for the items. Contract number DIR-BUSOP-012				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Staff Memo				

*Q-1*

# Memorandum

**To:** David Stephens, Director of Technology Services

**CC:**

**From:** Chester M. Helt, Infrastructure Manager

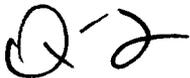
**Date:** 1/24/2005

**Re:** Cisco Switch Service Agreement

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We have received a quote from Internetwork Experts in the amount of \$ 126,743.00 for the annual service contract for all of our Cisco switching equipment. This quote represents all of our Cisco equipment. We have two basic categories, 24/7 and business day. All of the critical network equipment is on a premium contract. We have also obtained this quote from a vendor with a DIR contract and are purchasing this off of a State Contract.

This will provide us with our expected Cisco service and centralize our maintenance for our equipment. We recommend ordering this maintenance from Internetwork Experts.





**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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: <b>2/14/05</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Technology Services		<i>[Signature]</i>	Date	
Department Head	David Stephens	Executive Director	<i>[Signature]</i>	<b>2-9-05</b>	
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<b>2/7/05</b>	
Agenda Coordinator (include phone #): <b>Kathy Kargol, ext 7342</b>					

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

**CAPTION**

Request approval of expenditure in an amount of \$61,273.98 for the purchase of network infrastructure equipment to IBM through the Department of Information Resources (DIR); and authorizing the City Manager or his designee to execute all necessary documents to effectuate the purchase. (DIR# SDD-190)

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2004-05</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	150,000	0	<b>150,000</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	-61,274	0	<b>-61,274</b>
<b>BALANCE</b>	<b>0</b>	<b>88,726</b>	<b>0</b>	<b>88,726</b>

**FUND(S):**    **TECHNOLOGY FUND (062)**

**COMMENTS:** Funds are available in the 2004-05 Technology Fund budget for the purchase of a centralized Content Management Environment. Purchase of the IBM servers on this item will provide for the standardization of all of the City's web content and provide a management tool for all future City web content. The balance of funds will be used for other items related to this project.

**STRATEGIC PLAN GOAL:** The purchase of servers for the Content Management environment relates to the City's Goal of "Service Excellence".

**SUMMARY OF ITEM**

Technology Services recommends Council approve an expenditure of \$61,273.98 to IBM through the Department of Information Resources, (DIR) for the purchase of network infrastructure equipment. These servers will provide the City a centralized and standard environment for all of the City's web content. 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 government to seek competitive bids for the items. DIR# SDD-190.

List of Supporting Documents:  
Staff memo

Other Departments, Boards, Commissions or Agencies

# Memorandum

**To:** David Stephens, Director of Technology Services

**CC:**

**From:** Chester M. Helt, Infrastructure Manager

**Date:** 2/7/2005

**Re:** Content Management Server Environment

---

The equipment included in this agenda item will allow us to build the City's centralized Content Management environment for all of the City's web content. This will allow us to standardize all of the current web content and provide a management tool for all future City web content.

We are purchasing this equipment from IBM Direct through the Department of Information Resources, State of Texas and we recommend purchase of this equipment for a not to exceed price of \$ 61,273.98.

2-2



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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: <b>2/14/05</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Fire		<i>[Signature]</i>	Date
Department Head	William Peterson		Executive Director	<b>1-27-05</b>
Dept Signature:	<i>[Signature]</i>		City Manager	<b>1/27/05</b>
Agenda Coordinator (include phone #):		<b>Frank Snidow, x7318</b>		
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 APPROVAL OF EXPENDITURE				

**CAPTION**

APPROVAL OF EXPENDITURE TO PURCHASE HIP-LENGTH WINTER JACKETS IN THE AMOUNT OF \$50,000 OVER MULTIPLE FISCAL YEARS UTILIZING CITY OF MESQUITE CONTRACT (CONTRACT #2004-022), PURSUANT TO CHAPTER 271, SECTION 271.102 OF THE LOCAL GOVERNMENT CODE, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE THE PURCHASE.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
<b>04/05 &amp; 05/06</b>				
Budget	0	281,152	0	<b>281,152</b>
Encumbered/Expended Amount	0	-106,728	0	<b>-106,728</b>
This Item	0	-50,000	0	<b>-50,000</b>
BALANCE	0	124,424	0	<b>124,424</b>

FUND(S): **GENERAL FUND**

COMMENTS: Funds for Fire Department clothing are included in the FY 2004-05 approved budget. This expenditure will take place over two fiscal years. The balance of funds will be used for other Fire Department clothing purchases.

STRATEGIC PLAN GOAL: Fire Department winter coat purchases relate to the City's Goal of "Service Excellence".

**SUMMARY OF ITEM**

Staff recommends approval of expenditure for the purchase of hip-length winter jackets from the City of Mesquite contract (Contract # 2004-022) in an amount not to exceed \$50,000. This award is through the City of Mesquite contract pursuant to Chapter 271, Section 271.102 of the Local Government Code.

List of Supporting Documents: \_\_\_\_\_ Other Departments, Boards, Commissions or Agencies

Memorandum \_\_\_\_\_

*A-1*



## *Memorandum*

**Date:** January 26, 2005  
**To:** Bruce Glasscock, Executive Director  
**From:** William Peterson, Fire Chief   
**Subject:** Authorization to Purchase Fire Department  
Hip-Length Winter Jackets

Attached is the Council agenda item requesting authorization for the Fire Department to spend approximately \$50,000 for hip-length winter coats, over multiple fiscal years, through an Interlocal Cooperative Purchasing Agreement with the City of Mesquite, Texas, to a successful competitive sealed bidder of hip-length winter jackets.

If you have any questions, please advise.

*S-2*



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		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: <b>2/14/05</b>		Reviewed by Legal <i>JS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Technology Services		<i>[Signature]</i>	Date	
Department Head	David Stephens	Executive Director	<i>[Signature]</i>	<b>2/2/05</b>	
Dept Signature:	<i>David Stephens</i>	City Manager	<i>[Signature]</i>	<b>2/2/05</b>	
Agenda Coordinator (include phone #): <b>Kathy Kargol, ext 7342</b>					

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

**CAPTION**

Request Council approve an expenditure in an amount of \$552,208 to SHI-GS for a Microsoft Enterprise Agreement renewal and true-up for server and desktop licenses through the Department of Information Resources (DIR); and authorizing the City Manager or his designee to execute all necessary documents to effectuate the purchase. (DIR#313-001A)

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2004-05</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,924,472	0	<b>1,924,472</b>
Encumbered/Expended Amount	0	-726,523	0	<b>-726,523</b>
This Item	0	-552,208	0	<b>-552,208</b>
BALANCE	0	645,741	0	<b>645,741</b>

**FUND(S):**    **TECHNOLOGY SERVICES FUND**

**COMMENTS:** Funds are available in the Technology Services operating budget for this item. The balance will be used for other maintenance agreements.

**STRATEGIC PLAN GOAL:** Annual Microsoft License renewal relates to the City's Goal of "Service Excellence."

**SUMMARY OF ITEM**

Technology Services recommends Council approve an expenditure of \$552,208 to SHI-GS through the Department of Information Resources, State of Texas, for an annual enterprise agreement in an amount of \$418,025 with an additional amount of \$134,183 of true-up charges for server and desktop software in accordance with our annual enterprise agreement with Microsoft. This is the third year of a three year contract. 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 government to seek competitive bids for the items. Contract number is 313-001A.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Staff memo	

# Memorandum

**To:** David Stephens, Director of Information Services  
**CC:**  
**From:** Chester M. Helt, Infrastructure Manager  
**Date:** 1/21/2005  
**Re:** Microsoft Enterprise Agreement Modification

---

It is time to renew our Microsoft Enterprise Agreement. Our annual charge for software assurance and licensing totals is \$ 418,025.00. This is the last of three payments for this amount, which stays the same throughout the contract term. The true-up each year is paid one time and provides license and software assurance for the remaining amount of time in the contract. Since our Enterprise Agreement covers both our desktop and servers, the true-up contains a component of each.

Our true-up this year includes an additional 200 desktops at \$ 635.00 each and an additional 11 Servers for a total of \$ 7,183.00. This makes our annual true-up \$ 134,183.00. This year we went through a discovery list for laptops throughout the City and found additional units. We also have added an additional 100 desktops due to growth this last year.

The total amount we are requesting from the City Council is \$ 552,208.00.

t-2

**DATE:** January 19, 2005  
**TO:** Honorable Mayor & City Council  
**FROM:** Laura Williamson, Chairman, Planning & Zoning Commission *LW*  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 18, 2005

**PUBLIC HEARING  
ZONING CASE 2004-53  
APPLICANT: PLANO AFRICAN AMERICAN MUSEUM, INC.**

**DESCRIPTION:**

A request for Heritage Resource designation (H) on one lot on 0.4± acre located on the southeast corner of 13th Street and H Avenue. Zoned General Residential (GR). Neighborhood #59.

**APPROVED:** 5-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **FAVOR:** 0 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **FAVOR:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval subject to:

1. The following additional uses shall be permitted by right: Museum, periodic fund raising activities, related charitable and/or educational activities, Office-Professional/General Administrative, and Retail/Service (Incidental).
2. Office-Professional/General use shall be incidental to the primary use as a museum.
3. No off-street parking is required.

**FOR CITY COUNCIL MEETING OF:** February 14, 2005 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

MW/slc

xc: T.J. Johnson, Plano African American Museum  
Lynn Woodall, Administrative Support Supervisor

*1-1*

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 18, 2005

**Agenda Item No. 6**

**Public Hearing:** Zoning Case 2004-53

**Applicant:** Plano African American Museum, Inc.

---

**DESCRIPTION:**

A request for Heritage Resource designation (H) on one lot on 0.4± acre located on the southeast corner of 13th Street and H Avenue. Zoned General Residential (GR). Neighborhood #59.

**BACKGROUND:**

Heritage Resource designation is a zoning process that requires action by the Heritage Commission as well as the Planning & Zoning Commission and City Council. It is an overlay zone, and the base zoning will remain. If approved, this property would become the 30th individually-designated Heritage Resource in Plano.

The Thornton House, built between 1896 and 1901, is a typical example of a 19th-century, 1.5-story, vernacular wood frame farmhouse common to Plano and the North Texas Area. Mr. John Thornton, who bought the property in 1909, was a successful sharecropper who was both a farmer and real estate investor by the turn of the century. It is believed that Mr. Thornton was the first African American in Plano, and possibly Collin County, to own property. Mr. Thornton was a prominent citizen of Plano and revered the area now known as the Douglass Community.

The Thornton House is historically, culturally, and architecturally significant to the history and development of Plano for a variety of reasons. First, it represents the development and growth of cultural and ethnic diversity in the City of Plano. The fact that the deed to John Thornton was executed by a white woman to a black man is an indication of the state of practical legal rights afforded to certain minorities of the time.

1-2

Second, the title history of the land represents the urban development of the town of Plano and growth of its African American population. Specifically, the Thornton House is directly related to the growth and development of the spiritual center of the Plano African American community, most notably the Colored Methodist Episcopal Church of America and, later, the Shiloh Baptist Church.

Third, the Thornton House is an architectural type or specimen of vernacular farm dwelling construction of the 19th century in North Texas.

Fourth, the Thornton House, as one of the few remaining untouched structures in the historic Douglass Community, embodies an integral component in the makeup of the neighborhood.

#### **REMARKS:**

To be designated, a resource is required by the Heritage Preservation Ordinance (Ordinance No. 98-2-26) to meet at least 1 of 13 criteria. The Heritage Commission found that the property meets four criteria listed below, and recommends Heritage Resource designation accordingly:

1. Character, interest, or value as a part of the development, heritage or cultural characteristics of the city, the state or the United States;
2. Identification with a person who significantly contributed to the culture and development of the city;
3. Exemplification of the cultural, economic, social, or historical heritage of the city;
4. Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style; and
5. Embodiment of distinguishing characteristics of an architectural type or specimen.

In cases where a building's historic integrity has been compromised by incompatible changes, restoration is necessary prior to designation. The Thornton House is currently being restored. In this case, however, the building's integrity has not been lost, so designation may take place prior to the completion of the renovations.

The Heritage Preservation Ordinance gives the Heritage Commission the authority to recommend additional uses for a property in order to better protect the resource. In this case, the base zoning (GR) does not allow a museum use. However, for the purposes of preservation, the City may add any additional uses to ensure protection. The following closely resembles the overlay for the Heritage Farmstead Museum and is intended to be added to the designation:

1. The following additional uses shall be permitted by right: Museum, periodic fund raising activities, related charitable and/or educational activities, Office-Professional/General Administrative, and Retail/Service (Incidental).
2. No off-street parking is required.

The additional uses are normal and necessary for the operation of a museum. The non-requirement of off-street parking is based on two factors:

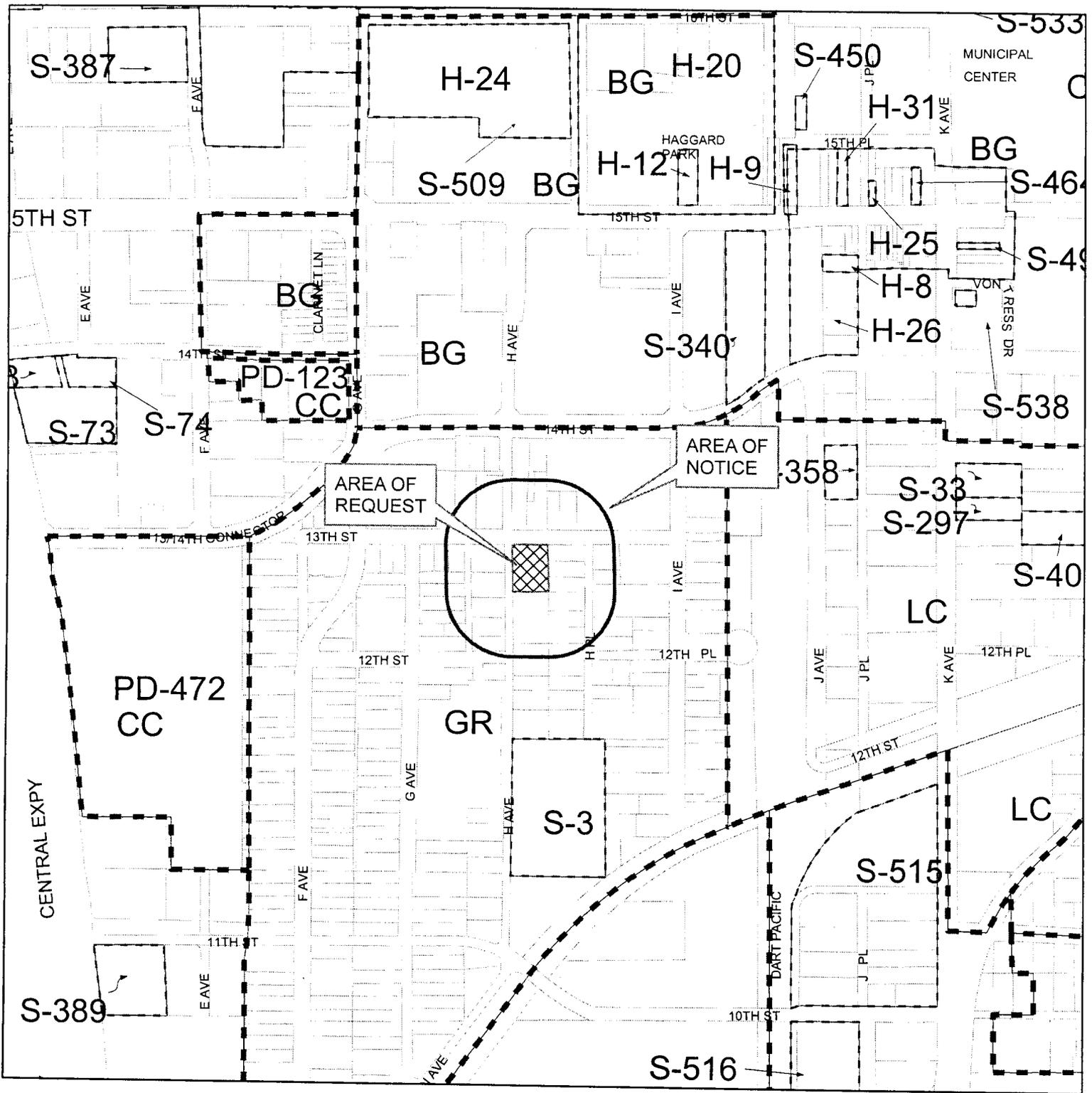
1. The desire to maintain the character and prominence of the structure by keeping parked cars away from its front yard.
2. The limited use of the Thornton House will only require minimal parking until further development of the adjacent lots for museum use. In the interim, additional parking for the Thornton House will be provided at the Shiloh Baptist Church parking lot across the street. The owners of the Thornton House and Shiloh Baptist Church are in the process of formalizing a parking agreement.

**RECOMMENDATION:**

Recommended for approval subject to:

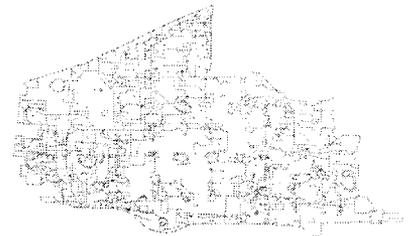
1. The following additional uses shall be permitted by right: Museum, periodic fund raising activities, related charitable and/or educational activities, Office-Professional/General Administrative, and Retail/Service (Incidental).
2. No off-street parking is required.

1-4



Zoning Case #: 2004-53

Existing Zoning: GENERAL RESIDENTIAL



○ 200 Notification's Buffer

1-5

### STATEMENT OF SIGNIFICANCE

The Thornton House was built on land that originally belonged to Mrs. Emily Elizabeth Aston, *nee* Kendrick. The lot was originally part of the Joseph Klepper headright survey of 640 acres, which included most of the original town of Plano. It was included in the J. T. (John T.) Kendrick Second Amended Addition to the town of Plano. Besides being a wholesale cotton buyer and running a general mercantile, Kendrick also sold lots in the eponymous addition.<sup>1</sup> Emily Elizabeth Aston was J. T. Kendrick's sister.

According to *Plano: The Early Years*, Mrs. Aston's husband, Augustus Washington ("A. W.") Aston, was one of Plano's earliest merchants.<sup>2</sup> Like his wife and business partners, Aston was born in Virginia.<sup>3</sup> A. W. was an established businessman with three Aston & Honaker stores throughout Virginia.<sup>4</sup> He and Emily were married in Virginia in 1862.<sup>5</sup> By 1874, Aston and his first business partner, J. T. Kendrick, had established a general mercantile at the northeast corner of Mechanic and Main Streets in Plano.<sup>6</sup> After A. W.'s death in 1876, Emily Aston moved from Virginia to Plano continued in business with her brother, J. T. Kendrick. In 1878 they were joined in Plano by another Virginian, W. A. Honaker, and formed the general mercantile Kendrick, Aston and Honaker.<sup>7</sup>

By 1885, Honaker had sold his interest in the business. Emily Aston and J. T. Kendrick managed the company until it went out of business in 1888.<sup>8</sup> Emily Aston returned to Virginia sometime between 1888 and 1909.

On or about November 17, 1909, Mrs. E. E. Aston, by and through her agent and attorney in fact, H. C. Jones of Plano, signed a warranty deed transferring title of the property on which the Thornton House sits to "John Thornton [Col]" (*sic*). (*see attached*) Sale price for the property was \$175.00, \$70.00 was paid down. A vendor's lien for the remaining \$105.00 was executed the same day at 10% interest per annum payable within two years. A release of said vendor's lien was filed in the Collin County property records on October 20, 1910 discharging John Thornton from the mortgage, quitclaiming Mrs. Aston's interest and leaving the property free and clear to John Thornton. It is unclear from the available historical record whether John Thornton and his family lived in the Thornton House when it was built between 1896 and 1901. Other African-American families purchased homes or purchased the homes they had been renting.<sup>9</sup>

John "Bud" Thornton was one of Plano's prominent African-American citizens. A successful sharecropper, Mr. Thornton was, at the turn of the Twentieth century, both a farmer and real estate investor.<sup>10</sup> According to one source, he was able to afford to send

<sup>1</sup> *Plano: The Early Years*,

at 309.

<sup>2</sup> *Id.*, at 309

<sup>3</sup> *Ibid.*

<sup>4</sup> *Id.*, at 292.

<sup>5</sup>

<sup>6</sup> *Id.*, at 308.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*, at 191

<sup>10</sup> *Ibid.*

his children to college and buy an automobile.<sup>11</sup>

The main question revolving around the subject house is its construction date. It is unclear from the property records as to whether or not the Aston property contained any improvements. A search of the Sanborn Company maps of the city of Plano reveals that, in 1896, no structures occupied the subject lot (*see attached*). According to the 1901 Sanborn survey, a "T"-shaped dwelling was present at the site, then 327 Church Alley. (*see attached*) This dwelling contained a long porch on the west side of the house running parallel to the stem of the "T" and a small porch on the east side of the house where the stem met the cross of the "T". It is noteworthy that the dwelling (presumably the "Thornton House") lies just a few feet perpendicular to the "Negro Church" (*sic*) which was also not on the 1896 Sanborn map.

The 1907 Sanborn survey also shows a "T"-shaped dwelling on the site. This structure, while oriented the same and having the same dimensions as the 1901, contains a much more extensive porch on its east side. (*see attached*) Again, it is noteworthy to point out that a structure labeled "Negro Public School" (*sic*) occupies roughly the same location as the 1901 "Negro Church".

The Thornton House is historically, culturally and architecturally significant to the history and development of Plano for a variety of reasons. More research and scholarship is needed to establish specific historic links and relationships.

First, it represents the development and growth cultural and ethnic diversity in the town of Plano. The fact that the deed to John Thornton was executed by a white woman to a black man is an indication of the state of practical legal rights afforded to certain minorities of the time.

Second, the title history of the land represents the urban development of the town of Plano and the growth of its African-American population. Specifically, the Thornton House is directly related to the growth and development of the spiritual center of the Plano African-American community, most notably the Colored Methodist Episcopal Church of America and, later, the Shiloh Baptist Church.

Third, that in and of itself, the Thornton House is architecturally significant as an architectural type or specimen of vernacular farm dwelling construction of the 19th century in north Texas.

Fourth, that the Thornton House, as one of the few remaining untouched structures in the historically African-American Douglass Community embodies an integral component in the make-up of the Douglass Community heritage district.

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<sup>11</sup> *Ibid.*

**ATTACHMENT 3  
ARCHITECTURAL DESCRIPTION**

**A. General Statement**

1. Architectural character: the Thornton House is a typical example of a 19th century 1½ story vernacular wood frame "I" house common to Plano and the North Texas area.

2. Condition: Fair

3. Status: Vacant

**B. Description of Exterior**

1. Dimensions: ± 29 feet wide, 40 feet long; L-shaped 1½ story.

2. Foundation: Bois d'arc tree stumps (deteriorated)

3. Wall Construction: Balloon frame pine stud construction with pine clapboard sheathing on exterior, and plaster on lathe interior finish.

4. Porches: a) Single-story porch over front entrances - tongue and groove floor, beaded board ceiling, 3 lathe-turned pine columns, shed roof.  
b) Single-story porch along east side of rear portion of house- tongue and groove floor, beaded board ceiling, 2 lathe-turned pine columns, shed roof.

5. Chimneys: There are three brick and mortar chimneys: one in the center of the "living area" (the 1½ story section) and two in the "service" (dining room, kitchen and bath) area. No hearths or openings are visible inside, due to interior remodeling.

6. Fenestration: General: the fenestration on the front facade creates a sense of strict and formal symmetry.

a) Doorways and doors - there are two, side-by-side entrance doors on the front porch; the right-hand door opens to the right front room and the left-hand door opens onto the left front room. Just inside is an interior doorway connecting the two front rooms. (see plan)  
There is a rear door opening on to the rear porch.

b) Windows - Windows throughout the house are double-

- hung wood sash, 2/2 lights throughout the first floor, two 2/3 light windows in the dormers.
- 7. Roof:
    - a) Gabled roof on the living section with shed-roof 1-story porch; gabled roof on the service section with shed-roof 1-story porch.
    - b) Two hip roofed dormers in the front.
  - D. Site
    - 1. General setting and orientation: The Thornton House faces North on 13th Street and sits on the corner of 13th Street and H Avenue.
    - 2. Cistern: A small, stuccoed brick cistern sits at the crook of the house's L .

A	B	C	D	E	F	G	H	
1	<b>DEED HISTORY</b>							
2	VOL 96	PAGE 3692	GRANTEE GREATER NEW BIRTH BAPTIST	GRANTOR DIANE PHILLIPS MATHEWS	INSTRUMENT WARRANTY DEED W/ VENDOR'S LIEN	NOTES	PRICE \$22,000.00	DATE January 10, 1996
3	93	48276	DIANE PHILLIPS MATHEWS	ALBERTA THORNTON RICHARDSON	WARRANTY DEED		unknown	August 19, 1993
4	1535	447	V. C. ARNOLD, RECEIVER	RECEIVER'S DEED	per CIV. CAUSE #219-524-81, COLLIN		unknown	August 19, 1993
5	COUNTY DIST. CT., ALBERTA THORNTON							
6	RICHARDSON, et al v. JOHN THORNTON, et al							
7	169	280	JOHN THORNTON	MRS. E. E. ASTON	RELEASE OF VENDOR'S LIEN	10% INTEREST, DUE 2 YEARS FROM DATE	\$105.00	October 20, 1910
8	165	4	JOHN THORNTON	MRS. E. E. ASTON	WARRANTY DEED	by H. C. JONES, agent	\$175.00	November 17, 1909

1-10

[Home](#) | [Departments](#) | [County Clerk](#) | [Deed Search](#) | [Search Results](#) | [Deed Detail](#)

## Deed Detail

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<b>Inst. #</b>	<b>Recorded Date</b>	<b>Type</b>	<b>Inst. Date</b>	<b>Rec. Book</b>	<b>Rec. Volume</b>	<b>Rec. Page</b>
0158017	08/12/2003	BILL OF SALE	08/12/2003	LR	5479	8472

### Remarks

**Direct Party(s)**      WILLIAMS RON

**Reverse Party(s)**      AFRICAN AMERICAN MUSEUM

<b>Volume</b>	<b>Page</b>	<b>Lot</b>	<b>Block</b>	<b>Additional Survey</b>
G	722	2	1	KENDRICKS2

1-11

[Home](#) | [Departments](#) | [County Clerk](#) | [Deed Search](#) | [Search Results](#) | [Deed Detail](#)

## Deed Detail

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<b>Inst. #</b>	<b>Recorded Date</b>	<b>Type</b>	<b>Inst. Date</b>	<b>Rec. Book</b>	<b>Rec. Volume</b>	<b>Rec. Page</b>
0069823	05/12/2004	DEED		LR	5667	5139

### Remarks

**Direct Party(s)**            GREATER NEW BIRTH BAPTIS

**Reverse Party(s)**        AFRICAN AMERICAN MUSEUM

<b>Volume</b>	<b>Page</b>	<b>Lot</b>	<b>Block</b>	<b>Additional Survey</b>
1	24	2	1	KENDRICKS2

1-12

[Home](#) | [Departments](#) | [County Clerk](#) | [Deed Search](#) | [Search Results](#) | [Deed Detail](#)

## Deed Detail

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<b>Inst. #</b>	<b>Recorded Date</b>	<b>Type</b>	<b>Inst. Date</b>	<b>Rec. Book</b>	<b>Rec. Volume</b>	<b>Rec. Page</b>
0100720	07/08/2004	DEED		LR	5705	1068

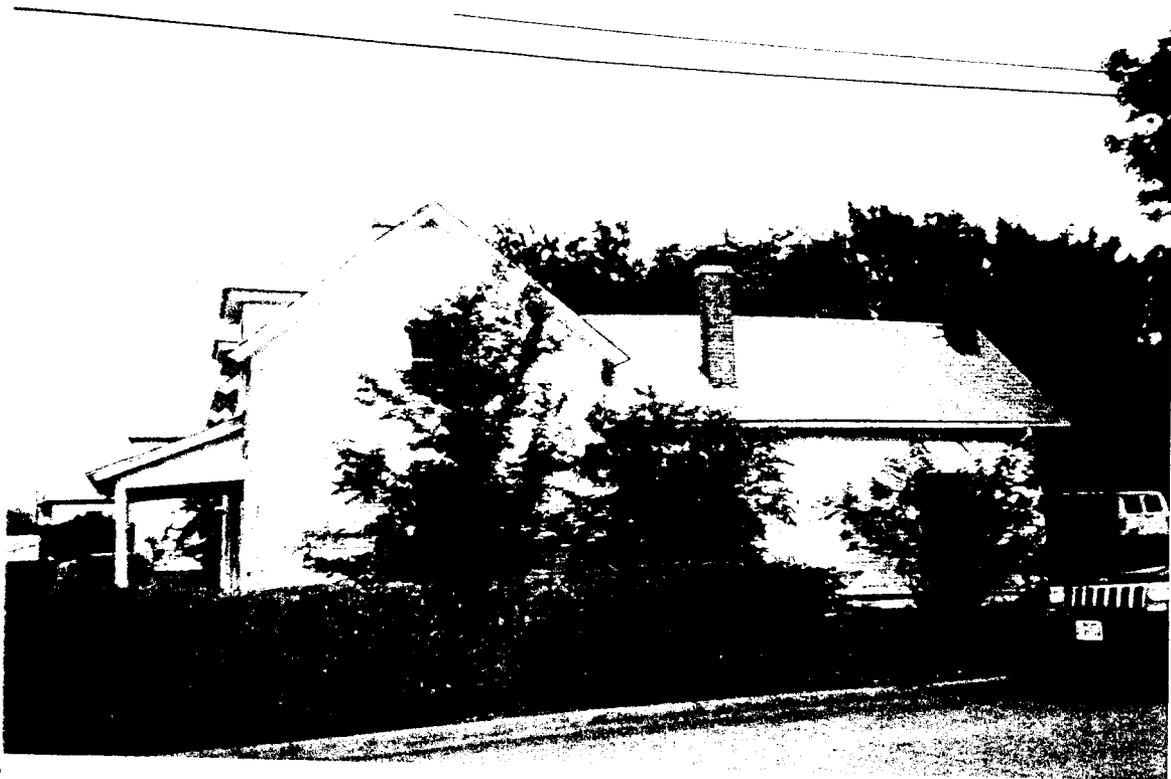
### Remarks

**Direct Party(s)** NONE

**Reverse Party(s)** AFRICAN AMERICAN MUSEUM

<b>Volume</b>	<b>Page</b>	<b>Lot</b>	<b>Block</b>	<b>Additional Survey</b>
1	24	2	1	KENDRICKS2

1-13



1-14



1-15

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case No. 2004-53)**

AN ORDINANCE OF THE CITY OF PLANO AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2004-9-37, AS HERETOFORE AMENDED, GRANTING HERITAGE RESOURCE DESIGNATION H-33 TO A 0.4± ACRE PROPERTY, SITUATED IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, IN J. T. KENDRICKS SECOND, BLOCK 1, LOTS 2, 4, AND 6, LOCATED ON THE SOUTHEAST CORNER OF 13TH STREET AND H AVENUE, PRESENTLY ZONED GENERAL RESIDENTIAL, AND RETAINING THIS ZONING CLASSIFICATION; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A REPEALER CLAUSE, A SAVINGS CLAUSE, A PENALTY 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 14th day of February, 2005, for the purpose of granting individual Heritage Resource Designation H-33 to 0.4± acre, situated in the City of Plano, Collin County, Texas, in J. T. Kendricks Second, Block 1, Lots 2, 4, and 6, located on the southeast corner of 13th Street and H Avenue; 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 there to, 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 14th day of February, 2005; and

**WHEREAS**, the Heritage Commission considered this item on the 26th day of October, 2004, and recommended approval; and

**WHEREAS**, the Planning and Zoning Commission considered this item in a public hearing on the 18th day of January, 2005, and recommended approval; and

**WHEREAS**, the City Council has determined that the property meets at least one of the criteria for heritage resource designation as set forth in Plano City Ordinance 98-2-26; and

1-16

**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.** The Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended to grant Heritage Resource Designation H-33 to 0.4± acre, situated in the City of Plano, Collin County, Texas, in J. T. Kendricks Second, Block 1, Lots 2, 4, and 6, located on the southeast corner of 13th Street and H Avenue, presently zoned General Residential.

**Section II.** The change granted in Section I is granted subject to:

1. The following additional uses shall be permitted by right: museum, periodic fund raising activities, related charitable and/or educational activities, Office-Professional/General Administrative, and Retail/Service (Incidental).
2. Office-Professional/General use shall be incidental to the primary use as a museum.
3. No off-street parking is required.

**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 of H-33 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 effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

1-17

**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 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 VIII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**DULY PASSED AND APPROVED** this the **14TH** day of **FEBRUARY 2005**.

\_\_\_\_\_  
Pat Evans, MAYOR

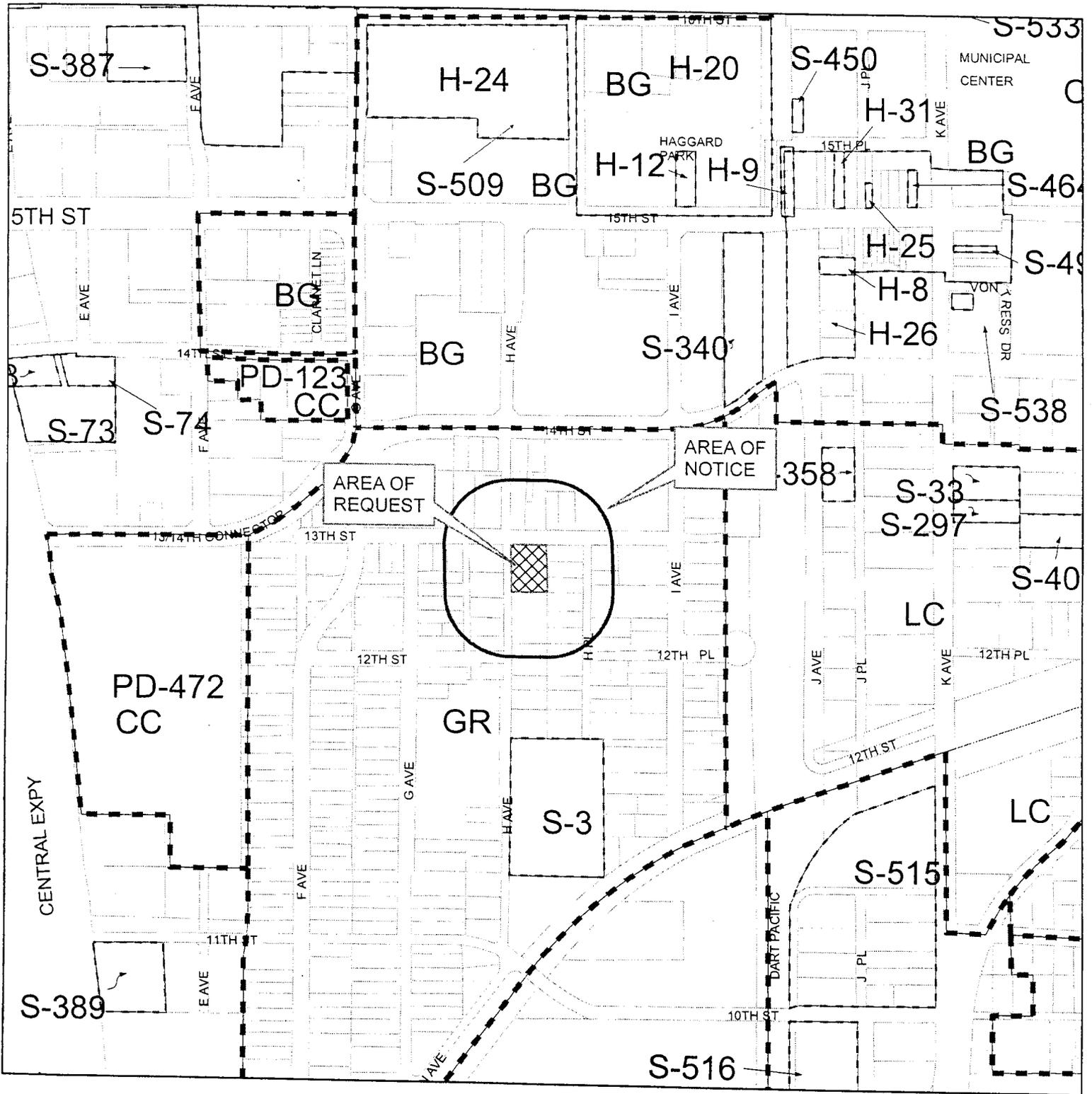
ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

1-18



Zoning Case #: 2004-53

Existing Zoning: GENERAL RESIDENTIAL



○ 200 Notification's Buffer

1-19

**DATE:** January 19, 2005  
**TO:** Honorable Mayor & City Council  
**FROM:** Laura Williamson, Chairman, Planning & Zoning Commission   
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 18, 2005

**PUBLIC HEARING  
ZONING CASE 2004-56  
APPLICANT: MARK H. HICKMAN**

**DESCRIPTION:**

A request to rezone 1.8± acres located on the east side of Industrial Boulevard, 715± feet south of 14th Street from Retail to Light Industrial-1. Zoned Light Industrial-1. Neighborhood #67.

**APPROVED:** 4-1 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **FAVOR:** 0 **OPPOSE:** 1

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **FAVOR:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

The Commissioner voting in opposition felt that Light Industrial-1 uses were not consistent with the General Commercial land use designation.

**FOR CITY COUNCIL MEETING OF:** February 14, 2005 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

TE/slc

xc: Mark Hickman  
Lynn Woodall, Administrative Support Supervisor

CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 18, 2005

**Agenda Item No. 7**

**Public Hearing:** Zoning Case 2004-56

**Applicant:** Mark H. Hickman

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**DESCRIPTION:**

A request to rezone 1.8± acres located on the east side of Industrial Boulevard, 715± feet south of 14th Street **from Retail to Light Industrial-1**. Zoned Retail. Neighborhood #67.

**REMARKS:**

The applicant is requesting to rezone the property from Retail (R) to Light Industrial-1 (LI-1). The R district is intended to provide areas for neighborhood, local, and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers, and regional malls but not including wholesaling or warehousing. The LI-1 district is intended to provide areas for light manufacturing firms engaged in processing, assembling, warehousing, research and development, and incidental services that are developed in accordance with the same performance standards applicable to all other zoning districts.

**Surrounding Land Use and Zoning**

The property is currently undeveloped. To the north and east, the properties are zoned R. The two pads sites to the east are restaurant uses. A shopping center with grocery store, miscellaneous retail stores, and convenience store with gasoline pumps are to the north of this site. To the south, across the railroad track, and to the west, the properties are zoned LI-1. The properties to the south are developed as distribution center/warehouse, limited assembly and manufacturing, office-showroom/warehouse, and wholesale/storage warehouse uses. The properties to the west are developed as automobile, contract construction, and office-showroom/warehouse uses.

2-2

## Conformance to the Comprehensive Plan

**Future Land Use Plan** - The Future Land Use Plan designates this property as General Commercial (GC). The GC land use designation is intended to provide for a wide range of retail, service, office, light production, and research and development uses. The less intense uses allowed under LI-1 zoning are consistent with the GC land use designation; however, the more intense uses allowed under LI-1 zoning would not be consistent with this designation.

**Adequacy of Public Facilities** - The site has adequate water, sanitary sewer, and storm sewer infrastructure. No extension/expansion of infrastructure is necessary to develop the site.

**Traffic Impact Analysis (TIA)** - The proposed zoning would not generate traffic greater than the 5,000 trip per day threshold as established by the Zoning Ordinance; therefore, a TIA is not required.

### **ISSUES:**

#### Comprehensive Plan Rezoning Policy

The Land Use Element of the Comprehensive Plan contains policies for the evaluation of rezoning requests. It notes that the following should be considered:

1. Intent of the plan in its entirety;
2. Physical character of the property;
3. Adequacy of public facilities; and
4. Relationship to adjacent land uses (existing and proposed).

As noted, the rezoning request is generally consistent with the GC land use designation. There are adequate public facilities (infrastructure) to serve the site. The physical character of the site is suitable for the uses permitted in the LI-1 zoning district. The existing LI-1 uses to the west and south are consistent with the proposed zoning, and are compatible with the retail uses to the north and the restaurant uses to the east.

#### Appropriateness of the Site For Retail Use

The *Retail Study of Underperforming and Vacant Retail Areas* notes criteria that prospective retail tenants consider for locating sites including traffic counts, access and visibility, levels of improvements, and surrounding land uses. The applicant's site is located at the rear of the grocery store and behind two restaurant sites. There is minimal visibility of the site from Jupiter Road, but there is no access to Jupiter Road. There is access to 14th Street via Industrial Boulevard; however, the site is not visible from 14th Street. Traffic counts on 14th Street and Jupiter Road are at levels desired by retailers, but traffic on Industrial Boulevard is minimal.

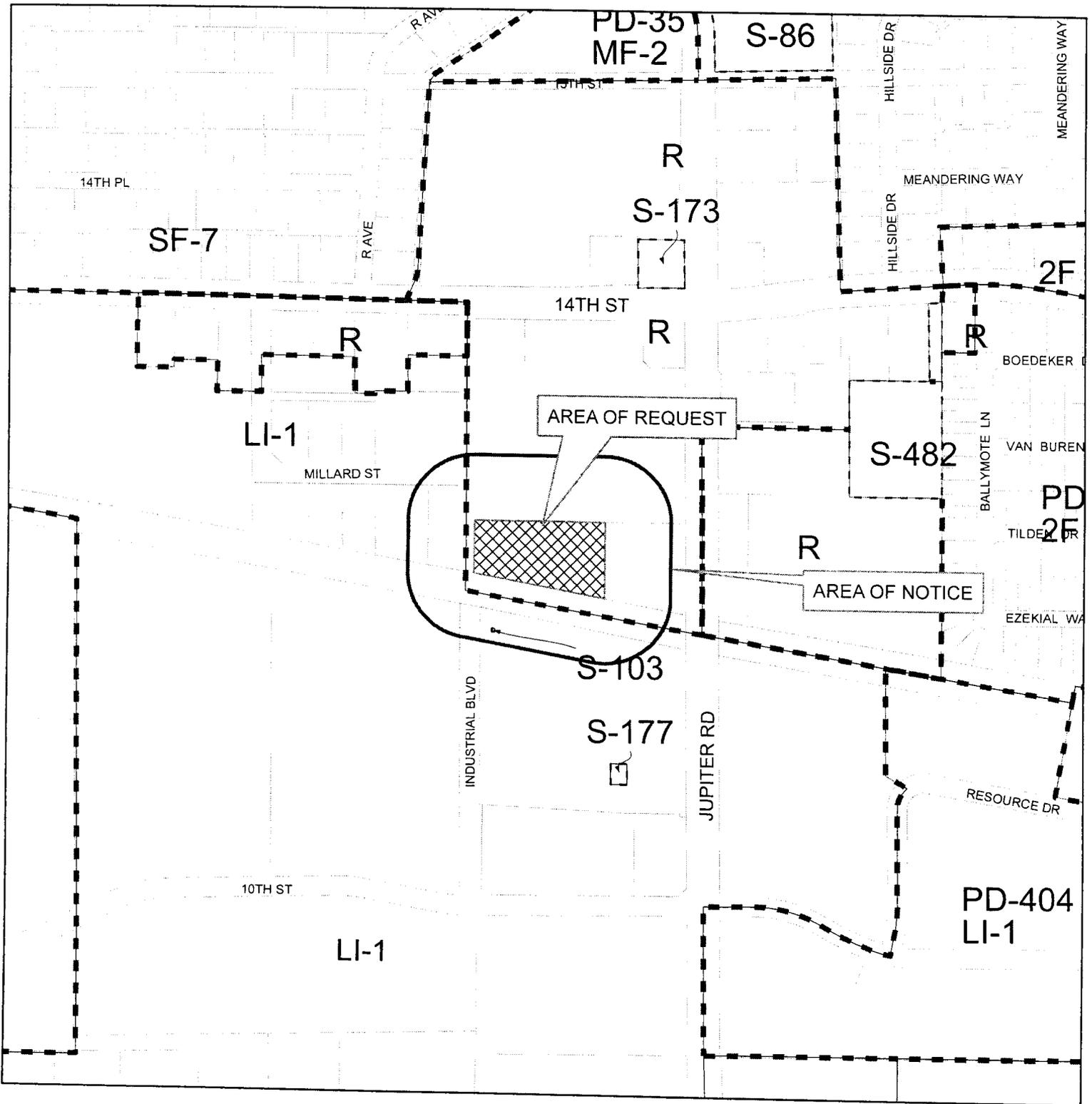
**SUMMARY**

The isolated nature of the site limits its viability as a retail use. The uses allowed in the LI-1 district are consistent and/or are compatible with adjacent existing uses and zoning.

**RECOMMENDATIONS:**

Recommended for approval as submitted.

2-4



Zoning Case #: 2004-56

Existing Zoning: RETAIL



25



○ 200' Notification Buffer



**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2004-56)**

AN ORDINANCE OF THE CITY OF PLANO AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2004-9-37, AS HERETOFORE AMENDED, SO AS TO REZONE 1.8± ACRES OUT OF THE SANFORD BECK SURVEY, ABSTRACT NO. 73, LOCATED ON THE EAST SIDE OF INDUSTRIAL BOULEVARD, 715± FEET SOUTH OF 14TH STREET IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, FROM RETAIL TO LIGHT INDUSTRIAL-1; 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 14th day of February, 2005, for the purpose of considering rezoning 1.8± acres out of the Sanford Beck Survey, Abstract No. 73, located on the east side of Industrial Boulevard, 715± feet south of 14th Street in the City of Plano, Collin County, Texas, from Retail to Light Industrial-1; 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 14th day of February, 2005; and

**WHEREAS**, the City Council is of the opinion and finds that such rezoning 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.** The Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended so as to rezone 1.8± acres out of the Sanford Beck Survey, Abstract No. 73, located on the east side of Industrial Boulevard, 715± feet south of 14th Street in the City of Plano, Collin County, Texas, from Retail to Light Industrial-1, said property being described in the legal description on 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 14TH DAY OF FEBRUARY, 2005.**

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

2-8

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING a tract of land situated in the City of Plano, Collin County, Texas, out of the Sanford Beck Survey, Abstract No. 73, and being part of Lot 3, Block 1, Five Forty Four & Jupiter Addition according to the plat thereof recorded in cabinet H, Page 159, Map Records, Collin County, Texas, and being all of the land conveyed to Mark H. Hickman according to the deed filed for record in Collin County Clerk's File Number 97-0017335, Deed Records, Collin County, Texas and being more particularly described by metes and bounds as follows:

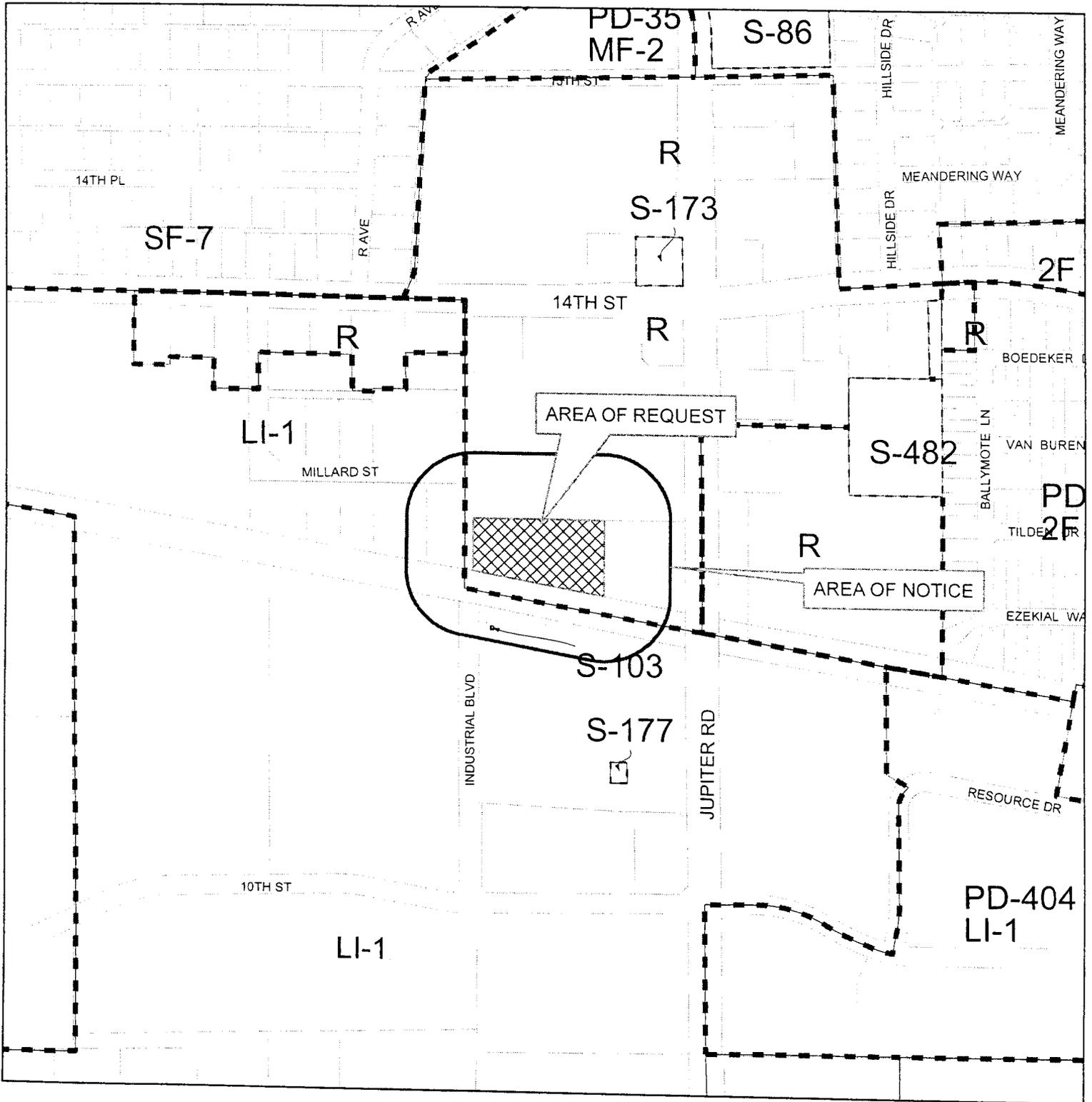
BEGINNING at an aluminum disk in concrete found, the southwest corner of said Lot 3, Block 1 and being in the northerly right-of-way line of the St. Louis & Southwest Railroad (100 feet right-of-way), also being in the east right-of-way line of Industrial Avenue, (50 feet right-of-way);

THENCE along said east right-of-way line, North 00° 27' 29" East, a distance of 160.70 feet to a P.K. nail found, the southwest corner of Lot 1R, Block 1, Five Forty Four & Jupiter Addition according to the plat thereof recorded in Cabinet J, Page 983, Map Records, Collin County, Texas;

THENCE departing said east right-of-way line, along the south line of said Lot 1R, Block 1, South 89° 24' 02" East, a distance of 399.21 feet to a ½" iron rod found, the northwest corner of Lot 4, Block 1, Five Forty Four & Jupiter Addition according to the plat thereof recorded in Cabinet J, Page 669, Map Records, Collin County, Texas;

THENCE departing said south line, along the west lines of Lot 4 and Lot 5 of said addition, South 00° 35' 58" West, a distance of 233.78 feet to a ½" iron rod found, the southwest corner of said Lot 5 and being in the north line of said St. Louis & Southwest Railroad, (100' right-of-way);

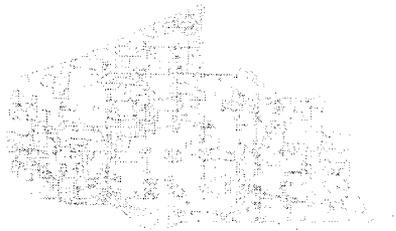
THENCE along said north line, North 79° 01' 04" West, a distance of 405.45 feet to the POINT OF BEGINNING and CONTAINING 78,692 square feet, or 1.8065 acres of land, more or less.



Zoning Case #: 2004-56

Existing Zoning: RETAIL

2-10



○ 200' Notification Buffer



**DATE:** February 8, 2005  
**TO:** Honorable Mayor & City Council  
**FROM:** Laura Williamson, Chairman, Planning & Zoning Commission   
**SUBJECT:** Results of Planning & Zoning Commission Meeting of February 7, 2005

**PUBLIC HEARING  
ZONING CASE 2004-55  
APPLICANT: CITY OF PLANO**

**DESCRIPTION:**

Request to amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) and related sections of the Zoning Ordinance to permit Animal Exhibition and/or Stable uses in the Agricultural district with approval of a specific use permit.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**STIPULATIONS:**

Recommended for approval as follows: Amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) to permit Animal Exhibition and Stable uses with approval of an SUP in the A district.

**FOR CITY COUNCIL MEETING OF:** February 14, 2005 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

TE/mac

xc: Lynn Woodall, Administrative Support Supervisor

CITY OF PLANO  
PLANNING AND ZONING COMMISSION

February 7, 2005

**Agenda Item No. 6**

**Public Hearing:** Zoning Case 2004-55

**Applicant:** City of Plano

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**DESCRIPTION:**

Request to amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) and related sections of the Zoning Ordinance to permit Animal Exhibition and/or Stable uses in the Agricultural district with approval of a specific use permit.

**REMARKS:**

At their regular meeting on December 6, 2004, the Planning & Zoning Commission discussed amending the Zoning Ordinance to permit animal exhibition uses in the Agricultural (A) district with approval of a specific use permit (SUP). The discussion was initiated by Arnold and Shelly Sender, who own Agricultural-zoned property on East Parker Road. The Senders had been operating a business that included a petting zoo, birthday parties, and other children's activities. The Senders were requesting that the Zoning Ordinance be amended to allow them to continue their business activities.

The A district has typically been considered a "holding zone" until property is ready for development. The list of commercial uses allowed in the A district is fairly short. Farms, ranches and orchards, churches, day care centers, fairgrounds/exhibition areas (with SUP), kennels with outdoor pens, and veterinary clinics (with SUP) are examples of the uses allowed in the district.

The appropriate zoning use classification for the Senders' operation is animal exhibition. Animal Exhibition is defined in the Zoning Ordinance as "A collection of animals for display to the public. An animal exhibition shall not include the sale, breeding, or butchering of animals." This use is allowed in the Light Industrial-1 (LI-1) and Light Industrial-2 (LI-2) districts by SUP. One animal exhibition currently operates in the city, at the Fairview Farms complex on U.S. Highway 75. Staff feels that certain Agricultural-zoned properties may be appropriate for animal exhibition use.

3-2

In addition to the Senders' request, staff noted that there are properties in the A district that may be suitable for a stable. Stable is defined in the Zoning Ordinance as "A facility for boarding horses, renting horses to the public, or conducting riding lessons. A minimum of ten acres is required for this use." This use is allowed in the LI-1 and LI-2 zoning districts by SUP. Similar to animal exhibition use, staff feels that certain Agricultural-zoned properties may be appropriate for stable use.

The Senders sold their animals some time after the public hearing for the zoning case was published. Although this removes the specific need to amend the Zoning Ordinance, staff feels that animal exhibition and stable use may be appropriate in the A district. The SUP process will provide sufficient review to identify appropriate parcels.

**RECOMMENDATION:**

Recommended for approval as follows: Amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) to permit Animal Exhibition and Stable uses with approval of an SUP in the A district.

3-3

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2004-55)**

AN ORDINANCE OF THE CITY OF PLANO AMENDING SUBSECTION 2.502 (SCHEDULE OF PERMITTED USES) OF SECTION 2.500 (PERMITTED USES) OF ARTICLE 2 (ZONING DISTRICTS) AND RELATED SECTIONS OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2004-9-37, AS HERETOFORE AMENDED, TO PERMIT ANIMAL EXHIBITION AND/OR STABLE USES IN THE AGRICULTURAL DISTRICT WITH APPROVAL OF A SPECIFIC USE PERMIT; 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 14th day of February, 2005, 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 14th day of February, 2005; 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.** Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses) of the Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended to permit Animal Exhibition and/or Stable uses in the Agricultural district with approval of a specific use permit.

3-4

**Section II.** 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 III.** 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 IV.** 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 V.** 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 VI.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 14TH DAY OF FEBRUARY, 2005.**

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

3-5