



CITY COUNCIL

1520 AVENUE K

DATE: 2/22/2010
 CALL TO ORDER: 7:00 p.m.
 INVOCATION: Pastor Barry Gin
 Plano Chinese Alliance Church
 PLEDGE OF ALLEGIANCE: U.S. Civil Air Patrol
 Plano Mustang Composite Squadron

ITEM NO.	EXPLANATION	ACTION TAKEN
(a)	<p>THE MISSION OF THE CITY OF PLANO IS TO PROVIDE OUTSTANDING SERVICES AND FACILITIES, THROUGH COOPERATIVE EFFORTS WITH OUR CITIZENS THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</p> <p>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</p> <p><u>PROCLAMATIONS & SPECIAL RECOGNITION</u> Special Recognition: Plano Table Tennis Team</p> <p><u>COMMENTS OF PUBLIC INTEREST</u> <u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></p> <p><u>CONSENT AGENDA</u> <u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></p> <p><u>Approval of Minutes</u> February 4, 2010 February 8, 2010 February 10, 2010</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Approval of Expenditures</u></p> <p>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</p>	
(b)	Bid No. 2010-49-B for one (1) International 6-7 yd Dump Truck to Southwest International Trucks Inc. in the amount of \$65,055.	
(c)	Bid 2010-16-B Compost Bagging System to Hamer LLC in the amount of \$81,108.	
	<p>Purchase from an Existing Contract</p>	
(d)	To authorize expenditure for virtual servers for the data center at the EOC Server Room, in the amount of \$93,467 from Dell Corporation, through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-890).	
(e)	To authorize expenditure for Cisco infrastructure backbone switches for the new data center at the EOC Server Room, in an estimated amount not to exceed \$100,000 from INX, Inc., through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-239).	
(f)	To approve the purchase of Site and Building Improvements to the Day Labor Center in the amount of \$299,884 from Kellogg Brown and Root Services, Inc. through an existing contract/agreement with The Cooperative Purchasing Network (TCPN), and authorizing the City Manager to execute all necessary documents. (TCPN contract number R4895)	
	<p>Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)</p>	
(g)	To approve and authorize a contract with Freese and Nichols, Inc. to provide Engineering Services in conjunction with improvements for Park Erosion Control Projects in an amount not to exceed \$82,560 and authorizing the City Manager to execute any and all documents necessary to effectuate the contract.	
(h)	To approve an architectural contract by and between the City of Plano and Kirkpatrick Architecture Studio in the amount of \$166,000 for design and construction oversight of Fire Station 4 Addition; and authorizing the City Manager to execute all necessary documents.	
	<p>Approval of Expenditure</p>	
(i)	To approve ratification of expenditures to Sunbelt Pools in the amount of \$65,938 for an emergency repair at Harry Rowlinson Natatorium made necessary to preserve or protect the public health or safety of the municipality's residents; said repairs being essential to maintain proper filtration and circulation as required by State codes.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(j)	<p>To approve the purchase of materials testing services for the McDermott Road from Ohio Drive to Coit Road project, in the amount of \$80,061 from Terracon Consultants, Inc., through an existing contract/agreement 2009-186-D, and authorizing the City Manager to execute all necessary documents.</p>	
	<p><u>Adoption of Resolutions</u></p>	
(k)	<p>To amend the existing Building Inspections Department Fee Schedule to provide City Services and Programs; repealing all previous Fee Schedules and charges for services listed in the Building Inspections Department Fee Schedule and providing a repealer clause, a severability clause, and an effective date.</p>	
(l)	<p>To approve the terms and conditions of an Agreement by and between Tony Picchioni and the City of Plano; authorizing its execution by the City Manager and providing an effective date. The term of this Agreement shall be an initial three (3) years with a City option to extend an additional three (3) additional one (1) year periods.</p>	
(m)	<p>To approve the terms and conditions of an Interlocal Cooperative Agreement by and between the City of Plano and the North Central Texas Council of Governments (NCTCOG), for a Traffic Signal Project; authorizing its execution by the City Manager; and providing an effective date.</p>	
	<p><u>Adoption of Ordinances</u></p>	
(n)	<p>To repeal Ordinance No. 98-4-7 as amended by Ordinance No. 2008-8-12, codified as Section 16-19, Fees for Zoning, Rezoning and Other Miscellaneous Fees, of Article II, Fees Generally, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, Texas; establishing a new fee schedule for zoning, rezoning, and other miscellaneous procedures; and providing a repealer clause, a savings clause, a severability clause, and an effective date.</p>	
(o)	<p>To amend Subsection 302.4 Weeds and Landscaping of Sec. 6-52 Deletions, additions and amendments to Chapter 3 of the International Property Maintenance Code, Division 2 Amendments, Article III Property Maintenance Code of Chapter 6 Buildings and Building Regulations of the Code of Ordinances of the City of Plano and Sec. 14-3 Weeds, rubbish or unsanitary matter, Article I In General of Chapter 14 Offenses-Miscellaneous of the Code of Ordinances of the City of Plano by revising the administrative fee assessed, updating definitions, clarifying designated personnel authorized to enforce the provisions, providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause and an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(1)	<p><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></p> <p><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></p> <p><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></p> <p>Discussion and direction regarding calendar and time line for Arts of Collin County Project.</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Training Room A/Building Inspections Training Room are located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/22/10		
Department:		City Manager		
Department Head		Thomas Muehlenbeck		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
CAPTION				
Special Recognition: Plano Table Tennis Team				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**PLANO CITY COUNCIL
NEIGHBORHOOD ROUNDTABLE
DISTRICT ONE
FEBRUARY 4, 2010**

COUNCIL MEMBERS

Phil Dyer, Mayor
Harry LaRosiliere, Mayor Pro Tem
Lee Dunlap, Deputy Mayor Pro Tem
Pat Miner
Ben Harris
Mabrie Jackson (resigned)
Lissa Smith
Jean Callison

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Deputy City Manager
Bruce Glasscock, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

The Plano City Council met informally at 7:01 p.m., Thursday, February 4, 2010, at the Plano Centre – Northbrook Room, 2000 East Spring Creek Parkway, Plano, Texas. All Council Members were present with the exception of Mayor Dyer and Mayor Pro Tem LaRosiliere. Council Member Callison arrived at 7:10 p.m. Deputy Mayor Pro Tem Dunlap welcomed those in attendance and introduced Council, Staff and other officials in attendance. He spoke regarding the structure of the Council where all members represent citizens across the City.

Budget Update - 2009 Bond Referendum

Director of Budget and Research Rhodes-Whitley spoke to preparations for Fiscal Year 2010-11, departmental reductions of \$12 million, a projected decrease in property value of 8%, declines in sales tax revenues and increases in fees from the North Texas Municipal Water District passed through to consumers. She reviewed the budget calendar and advised that Plano's property tax rate is one of the lowest in the Metroplex due to tax exemptions. Ms. Rhodes-Whitley responded to a citizen question, advising that the City is on a take-or-pay contract with the water district and will incur price increases regardless of the amount of rain received.

Economic Development Progress Report

Plano Economic Development Board Executive Director Bane reviewed the facilities that opened in 2009 including Cigna-Regional Headquarters, Diodes, and Hope Center. She spoke to the number of jobs brought to the City, value of improvements and history of the economic development fund. Ms. Bane spoke regarding the value of incentives, identifying companies, and advertising Plano as a business friendly community with low costs and a top city for working families. She spoke to the challenges of a maturing city, the impact of other cities with 4A and 4B funds and Plano's opportunities for redevelopment and infill with retention as an important element.

Ms. Bane spoke to companies utilizing the internet for site selection and stressed the need to shop in Plano as other cities use sales tax dollars for economic development. She responded to a citizen, stating that the cost per job has not been calculated and that improvements are spread across the City.

Oak Point Park Update

Parks and Recreation Director Fortenberry spoke to Oak Point Park's 801 acres of land with hard and soft trails connecting to other parts of the City and reviewed events/programs. She responded to questions, advising that the timeline for expansion of trails to the west has been hampered by the budget and spoke to their locations and connection to other communities.

District 1 Community Investment Program & Street Improvements - 14th Street Construction Update - DART Improvement Plans at Parker - Parker Road and US 75 Interchange Improvement Plans

Director of Public Works/Engineering Upchurch advised regarding a park erosion control project including seven locations east of U.S. 75, work towards establishing railroad quiet zones throughout the City, intersection improvements at Spring Creek Parkway/Jupiter Road and Parker Road/Spring Creek Parkway, work on Jupiter Road between Summit and Technology Drives, widening of Chaparral Road, and reconstruction of 14th Street from K Avenue to Ridgewood Drive. He spoke to Ridgewood Drive rehabilitation, water line repair west of Murphy Road, Avenue R construction, work on Split Trail Road and 15th Street from G Avenue to US 75, reconstruction of G Avenue to US 75 with funding from TxDOT, pavement rehabilitation on Jupiter Road, and work on K Avenue from SH 190 to Chaparral Road. Mr. Upchurch advised there would be neighborhood work beginning in the fall (US 75/Jupiter Road/14th Street/Park Boulevard and 14th Street/Plano Parkway/Jupiter Road/Shiloh Road), provided an update on progress at US 75 and Parker Road advising that the project should be complete by November 10, and advised that DART parking has added over 500 spaces.

Mr. Upchurch responded to questions, advising that construction on K Avenue and US 75 are not scheduled at this time but that he would look into maintenance. He advised that there are no plans for the Douglass Community at this time and spoke to the lack of neighborhood support in the past for sidewalk installations as they would require five foot easements from property owners. Mr. Upchurch spoke to the design of westbound 18th Street at G Avenue and stated that Staff will review the left turn access from G Avenue onto 16th Street. He advised that the City cannot tax others who use DART services and Director of Planning Jarrell advised that the Plano Housing Authority can be contacted regarding the sale of units near the Douglass Community. Mr. Upchurch advised that 14th Street west of G Avenue will be addressed for reconfiguration after the area redevelops.

Downtown residential and commercial leasing activities

Director of Planning Jarrell spoke to new businesses and restaurants in the Downtown area, building rehabilitation and delay of the mixed-use project at 15th Street. She responded to citizens, advising that a parking garage will be included in the mixed-use project and that 14th and 15th Streets have the capacity to handle traffic.

Code Enforcement Overview

Director of Property Standards O'Banner spoke to code enforcement governing the look and feel of a community through city-wide inspections for nuisance and violations. She spoke to the purpose of promoting maintenance and improving the quality of life, working towards voluntary compliance, collaboration with other departments and groups and working with the community. Ms. O'Banner spoke regarding efforts towards quality customer services and provided information on common violations advising that 78% are proactive in nature with 22% reactive. She advised that in 91% of the cases compliance is voluntary with 9% enforced and spoke to the impact of House Bill 2086 wherein the City must offer to remove graffiti, upon refusal provide a 15-day notice and assess expenses. Ms. O'Banner spoke to the impact of foreclosures on the City, demolitions in District 1, and responded to questions regarding the maximum number of residents per house, advising that occupancy limitations are established by minimum floor area required for sleeping, living and dining purposes and further that in 2009 there were 56 locations reviewed with four requiring a change in living conditions. She responded that there is no limit on the number of vehicles that may be parked at an address, but that there are regulations for manner in which they are parked.

Council Member Miner opened the floor for general questions. Police Chief Rushin spoke to the number of officers on roadways in response to a citizen's concern regarding speeding traffic and he further requested citizens provide input on violations and red-light runners. Director of Planning Jarrell advised that the sale of Plano Housing Authority property is subject to their board's approval. City Manager Muehlenbeck responded to a citizen's concerns at 11th Street and F Avenue advising that caution lights are for use in school zones. Ms. Jarrell advised that plans for a low income property at the 13th/14th Street Connector are going through state approval and must include a change in zoning. Traffic Engineering Manager Neal advised that when vehicles are parked properly on streets, emergency vehicles can move through and that Staff will review locations noted by citizens. Mr. Muehlenbeck responded to a citizen, advising that Plano Centre has been successful in covering most of its operations/maintenance costs; however, it turns away shows because of its small size and he spoke to developing a larger facility.

Assistant City Manager Israelson spoke to printing future notices on the reverse of utility bills rather than including additional paper and to citizen access via the web site for those receiving online billing. Ms. Jarrell spoke to retail center property owners driving the change in development by improving their locations, thus bringing in more stores so citizens may shop in Plano. Council Member Miner advised that the Council can review the scheduling of the roundtables to vary the months in which particular districts are addressed. Mr. Upchurch advised that Staff will look into spacing of street lights in the Douglass Community and that the lights themselves can be addressed with Oncor. Council Member Miner and Ms. Bane spoke to 38% of economic development occurring in District 1 and Ms. Jarrell advised that zoning changes will allow for restaurant and retail services in the Research/Technology District. She advised that while development has slowed, more is expected in the area and spoke to the requirements of chain stores limiting their application in the Downtown area.

Council Member Miner thanked those in attendance. Nothing further was discussed and the meeting was closed at 9:02 p.m.

Lee Dunlap, Deputy Mayor Pro Tem

ATTEST:

Diane Zucco, City Secretary

PLANO CITY COUNCIL
February 8, 2010

COUNCIL MEMBERS

Phil Dyer, Mayor
Harry LaRosiliere, Mayor Pro Tem
Lee Dunlap, Deputy Mayor Pro Tem
Pat Miner
Ben Harris
Mabrie Jackson (resigned)
Lissa Smith
Jean Callison

STAFF

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Bruce Glasscock, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, February 8, 2010, at 7:00 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Father Jason Cargo of St. Elizabeth Ann Seton Catholic Church and the Pledge of Allegiance was led by Boy Scout Troop 219 - Christ Church Plano.

Mayor Dyer presented a proclamation recognizing Census Awareness Week - 2010 and received a presentation on Leadership in Energy and Environmental Design – Existing Building Certification.

COMMENTS OF PUBLIC INTEREST

Citizen of the City Sunny Long brought forward a petition and spoke regarding the lack of transportation options provided to seniors and requested the Council consider restoration of City bus service.

CONSENT AGENDA

Staff requested that Consent Agenda Item “G,” a resolution to provide for creation of the Plano Photographic Traffic Signal Advisory Committee, be removed for individual consideration.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Smith, the Council voted 7-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Minutes (Consent Agenda Item “A”)
January 25, 2010 Approved

Approval of Expenditures

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

Bid No. 2010-34-B for the purchase of Electronic Handheld Ticket Writers, in the amount of \$79,519 to Brazos Technology, and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

Purchase from an Existing Contract

To approve the purchase of eighteen (18) 2010 Chevrolet Black and White Police Patrol Tahoes in the amount of \$477,810 from Caldwell Country Chevrolet through an existing contract/Interlocal agreement with Tarrant County, and authorizing the City Manager to execute all necessary documents. (Tarrant County Contract #2005-180). (Consent Agenda Item “C”)

Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)

To approve an Engineering contract by and between the City of Plano and Kimley-Horn and Associates, Inc., in the amount of \$119,500 for University Estates Waterline Rehabilitation, and authorizing the City Manager to execute all necessary documentation. (Consent Agenda Item “D”)

Approval of Change Order

To Hencie International, Inc., increasing the contract by \$44,938 for the 2008 - 2009 Arterial Concrete Pavement Rehabilitation Project, Los Rios Boulevard and Jupiter Road, Project No. 5979, Change Order No. 1, Bid No. 2009-117-B. (Consent Agenda Item “E”)

Adoption of Resolutions

Resolution No. 2010-2-1(R) - To approve the terms and conditions of a Real Estate Contract by and between the Trammel Crow Company No. 43, LTD., and the City of Plano for the purchase of approximately 7.005 acres of land located west of Midway Road and south of McKamy Trail immediately adjacent to the existing Sunset Park in Plano, Collin County, Texas; authorizing the City Manager to execute such contract; and providing an effective date. (Consent Agenda Item “F”)

Resolution No. 2010-2-2(R) - To repeal Resolution No. 2002-9-25(R), Resolution No. 2008-2-7(R) and Resolution No. 2008-7-16(R) with regard to the Multi-Cultural Outreach Roundtable (“Roundtable”) and adopting a new resolution to re-establish the Roundtable setting forth its purpose, appointment of a Chair and Vice-Chairs, establishing duties and meeting guidelines, and providing for open participation to the Roundtable; and providing an effective date. (Consent Agenda Item “H”)

Resolution No. 2010-2-3(R) - To approve an expenditure for repairs to grounding and surge protection at Ridgeview Pump Station; authorizing the execution of any and all documents by the City Manager; and providing an effective date. (Consent Agenda Item "I")

Resolution No. 2010-2-4(R) - To approve the terms and conditions of an Amendment to an Agreement by and between Connecticut General Life Insurance Company and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "J")

Resolution No. 2010-2-5(R) - To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Texas Council of Governments providing terms and conditions for the funding of a Second Chance Swap and Reuse Event; authorizing its execution by the City Manager and providing an effective date. (Consent Agenda Item "K")

Resolution No. 2010-2-6(R) - To authorize the City to enter into an Agreement with the Texas Product Stewardship Council to become a member, and to promote and support the shift of disposal cost from the local government to the producer through state legislation; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "L")

Adoption of Ordinances

Ordinance No. 2010-2-7 - To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended; thereby rescinding a portion of Heritage Resource Designation No. H-05 on a 0.1± acre of land located on the west side of K Avenue, 355± feet south of 18th Street, situated in the City of Plano, Collin County, Texas; presently zoned Downtown Business/Government with Heritage Resource Designation H- 05; 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. Zoning Case: 2009-24 Applicant: Bill Squiric (Approved 1/25/10) (Consent Agenda Item "M")

END OF CONSENT

Resolution No. 2010-2-8(R) - To provide for the creation of the Plano Photographic Traffic Signal Advisory Committee; providing for appointment and terms of office for members and officers; providing rules and guidelines under which the Committee will function; and providing an effective date. (Consent Agenda Item "G")

Deputy City Manager Glasscock spoke regarding state legislation adopted in 2007 including a provision requiring cities adding or expanding red light cameras to have studies reported to a citizens' advisory committee for review. He further advised that the committee must be made up of members appointed by individual Council Members (eight positions), and stated that six additional approaches for cameras have been identified and that after review installations will commence. Mayor Dyer spoke to publicizing the committee openings and requesting applicants include their preference for length of term and requested appointments be brought forward at the March 8 Council meeting. Mr. Glasscock spoke to the anticipated number of meetings and advised that, per legislation, the committee would review only installations.

Resolution No. 2010-2-8(R) (cont'd)

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Callison, the Council voted 7-0 to provide for the creation of the Plano Photographic Traffic Signal Advisory Committee and further to adopt Resolution No. 2010-2-8(R).

Mayor Dyer advised that the Executive and Preliminary Open Meetings were cancelled due to omissions in their postings.

Resolution No. 2010-2-9(R) - A Resolution to adopt a Water Management Plan for the City of Plano, Texas, to promote responsible use of water and to provide for best management practices resulting in on-going, long-term water savings, authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item "1")

Director of Sustainability and Environmental Services Nevil spoke to the Texas Commission on Environmental Quality (TECQ) requirement that the City have a Water Conservation Plan in place. She spoke to involvement by various departments and advised that the plan has no enforcement, but lays out best management practices for items such as landscaping irrigation, public awareness and goals for public consumption. Ms. Nevil spoke to annual reports referencing attainment of goals and responded to the Council, stating that the contract with the North Texas Municipal Water District is separate from the requirement for a water plan and commented on plans to continue educating the public regarding conservation.

Upon a motion made by Council Member Miner and seconded by Council Member Smith, the Council voted 7-0 to adopt a Water Management Plan for the City of Plano and further to adopt Resolution No. 2010-2-9(R).

A Resolution to canvass the election returns of the Special Election of January 30, 2010, for the election of one member of Council Place 3 (District 3) to fill a vacancy until the May 2011 General Election declaring the results; and resolving other matters on the subject. Tabled until 2/10/10 (Regular Agenda Item "2")

City Secretary Zucco advised that a runoff for the Special Election is calculated from the canvass of returns which must occur by February 10, 2010 and that moving the canvass to that date would offer March 27 as a possible election date and move the timeframes for early voting. Ms. Zucco spoke to negotiations with the Elections Administrator resulting in a March 11 start to early voting and to the order by the Council setting the election date. City Attorney Wetherbee spoke in support of moving the runoff date to allow additional time for submittal of information to the Department of Justice.

Citizen of the City Mike Openshaw spoke to announcement of March 20 as the election date and expenses incurred by candidates based on that information.

Upon a motion made by Council Member Callison and seconded by Deputy Mayor Pro Tem Dunlap, the Council voted 7-0 to table the request to canvass the election returns of the Special Election of January 30, 2010 until February 10, 2010.

An Ordinance to order a Runoff Election to be held on March 20, 2010, for the purpose of electing one Member of Council to Place No. 3 (District 3), to hold office until May 2011 to fill a vacancy; designating locations of polling places; and ordering notices of election to be given as prescribed by law in connection with such election and ordaining other matters on the subject. (Regular Agenda Item “3”)

This item was pulled from the agenda.

There being no further discussion, Mayor Dyer adjourned the meeting at 7:36 p.m.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary

**PLANO CITY COUNCIL
SPECIAL CALLED SESSION
February 10, 2010**

COUNCIL MEMBERS

Phil Dyer, Mayor
Harry LaRosiliere, Mayor Pro Tem
Lee Dunlap, Deputy Mayor Pro Tem
Pat Miner
Ben Harris
Mabrie Jackson (resigned)
Lissa Smith
Jean Callison

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Deputy City Manager
Bruce Glasscock, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Special Called Session on Wednesday, February 10, 2010, at 5:00 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Mayor Pro Tem LaRosiliere.

Resolution No. 2010-2-10(R) of the City Council of the City of Plano, Texas, canvassing the election returns of the Special Election of January 30, 2010, for the election of one member of Council (Place 3) to fill a vacancy until the May 2011 General Election declaring the results; and resolving other matters on the subject. (Agenda Item I.)

City Secretary Zucco read the number of votes received by each candidate at each precinct along with the sum total of votes.

Upon completion of the canvass, Deputy Mayor Pro Tem Dunlap stated that the election returns of the General Election have been canvassed and that all votes are accounted for as certified by the Elections Administrator of Collin County, with a total of 4,206 City ballots cast and further made a motion to approve the canvass of General Election returns of January 30, 2010, and declaring no one person received a majority of all votes cast for such place; and further to adopt Resolution No. 2010-2-10(R). Council Member Callison seconded the motion and the Council voted 6-0. The motion carried.

Ordinance No. 2010-2-11 of the City Council of the City of Plano, Texas, ordering a Runoff Election for the purpose of electing one Member of Council to Place No. 3 (District 3), to hold office until May 2011 to fill a vacancy; designating locations of polling places; and ordering notices of election to be given as prescribed by law in connection with such election and ordaining other matters on the subject. (Agenda Item II.)

City Secretary Zucco advised that the ordinance provides for a runoff election to be held on March 27, 2010, reviewed candidates to be listed on the ballot and advised that the Collin County Elections Administrator will conduct early voting from March 11-March 23.

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Miner, the Council voted 6-0 to order a Runoff Election for the purpose of electing one Member of Council to Place No. 3 (District 3) to be held on March 27, 2010 and further to adopt Ordinance No. 2010-2-11.

There being no further discussion, Mayor Dyer adjourned the meeting at 5:10 p.m.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/10		
Department:		Purchasing/Fleet Services Division		
Department Head		Mike Ryan/Reid Choate		
Agenda Coordinator (include phone #): Earl Whitaker x7074				
CAPTION				
Award of Bid for Bid No. 2010-49-B for one (1) International 6-7 yd Dump Truck to Southwest International Trucks Inc. in the amount of \$65,055.00 (2010-49-B).				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		62,000	0	62,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-65,055	0	-65,055
BALANCE	0	-3,055	0	-3,055
FUND(S): EQUIPMENT REPLACEMENT FUND				
<p>COMMENTS: Funds are included in the FY 2009-10 adopted budget to purchase one (1) International 6-7 yd., Dump Truck through BidSync #2010-49-B. The additional funds of (\$3,055) needed for this purchase will be funded through savings in the Equipment Replacement Fund.</p> <p>STRATEGIC PLAN GOAL: Providing equipment purchases relates to the City's goal of a "Financially Strong City with Service Excellence."</p>				
SUMMARY OF ITEM				
Staff recommends the purchase of one (1) International 6-7 yd Dump Truck in the amount of \$65,055.00 be awarded to Southwest International Trucks Inc. , as the lowest responsive, responsible bid (2010-49-B).				
List of Supporting Documents: Award Memo, Bid Recap,			Other Departments, Boards, Commissions or Agencies N/A	

Memorandum

To: Earl Whitaker
Buyer
Purchasing Division

From: David Garza
Fleet Superintendent

Date: 2/11/2010

Re: Award Recommendation Memo OR 908764

AWARD RECOMMENDATION

Based on the bid evaluation packet received for bid 2010-49-B – 6-7 yd Dump Truck, Fleet Services Division recommends the bid to be awarded to Southwest International Trucks Inc. as the lowest responsive, responsible bidder in the amount of \$65,055.00. The apparent low bidder, Sam Packs Five Star Ford of Carrollton, did not meet specifications in the area under Chassis line 6, spring actuated parking brake.

ITEM DETAILS

This recommendation is for the purchase of one (1) International Chassis / Warren dump body model 4300 M7 / U-10 with the following options, attachments, and/or accessories:

As specified in the bid with no exceptions.

David A Garza
Fleet Services Superintendent



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2-22-2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Nancy Corwin x7137				
CAPTION				
Award of bid for Bid 2010-16-B Compost Bagging System to Hamer LLC in the amount of \$81,108.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	16,000	0	16,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-81,108	0	-81,108
BALANCE	0	-65,108	0	-65,108
FUND(S): SUSTAINABILITY & ENVIRONMENTAL SERVICES (45.714), EQUIPMENT REPLACEMENT FUND (71.071)				
<p>COMMENTS: Funding in the amount of \$16,000 is available in the Equipment Replacement Fund balance for this item. This item was originally scheduled for replacement in FY 2005-06. The remaining unbudgeted amount of \$65,108 will be made available through savings generated by departmental cost cutting.</p> <p>STRATEGIC PLAN GOAL: Procurement of a compost and mulch bagging system relates to the City's Goal of "Financially Strong City with Service Excellence".</p>				
SUMMARY OF ITEM				
Staff recommends the purchase of Compost Bagging System from Hamer LLC in the amount of \$81,108 conditioned upon timely execution of any necessary contract documents.				
List of Supporting Documents: Recommendation Memo, Bib Tab			Other Departments, Boards, Commissions or Agencies	

CITY OF PLANO

BID NO. 2010-16-B Compost and Mulch Bagging System BID TABULATION

Bid opening Date/Time: November 11 2009 @ 3:00 PM CST

Number of Bids Submitted: 2

<u>COMPANY NAME</u>	<u>Total Bid</u>
Hamer LLC	\$81,108.00
JEM International	\$127,915.00

Nancy Corwin

Nancy Corwin, Buyer II

November 11 2009

Date

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

PURCHASING DIVISION
CITY OF PLANO TEXAS



P.O. Box 860358
Plano, Texas 75086-0358
214-964-4140
Fax No. 214-964-4172



MEMORANDUM

DATE: January 22, 2010

TO: Diane Palmer, Purchasing Manager

THROUGH: Nancy Nevil, Director of Sustainability & Environmental Services

FROM: Sherrian Jones, Compost Operations & Marketing Manager

SUBJECT: Recommendation to Award Bid: OR 908581 2010-16-B Compost Bagger

The above referenced bid was released 11-13-09 for purchase of new bagging equipment. Purchasing Department's analysis indicated Hamer LLC as the lowest bidder. We have reviewed the specifications and verified Hamer LLC complies with the specifications as defined in the bid.

It is our recommendation Hamer LLC be awarded the bid in the estimated amount of \$81,108.00.

Please call me if you have any questions or need more information.

c: Nancy Corwin
Shaun Worley



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/22/2010		
Department:		Technology Services		
Department Head		David Stephens		
Agenda Coordinator (include phone #): Amy Powell X7342				
CAPTION				
Purchase from an existing contract/agreement, authorizing expenditure for virtual servers for the data center at the EOC Server Room, in the amount of \$93,467, from Dell Corporation, through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager or his designee to execute all necessary documents. (DIR-SDD-890).				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2009-2010	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		0	1,200,000	0
Encumbered/Expended Amount		0	-351,569	0
This Item		0	-93,467	0
BALANCE		0	754,964	0
FUND(S): TECHNOLOGY FUND (62.62350)				
COMMENTS: Funds are available in the 2009-10 Technology Fund budget for the purchase of remote servers for the new data center at the EOC facility.				
STRATEGIC PLAN GOAL: Providing business continuity with a redundant virtual environment in case of the loss of a business center or command center relates to the City's Goal of "Financially Strong City with Service Excellence".				
SUMMARY OF ITEM				
Technology Services recommends Council approve expenditure in the amount of \$93,467, from Dell Corporation, through a Department of Information Resources (DIR) Contract, for twelve servers for the new virtual environment at the new data center at the emergency operations center, which will replicate the virtual environment at the main server room in Technology Services. 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 local government to seek competitive bids for items. (Contract No. DIR-SDD-890).				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Contract and Staff Memo				

Interoffice Memo

Date: 01/08/10

To: David Stephens, Director Technology Services

Cc:

From: Chester M. Helt, Infrastructure Manager

RE: Servers for new data center virtual environment and DR virtual environment

We are purchasing servers for the new virtual environment at the new data center at the emergency operations center and it's replicated virtual environment at the main server room in Technology Services. We have compared pricing for identical server configurations from both the HP State of Texas DIR contract DIR-SDD-223 and the Dell State of Texas DIR contract DIR-SDD-890. No other purchasing cooperatives offer pricing for the servers we are requesting to purchase.

We recommend the City purchase the 12 servers for a not to exceed price of \$93,466.80 From the Dell State of Texas contract DIR-SDD-890-TX. Again, these twelve (12) servers will provide a new redundant virtual environment which will provide a reliable and cost effective solution.

**CONTRACT BY AND BETWEEN
CITY OF PLANO AND DELL MARKETING L.P.
FOR SERVERS
FOR THE DATA CENTER AT EOC SERVER ROOM**

THIS CONTRACT is made and entered into by and between **DELL MARKETING L.P.**, whose address is One Dell Way, Round Rock, Texas, hereinafter referred to as "Contractor," and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon execution of this Contract by the Plano City Manager or his duly authorized designee.

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

**I.
SCOPE OF SERVICES**

Contractor shall provide servers to act as virtual hosts in a new virtual environment. These services shall be provided in accordance with this Contract and with The Department of Information Resources Contract No. DIR-SDD-890, a copy of which is incorporated herein by reference in its entirety as if it were recited here verbatim and which is on file and available for inspection in the City of Plano Technology Services Department. This Contract consists of:

- (a) The Department of Information Resources Contract No. DIR-SDD-890 on file with the City of Plano Technology Services Department;
- (b) This Contract;
- (c) Dell's Statement of Work (Exhibit "A");
- (d) Certificate of Insurance (Exhibit "B"); and
- (e) Affidavit of No Prohibited Interest (Exhibit "C").

In the event there is a conflict in interpretation or terms, the documents shall control in the order listed above. These documents shall be referred to collectively as "Contract Documents."

**II.
PAYMENT**

Payments hereunder shall be made to Contractor following City's acceptance of the work and within thirty (30) days of receiving Contractor's invoice for the products and services delivered. Total compensation under this contract shall not exceed the sum of **NINETY-THREE THOUSAND FOUR HUNDRED SIXTY-SEVEN AND 00/100 DOLLARS (\$93,467.00)**.

Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the

event that the Plano City Council does not approve the appropriation of funds for this Contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

III. DESCRIPTION OF SERVICES

Contractor will provide the services described in the Contract Documents and Exhibit "A" attached hereto. At City's request, Contractor may also provide additional services under this Contract at Contractor's then-applicable rates for such services or goods under The Department of Information Resources Contract No. DIR-SDD-890, or any additional contract addendums as executed by the Plano City Manager or his duly authorized designee.

IV. CITY CONTACT

If requested by Contractor, City will provide Contractor with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable City's personnel to maintain contact, as needed, with Contractor.

V. PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC

Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws.

VI. TIME AND PLACE OF SERVICE, LOSSES FROM NATURAL CAUSES

Service will be provided at the location specified in the Contract Documents. When Contractor performs service at City's location, City will provide Contractor, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. City will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Contractor may perform its Services. Unless otherwise stated in this Contract, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays.

VII. INDEMNIFICATION AND HOLD HARMLESS

THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE

OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

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

VIII. COMPLIANCE WITH APPLICABLE LAWS

Contractor shall at all times observe and comply with all directly applicable Federal, State and local laws, ordinances and regulations including all amendments and revisions thereto, which affect the work. If Contractor observes that the work is at variance therewith, Contractor shall promptly notify City in writing.

IX. VENUE

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

X. ASSIGNMENT AND SUBLETTING

Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract shall not be assigned without the prior written consent of City, except for assignments to a Contractor entity. Contractor may subcontract any portion of its performance under this Agreement. Contractor further agrees that the

subletting of any portion or feature of the work, or materials required in the performance of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract. In the event any additional or different subcontractors are required or requested by City, or in the event City rejects the use of a particular subcontractor, such rejection must be submitted in writing and be based on just and reasonable cause. Any resultant change in contract price and/or schedule shall be mutually agreed upon.

**XI.
INDEPENDENT CONTRACTOR**

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

**XII.
INSURANCE AND CERTIFICATES OF INSURANCE**

Contractor shall procure and maintain for the duration of the Contract insurance coverage as set forth in the Contract Documents including the City as a named insured attached hereto as Exhibit "B".

**XIII.
HINDRANCES AND DELAYS**

Neither party is liable for delays or lack of performance resulting from any causes or acts of God that are beyond that party's reasonable control.

**XIV.
AFFIDAVIT OF NO PROHIBITED INTEREST**

To the extent copies are provided to Contractor, Contractor acknowledges and represents Contractor is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "C."

**XV.
DEFAULT/TERMINATION**

If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. If City is the defaulting party, it will have thirty (30) days to provide a written plan to cure the default that is acceptable to Contractor and begin implementing the cure plan immediately after plan approval. If Contractor is the defaulting party, City's policy is to notify the City

Service Contract

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Council of such default, at which time Contractor will have the opportunity to provide a written plan to cure the default that is acceptable to the City. If the non-performing party fails to provide or implement a cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by City to Contractor will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Contractor will have no further obligation to provide Services.

XVI. SEVERABILITY

The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Contract. However, upon the occurrence of such event, either party may terminate this Contract by giving the other party thirty (30) days written notice.

XVII. TERMINATION

City may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract, terminate further work under this Contract, in whole or in part by giving at least sixty (60) days prior written notice thereof to Contractor with the understanding that all services being terminated shall cease upon the expiration of the 60-day period.

If Contractor provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and City agrees to pay for such services on a time and materials basis at Contractor's then effective hourly rates.

XVIII. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

To the extent permitted by law, any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to City under this Agreement will remain Contractor's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Contractor's request. City may not disclose, without Contractor's written permission or as required by law, any such information, or data to any person, or use such information or data itself for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section will survive the expiration or termination of this Agreement.

XIX.

ENTIRE AGREEMENT

This Contract and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.

City agrees to reference this Agreement and The Department of Information Resources Contract No. DIR-SDD-890 on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement shall not affect its applicability. In no event shall either party be bound by any terms contained in a City purchase order, acknowledgement, or other writings unless: (i) such purchase order, acknowledgement, or other writings specifically refer to this Agreement; (ii) clearly indicate the intention of both parties to override and modify this Agreement; and (iii) such purchase order, acknowledgement, or other writings are signed by authorized representatives of both parties.

**XX.
SUCCESSORS AND ASSIGNS**

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

**XXI.
HEADINGS**

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

IN WITNESS WHEREOF, the parties have executed this Contract by signing below.

DELL MARKETING L.P.

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

CITY OF PLANO, TEXAS

Date: _____
By: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM

Service Contract

Diane C. Wetherbee, CITY ATTORNEY

Service Contract

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C:\DOCUMENTS AND SETTINGS\AMYP\LOCAL SETTINGS\TEMPORARY INTERNET
FILES\CONTENT.OUTLOOK\135ZHJ02\DELL CORPORATION-EOC SERVER
ROOM.DOCX(1/13/10-JG)

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20____ by _____, _____ of **DELL MARKETING, L.P.** a _____ limited partnership, on behalf of said limited partnership.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 20____ by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

DELL**QUOTATION**

QUOTE #: 523685120

Customer #: 360554

Contract #: 48ABO

Customer Agreement #: DIR-SDD-890-TX

Quote Date: 1/8/10

Date: 1/8/10 8:55:36 AM

Customer Name: CITY OF PLANO

TOTAL QUOTE AMOUNT:	\$93,466.80		
Product Subtotal:	\$93,466.80		
Tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Ground	Total Number of System Groups:	1

GROUP: 1	QUANTITY: 12	SYSTEM PRICE: \$7,788.90	GROUP TOTAL: \$93,466.80
Base Unit:	PowerEdge R710 with Chassis for Up to Eight 2.5-Inch Hard Drives (224-4845)		
Processor:	PowerEdge R710 Shipping (330-4124)		
Memory:	72GB Memory (6x4GB+6x8GB), 1066MHz Dual Ranked RDIMMs for 2 Processors, Optimized (317-9975)		
Monitor:	Embedded Broadcom, GB Ethernet NICS with TOE (430-1764)		
Video Card:	E5540 Xeon Processor, 2.53GHz 8M Cache, Turbo, HT, 1066MHz Max Mem (317-1204)		
Video Memory:	E5540 Xeon Processor, 2.53GHz 8M Cache, Turbo, HT, 1066MHz Max Mem (317-1216)		
Video Memory:	PowerEdge R710 Heat Sinks for 2 Processors (317-1213)		
Hard Drive:	73GB 10K RPM Serial-Attach SCSI 2.5" Hot Plug Hard Drive (341-8713)		
Hard Drive Controller:	PERC 6/i SAS RAID Controller 2x4 Connectors, Internal, PCIe256MB Cache, x8 Chassis (341-8712)		
Floppy Disk Drive:	Power Saving BIOS Setting (330-3491)		
Operating System:	No Operating System (420-6320)		
NIC:	Intel Gigabit ET NIC, Quad Port, Copper, PCIe-4 (430-0657)		
Modem:	iDRAC6 Enterprise (467-8648)		
CD-ROM or DVD-ROM Drive:	DVD ROM, SATA, INTERNAL (313-9092)		
Sound Card:	Bezel (313-7517)		
Speakers:	Riser with 2 PCIe x8 + 2 PCIe x4 Slot (320-7886)		
Documentation Diskette:	Dell Management Console (330-5280)		
Documentation Diskette:	Electronic System Documentation and OpenManage DVD Kit (330-3485)		
Additional Storage Products:	73GB 10K RPM Serial-Attach SCSI 2.5" Hot Plug Hard Drive (341-8713)		
Feature	RAID 1 for H700, PERC 6/i, H200 or SAS 6/iR Controllers (341-8699)		
Feature	Sliding Ready Rails With CableManagement Arm (330-3477)		
Service:	Thank you choosing Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-800-945-33 (989-3439)		
Service:	Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, 2 Year Extended (992-8162)		
Service:	ProSupport for IT: 7x24 HW / SW Tech Support and Assistance for Certified IT Staff, 3 Year (992-8352)		
Service:	Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (993-2200)		

EDMONT
PAGE 1 **OF** 2

Service:	Dell Hardware Limited Warranty Plus On Site Service Initial Year (993-8447)
Service:	Dell Hardware Limited Warranty Extended Year (993-8458)
Service:	MISSION CRITICAL PACKAGE: Enhanced Services, 3 Year (993-8518)
Installation:	On-Site Installation Declined (900-9997)
Misc:	High Output Power Supply Redundant, 870W (330-3475)
Misc:	Power Cord, NEMA 5-15P to C13, 15 amp, wall plug, 10 feet / 3 meter (310-8509)
Misc:	Power Cord, NEMA 5-15P to C13, 15 amp, wall plug, 10 feet / 3 meter (310-8509)
Misc:	Qlogic 2560 Single Channel 8Gb Optical Fiber Channel HBA PCIe (341-9097)
Misc:	Qlogic 2560 Single Channel 8Gb Optical Fiber Channel HBA PCIe (341-9097)
Misc:	Intel Gigabit ET NIC, Quad Port, Copper, PCIe-4 (430-0657)

SALES REP:	Duane Pond	PHONE:	1-866-537-0706
Email Address:	Duane_Pond@Dell.com	Phone Ext:	7263732

Please review this quote carefully. If complete and accurate, you may place your order online at www.dell.com/qto (use quote number above). POs and payments should be made to *Dell Marketing L.P.*

If you do not have a separate agreement with Dell that applies to your order, please refer to www.dell.com/terms as follows:

If purchasing for your internal use, your order will be subject to *Dell's Terms and Conditions of Sale-Direct* including Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. If purchasing for resale, your order will be subject to *Dell's Terms and Condition of Sale for Persons or Entities Purchasing to Resell*, and other terms of Dell's PartnerDirect program at www.dell.com/partner. If your order includes services, visit www.dell.com/servicecontracts for service descriptions and terms.

Quote information is valid for U.S. customers and U.S. addresses only, and is subject to change. Sales tax on products shipped is based on "Ship To" address, and for downloads is based on "Bill To" address. Please indicate any tax-exempt status on your PO, and fax your exemption certificate, with seller listed as *Dell Marketing L.P.*, to Dell's Tax Department at 800-433-9023. Please include your Customer Number.

For certain products shipped to end-users in California, a State Environmental Fee will be applied. For Asset Recovery/Recycling Services, visit www.dell.com/assetrecovery.

EXHIBIT A
PAGE 2 OF 2

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

2/3/2010

DATE (MM/DD/YYYY)
1/29/2010

PRODUCER LOCKTON COMPANIES, LLC-N DALLAS
717 N. HARWOOD, LB#27
DALLAS TX 75201
214-969-6700

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED 1070159 Dell Inc. and its Subsidiaries
Dell Marketing L.P.
One Dell Way - RRI-50
Round Rock TX 78682

INSURERS AFFORDING COVERAGE		NAIC #
INSURER A:	New Hampshire Insurance Company	23841
INSURER B:	National Union Fire Ins Co Pittsburgh PA	19445
INSURER C:	Insurance Company of the State of PA	19429
INSURER D:		
INSURER E:		

COVERAGES DELIN02 B1

THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY	GL6506327	2/3/2009	2/3/2010	EACH OCCURRENCE	\$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 5,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 5,000,000
						PRODUCTS - COMP/OP AGG	\$ 5,000,000
						GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	
B	X	AUTOMOBILE LIABILITY	CA6506169	2/3/2009	2/3/2010	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$ XXXXXXXX
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$ XXXXXXXX
		<input checked="" type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX
		<input checked="" type="checkbox"/> NON-OWNED AUTOS					
		GARAGE LIABILITY	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT	\$ XXXXXXXX
		<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	\$ XXXXXXXX
						AGG	\$ XXXXXXXX
		EXCESS/UMBRELLA LIABILITY	NOT APPLICABLE			EACH OCCURRENCE	\$ XXXXXXXX
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$ XXXXXXXX
		<input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> UMBRELLA FORM					\$ XXXXXXXX
		RETENTION \$					\$ XXXXXXXX
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC3566861 AOS / 6867 TX	2/3/2009	2/3/2010	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS	OTH-ER
A		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? NO	WC3566862 FL/6866 NY.OH.WA.WI	2/3/2009	2/3/2010	E.L. EACH ACCIDENT	\$ 1,000,000
A			WC3566863 CA /6864 OR	2/3/2009	2/3/2010	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
C		If yes, describe under SPECIAL PROVISIONS below	WC3566865 MA	2/3/2009	2/3/2010	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
THIS CERTIFICATE SUPERSEDES ALL PREVIOUSLY ISSUED CERTIFICATES FOR THIS HOLDER, APPLICABLE TO THE CARRIERS LISTED AND THE POLICY TERM(S) REFERENCED.
City of Plano is included as an Additional Insured as their interest may appear as required by contract. Waiver of Subrogation included.

CERTIFICATE HOLDER

2803035
City of Plano
Technology Services
1117 E. 15th St.
Plano TX 75074

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE

[Handwritten Signature]
EDWIN
PAGE 1 OF 1



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/2010		
Department:		Technology Services		
Department Head		David Stephens		
Agenda Coordinator (include phone #): Amy Powell X7342				
CAPTION				
Purchase from an existing contract/agreement, authorizing expenditure for Cisco infrastructure backbone switches for the new data center at the EOC Server Room, in an estimated amount not to exceed \$100,000, from INX, Inc., through a State of Texas Department of Information Resources (DIR) contract, and authorizing the City Manager or his designee to execute all necessary documents. (DIR-SDD-239).				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2009-2010	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,200,000	0	1,200,000
Encumbered/Expended Amount	0	-351,569	0	-351,569
This Item	0	-100,000	0	-100,000
BALANCE	0	748,431	0	748,431
FUND(S): TECHNOLOGY FUND (62.62350)				
<p>COMMENTS: Funds are available in the 2009-10 Technology Fund budget for the purchase of Cisco Switches for the new data center at the EOC facility. The balance of the project funds will be used for other items required for project completion.</p> <p>STRATEGIC PLAN GOAL: Providing business continuity with a redundant virtual environment in case of the loss of a business center or command center relates to the City's Goal of "Financially Strong City with Service Excellence".</p>				
SUMMARY OF ITEM				
Technology Services recommends Council approve expenditure in the estimated amount not to exceed \$100,000, from INX, Inc., through a Department of Information Resources (DIR) Contract, for Cisco switches for the new data center at the emergency operations center. These switches will take us through the Disaster Recovery Phase I of our project. 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 local government to seek competitive bids for items. (Contract No. DIR-SDD-890).				
List of Supporting Documents: Contract and Staff Memo			Other Departments, Boards, Commissions or Agencies	

Interoffice Memo

Date: 01/07/10
To: David Stephens, Director Technology Services
Cc:
From: Chester M. Helt, Infrastructure Manager
RE: EOC Project – Network Switches

We are in the process of building the infrastructure backbone for the new EOC data center. The Cisco switches for this project will be a not to exceed the estimated amount of \$100,000.00. This will also provide services for the desktop environment for the EOC.

This new data center will provide disaster recovery for the City and will provide better business continuity for City services.

We are proposing purchasing this equipment from INX, Inc., through their State of Texas DIR contract number DIR-SDD-239. These switches will take us through the Disaster Recovery phase I of our project. INX, Inc., in addition to having their DIR contract with the State of Texas is also the vendor of record with Cisco for the City of Plano. While they also are on the TCPN cooperative purchasing agreement, they can provide the City with better pricing at this time using the State of Texas contract number DIR-SDD-239.

We are recommending purchasing the equipment for this project for an estimated amount of \$100,000.00 from INX, Inc., using their State of Texas contract referenced above.

**CONTRACT BY AND BETWEEN
CITY OF PLANO AND INX INC.
FOR INFRASTRUCTURE BACKBONE SWITCHES
FOR THE NEW DATA CENTER AT THE EOC SERVER ROOM**

THIS CONTRACT is made and entered into by and between **INX, INC.** whose address is 1955 Lakeway Drive, Suite 220, Lewisville, Texas hereinafter referred to as "Contractor," and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon execution of this Contract by the Plano City Manager or his duly authorized designee.

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

**I.
SCOPE OF SERVICES**

Contractor shall provide Cisco infrastructure backbone switches as needed and ordered by the City for the new data center at the EOC Server Room. These switches shall be provided in accordance with this Contract and with The Department of Information Resources Contract No. DIR-SDD-890, a copy of which is incorporated herein by reference in its entirety as if it were recited here verbatim and which is on file and available for inspection in the City of Plano Technology Services Department. This Contract consists of:

- (a) The Department of Information Resources Contract No. DIR-SDD-890 on file with the City of Plano Technology Services Department;
- (b) This Contract;
- (c) Inx, Inc. Statement of Work (Exhibit "A"); and
- (d) Affidavit of No Prohibited Interest (Exhibit "B").

In the event there is a conflict in interpretation or terms, the documents shall control in the order listed above. These documents shall be referred to collectively as "Contract Documents."

**II.
TIME OF COMPLETION**

Contractor agrees to deliver the products within thirty (30) days of the City placing an order for those products. All installation shall be by the City.

**III.
PAYMENT**

Payments hereunder shall be made to Contractor following City's acceptance of the products and within thirty (30) days of receiving Contractor's invoice for the products delivered. Total compensation under this contract shall not exceed the sum of **ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00)**.

Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this Contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

IV. DESCRIPTION OF SERVICES

Contractor will provide the products described in the Contract Documents and Exhibit "A" attached hereto. At City's request, Contractor may also provide additional services under this Contract at Contractor's then-applicable rates for such services or goods under The Department of Information Resources Contract No. DIR-SDD-890, or any additional contract addendums as executed by the Plano City Manager or his duly authorized designee.

V. CITY CONTACT

If requested by Contractor, the City will provide Contractor with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable City's personnel to maintain contact, as needed, with Contractor.

VI. HOLD HARMLESS AND INDEMNIFICATION

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

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

**VII.
COMPLIANCE WITH APPLICABLE LAWS**

Contractor shall at all times observe and comply with all directly applicable Federal, State and local laws, ordinances and regulations including all amendments and revisions thereto, which affect the work.

**VIII.
VENUE**

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

**IX.
ASSIGNMENT AND SUBLETTING**

Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract shall not be assigned without the prior written consent of City, except for assignments to a Contractor entity. Contractor may subcontract any portion of its performance under this Agreement. Contractor further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract. In the event any additional or different subcontractors are required or requested by City, or in the event City rejects the use of a particular subcontractor, such rejection must be submitted in writing and be based on just and reasonable cause. Any resultant change in contract price and/or schedule shall be mutually agreed upon.

**X.
INDEPENDENT CONTRACTOR**

Contractor covenants and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and

consultants; that the doctrine of respondeat superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

XI.

HINDRANCES AND DELAYS

Neither party is liable for delays or lack of performance resulting from any causes or acts of God that are beyond that party's reasonable control.

XII.

AFFIDAVIT OF NO PROHIBITED INTEREST

To the extent copies are provided to Contractor, Contractor acknowledges and represents Contractor is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "B."

XIII.

DEFAULT/TERMINATION

If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. If City is the defaulting party, it will have thirty (30) days to provide a written plan to cure the default that is acceptable to Contractor and begin implementing the cure plan immediately after plan approval. If Contractor is the defaulting party, City's policy is to notify the City Council of such default, at which time Contractor will have the opportunity to provide a written plan to cure the default that is acceptable to the City. If the non-performing party fails to provide or implement a cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by City to Contractor will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Contractor will have no further obligation to provide Services.

XIV.

SEVERABILITY

The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Contract. However, upon the occurrence of such event, either party may terminate this Contract by giving the other party thirty (30) days written notice.

**XV.
TERMINATION**

City may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract, terminate further work under this Contract, in whole or in part by giving at least sixty (60) days prior written notice thereof to Contractor with the understanding that all services being terminated shall cease upon the expiration of the 60-day period.

If Contractor provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and City agrees to pay for such services on a time and materials basis at Contractor's then effective hourly rates.

**XVI.
PROPRIETARY INFORMATION; CONFIDENTIALITY;
INTELLECTUAL PROPERTY RIGHTS**

To the extent permitted by law, any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to City under this Agreement will remain Contractor's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Contractor's request. City may not disclose, without Contractor's written permission or as required by law, any such information, or data to any person, or use such information or data itself for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section will survive the expiration or termination of this Agreement.

**XVII.
ENTIRE AGREEMENT**

This Contract and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.

City agrees to reference this Agreement and The Department of Information Resources Contract No. DIR-SDD-890 on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement shall not affect its applicability. In no event shall either party be bound by any terms contained in a City purchase order, acknowledgement, or other writings unless: (i) such purchase order, acknowledgement, or other writings specifically refer to this Agreement; (ii) clearly indicate the intention of both parties to override and modify this Agreement; and (iii) such purchase order, acknowledgement, or other writings are signed by authorized representatives of both parties.

**XVIII.
SUCCESSORS AND ASSIGNS**

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

**XIX.
HEADINGS**

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

IN WITNESS WHEREOF, the parties have executed this Contract by signing below.

INX, INC.

Date: _____

By: _____
Name: _____
Title: _____

CITY OF PLANO, TEXAS

Date: _____

By: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20____ by _____, _____ of **INX, INC.**, a _____ 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 _____, 20____ by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

Notary Public, State of Texas



1955 Lakeway Drive
Suite 220
Lewisville, TX 75057
469.549.3811(o)
469.549.8991 (f)

January 27, 2010

Mark Hilz
President & COO

We understand the City of Plano ("City") wishes to purchase \$100,000.00 worth of Cisco switches ("Product") from INX Inc. ("INX"). INX is able to sell such Product to the City pursuant to the INX-State of Texas Department of Information Resources Contract ("DIR"). This will allow INX to sell such Product to the City at DIR pricing. INX may be able to secure further discounts.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Hilz", is written over the typed name and title.

Mark Hilz
President & COO
INX Inc.

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of _____ (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

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

Name of Contractor

By: _____
Signature

Print Name

Title

Date

STATE OF _____ §

COUNTY OF _____ §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

Notary Public, State of _____



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Dianna Wike x5512				
CAPTION				
Approval of the purchase of Site and Building Improvements to the Day Labor Center in the amount of \$299,884.00 from Kellogg Brown and Root Services, Inc. through an existing contract/agreement with The Cooperative Purchasing Network (TCPN), and authorizing the City Manager or his designee to execute all necessary documents. (TCPN contract number R4895) <input type="checkbox"/>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	332,930	0	332,930
Encumbered/Expended Amount	0	0	0	0
This Item	0	-299,884	0	-299,884
BALANCE	0	33,046	0	33,046
FUND(S): GRANT FUND (024)				
COMMENTS: The item, in the amount of \$299,884, is funded by a Federal Grant through the CDBG Recovery Act Fund for the improvement to the Day Labor Center. STRATEGIC PLAN GOAL: The adoption of the Consolidated Plan Objectives relates to the City's goal of Safe Large City.				
SUMMARY OF ITEM				
Staff recommends purchase of Site and Building Improvements to the Day Labor Center from Kellogg Brown and Root Services, Inc., in the amount of \$299,884.00 conditioned upon timely execution of any necessary contract documents. 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 local governments to seek competitive bids for items. (TCPN Contract Number R4895)				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memorandum				
Contract				



**CITY OF PLANO
COUNCIL AGENDA ITEM**

A large, empty rectangular box with a black border, intended for the agenda item content.

Memorandum

To: Tom Muehlenbeck, City Manager
Frank F. Turner, Deputy City Manager

From: Jim Razinha, Facilities Manager *JR*
Christina Day, Community Services Manager *CD*

Date: February 10, 2010

Subject: Day Labor Center Improvement Contract

On July 27, 2009, City Council approved a resolution amending the 2008-09 Action Plan authorizing the use of \$332,930 of Community Development Block Grant - American Recovery and Reinvestment Act funds on improvements to the Day Labor Center.

The City received a release to use funds on September 24, 2009, then completed a scope of work, and bid out the project in December 2009. The City received only one bid, which was from Kellogg Brown and Root Services, Inc. (KBR), and it was 40% over the project budget.

Due to the Federal requirement to utilize the ARRA funds expediently, the staff utilized the Texas Cooperative Purchasing Network contract with KBR to negotiate a scope of work that would both accomplish the City's goals and meet the project budget. The fixed price proposal from KBR received February 5, 2010 meets both those requirements. For those reasons, and to ensure the prompt expenditure of ARRA funds, we recommend approval of the associated contract with KBR for \$299,884.

CC: Alan Upchurch, Director of Public Works and Engineering
Phyllis M. Jarrell, Director of Planning

CONSTRUCTION AGREEMENT/JOB ORDER
BY AND BETWEEN CITY OF PLANO AND
KELLOGG BROWN AND ROOT SERVICES, INC.
FOR DAY LABOR CENTER

Funded by the U.S. Department of Housing & Urban Development (HUD)
Community Development Block Grant – American Reinvestment and Recovery
Act (CDBG-R), CFDA Title 14-253, B-09-MY-48-0035

THIS CONSTRUCTION AGREEMENT/JOB ORDER is made and entered into by and between **KELLOGG BROWN AND ROOT SERVICES, INC.**, a Texas Corporation (hereinafter referred to as "Contractor"), and the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation (hereinafter referred to as "City"), to be effective from and after the date hereinafter provided.

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

I. CONTRACT DOCUMENTS

The parties agree that the Contract Documents shall consist of the following:

1. This written Construction Agreement/Job Order;
2. Vendor Contract Between Kellogg Brown and Root Services, Inc. and The Cooperative Purchasing Network Job Order Contract 4895, a copy of which is on file with the City of Plano Purchasing Department;
3. The Contractor's Delivery Order, Proposal and Work Plan attached as Exhibit "A";
4. The City of Plano's Standard Construction Details (which is on file in the City of Plano's Engineering Department);
5. The Standard Specifications for Public Works Construction (North Central Texas Third Edition 1998) as amended and supplemented by the 1997 Edition of the City of Plano Special Provisions to said Standard Specifications, as amended (hereinafter referred to as "Plano Standard Specifications") (which is on file in the City of Plano's Engineering Department);
6. The Notice to Contractor;
7. A Performance Bond in the sum of ONE HUNDRED FIFTEEN PERCENT (115%) of the total contract price, which Bond shall be in a form acceptable to the City,

shall guarantee the work in accordance with the plans and specifications for a period of one (1) year after acceptance by the City, and shall provide for repair or replacement of all defects due to faulty material and/or workmanship that appear within a period of one (1) year from the date of acceptance by the City attached as Exhibit "B"; and

8. A Payment Bond in the sum of ONE HUNDRED PERCENT (100%) of the total contract price attached as Exhibit "B"; and

9. The Affidavit of No Prohibited Interest attached as Exhibit "C."

These Contract Documents form the Construction Agreement/Job Order and are a part of this Construction Agreement/Job Order as if fully set forth herein. The Contract Documents are complementary and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency in any of the provisions of the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed above.

II. THE WORK

Contractor shall provide all labor, supervision, materials, and equipment necessary to perform all work required by the Contract Documents in connection with the Day Labor Center.

All materials and equipment necessary to perform all work required by the Contract Documents will be in compliance with Buy American requirement imposed by section 1605 of Title XVI of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (the Recovery Act). The contractor will provide all necessary documentation to the City to prove compliance with this Act on or before the final completion of the contract.

III. TIME OF COMMENCEMENT; TIME OF COMPLETION

Contractor agrees and covenants that all work hereunder shall be complete within one hundred fifty (150) calendar days following notice to proceed.

IV. INDEMNITY

THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS

CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

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

V. CONTRACT SUM

The City shall pay the Contractor in current funds for the performance of the work, subject to additions and deductions by Change Orders as provided in the Contract Documents. The contract sum shall be an amount not to exceed **TWO HUNDRED NINETY NINE THOUSAND EIGHT HUNDRED EIGHTY FOUR AND NO/100 DOLLARS (\$299,884.00)**.

VI. PROGRESS AND FINAL PAYMENTS

Progress and final payments shall be paid to the Contractor in accordance with the Plano Standard Specifications. Work will not be considered complete, nor final payment secured, until such time as adequate compliance with HUD and ARRA provisions are documented and acceptable to the City. Due to ARRA timeliness

requirements, requests for payment should be made at least monthly and expedited to demonstrate project progress to HUD.

VII. MAILING OF NOTICES

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

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

Construction management communications will be addressed to:

Facilities Maintenance ATTN: Richard Medlen

HUD, CDBG-R, and ARRA compliance communications will be addressed to:

Community Services ATTN: Christina Day

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

Kellogg Brown and Root Services, Inc.
1854 E. Beltway 8 South
Pasadena, Texas 77503
Attn: Patrick D. Eno, Operations Manager

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

VIII. CHOICE OF LAW; VENUE; CONTRACT INTERPRETATION

The parties agree that the law of the State of Texas shall apply to this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas. Although this Agreement is drafted by the City, should any part be in dispute, the parties agree the Agreement shall not be construed more favorably for either Party.

**IX. ENTIRE AGREEMENT; AMENDMENTS;
SUCCESSORS AND ASSIGNS**

This Construction Agreement/Job Order, including the Contract Documents listed in Paragraph I above, represents the entire and integrated agreement between City and the Contractor, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Construction Agreement/Job Order may be amended only by written instrument signed by both City and Contractor. This Construction Agreement/Job Order is binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

X. INSURANCE AND CERTIFICATES OF INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance coverage as set forth in Article 33 of the Contract between The Cooperative Purchasing Network and Kellogg Brown and Root Services. Contractor shall provide a signed insurance certificate verifying that they have obtained the required insurance coverage prior to the effective date of this Contract and naming the City of Plano as additional insured.

XI. PAYMENT AND PERFORMANCE BOND

A Payment bond in the amount of not less than one hundred percent (100%) of the Contract amount, conditioned upon the payment of all persons supplying labor or furnishing materials pursuant to the contract is required upon a form provided by the City. A Performance Bond in the amount of not less than one hundred fifteen percent (115%) of the Contract amount, conditioned upon the faithful performance of the Contract, is required upon a form provided by City. The bonds are attached hereto and incorporated herein as Exhibit "B"

XII. AFFIDAVIT OF NO PROHIBITED INTEREST

Contractor acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "C."

XIII. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Contractor agrees to comply with all applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as

amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086, and with fair housing and nondiscrimination provisions set forth in 24 CFR 570.601 and 24 CFR 570.602.

2. Nondiscrimination

The Contractor will not discriminate against any employee or applicant for employment because of race, color, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting Contractor setting forth the provisions of this nondiscrimination clause.

3. Access to Records

The Contractor shall furnish and cause each of its own Contractors or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts with respect to any matters covered by this agreement by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein related to this contract.

4. EEO/AA Statement

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The Contractor will include the provisions of this Civil Rights section in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Contractors or subcontractors.

B. Employment Restrictions

1. Prohibited Activity

The Contractor is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying political patronage, and nepotism activities.

2. Labor Standards

The Contractor agrees to comply with the labor standards as set forth in 24 CFR 570.603, Davis Bacon Act of 1931 and related Federal Labor Acts.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Contractor and any subcontractors.

The Contractor further agrees to ensure that, to the greatest extent feasible, opportunities for training and employment arising in connection with this project be given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

b. Subcontracts

The Contractor will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency.

C. Conduct

1. Hatch Act

The Contractor agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

2. Lobbying

The Contractor hereby certifies that none of the funds provided under this Agreement shall be used for publicity or propaganda designed to support or defeat legislation pending before the U.S. Congress, a State Legislature, County Commissioners Court, or City Council.

3. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor Contractor reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

4. Religious Organization

The Contractor agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XIV. EFFECTIVE DATE

The effective date of this Construction Agreement/Job Order will be the date of approval by the City Council of the City of Plano, Texas.

IN WITNESS WHEREOF, the parties have executed this Construction Agreement/Job Order upon the year and date indicated beside their signatures hereto.

**KELLOGG BROWN AND ROOT
SERVICES, INC.**
a Texas Corporation

DATE: _____

BY: _____
Name: _____
Title: _____

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____, _____ of **KELLOGG BROWN AND ROOT SERVICES, INC.**, a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 20____, by **THOMAS H. MUEHLENBECK, CITY MANAGER** of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

KBR

1444 Oak Lawn Ave. Suite 100 • Dallas, TX 75207
Phone 214.659.8410 • Fax 214.752.8366

5 February, 2010
Letter No.: 09-D-1111-PE

Richard Medlen
City of Plano
4850 14th Street
Plano, TX 75074

Subject: Job Order Proposal for RFP# TCPN-SW-10-0032-5053 – **Final Version**
Location: City of Plano, Day Labor Center, 805 Ozark Dr., Plano, TX, 75074
Project Title: CDBG Funds

Mr. Medlen,

Enclosed is our firm fixed price proposal for the above subject RFP. The proposal was prepared using the following data:

Work to be performed under the terms and conditions of the TCPN AJOC Contract.
Pricing is per attached scope and RS Means **2009** Facilities Construction Cost Data

The total proposed price for the attached Scope of Work: **\$ 299,884.00**

The proposed project duration is **150** days after notice to proceed.
The proposal is valid for **30** days.

Please direct any questions to Paul Kunze at (214) 659-8410 or Patrick Eno at (713) 980-3250.

Sincerely,



Patrick D Eno
Operations Manager

Attachments: scope, estimate

Funding Approval _____ Date: _____
Customer PO# _____
Price is accepted as a lump sum fixed firm price and the incorporated scope of work becomes the controlling document taking precedence over line item estimate detail.

This proposal includes data that shall not be disclosed outside of addressee and shall not be duplicated, used, or disclosed – in whole or part – for any purpose other than to evaluate this proposal.

EXHIBIT A
PAGE 1 OF 18

KBR - TCPN STATEWIDE
Contract No. R4895
RFP No. TCPN-SW-10-0032-5053 – **Final Version**
City of Plano
Day Labor Center
CDBG Recovery Funds

Outline

The intent of this proposal is to provide renovation services as detailed below. All work shall be in accordance with all OSHA standards, applicable federal, state and local codes and regulation and good construction practices.

KBR Scope of Work

Professional Stamped Design Work

- Provide Photometric site plan
- Provide site grading/survey plan
- Provide site paving plan
- Provide structural engineering plan on roof structure and foundation
- Provide soils testing report
- Provide building plans and details as required for interior and exterior renovations
- Provide landscape plan – Irrigation to be submitted by irrigation subcontractor for permit and review (may not be stamped).

General Conditions

- Provide 8' x 20' temporary office including connections to existing electrical, phone and data. 3 months rental is included. Connections to pre-finished office only data, phone, and electrical outlets shall be as provided by pre-finished office manufacturer. Office to have climate control. CoP to provide furniture. Office has no plumbing facilities. CoP to provide temporary sanitary facilities. CoP to provide drinking water for its own employees and use.
- Move port-a-potties, their current location is needed for truss staging – move back after construction
- All work shall be phased as to disrupt facility use for as little time as possible.
- Comply with City of Plano Community Services Section 3 Policy.
- Comply with reporting requirements for ARRA projects

Parking area

- Remove existing asphalt parking area (handicapped signage to be resused for new lot)
- Re-grade to provide drainage towards eastern property line (towards drainage structure in grassy area along Archerwood) – All Grading consists of: layout crew, 2 days of Bull Dozer Work to Cut Grade and 2 days of Skid Steer Work to Final Grade
- Provide compaction of existing subgrade as needed
- Provide compaction testing (2 for entire lot)
- Provide concrete testing 3 cylinders per pour
- Provide concrete paving for new lot - 6" - 3,000 psi concrete parking lot to provide 8 total spots 1 handicapped (counts as two) and 6 regular, no curbs are included
- Provide concrete or plastic parking bumpers for all spaces - 7 each
- Provide striping for entire lot
- Dowel connections to existing drive include joint sealant after concrete curing (other control/expansion joints to remain unsealed)
- Provide concrete curing compound (sprayed type)

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Eastern most driveway approach on Ozark Dr.

- Provide traffic control plan for permit
- Provide traffic control devices and flagmen as needed per permit/plan
- Remove existing asphalt
- Provide compaction testing (1 for each approach)
- Provide concrete testing 3 cylinders (poured with Western approach)
- Remove/saw cut existing curb and sidewalk
- Provide new curb/approach to align with Phase 1 concrete driveway – shall be 4,200 PSI concrete, doweling and joint sealant per CoP standards
- Provide new side walk extension to include sloped area to paving, sloped area (ramp) to be ADA/TAS compliant including CoP standard truncated dome brick pavers set in concrete block out in sand bed.
- Re-work section of pipe and cable fence to terminate at post that forms the 'T' junction with the northern running section towards the existing porch.
- Back fill areas affected by this change
- Haul off debris

Western most driveway approach on Ozark Dr.

- Provide traffic control plan for permit
- Provide traffic control devices and flagmen as needed per permit/plan
- Remove existing asphalt
- Remove/saw cut existing curbs and sidewalks
- Remove saw cut existing approach paving in line with existing 'dumpster driveway'. Middle section of approach paving to remain.
- Provide new curbs/approaches to align with 'dumpster driveway' – shall be 4,200 PSI concrete, doweling and joint sealant per CoP standards
- Provide new side walk extensions to include sloped area to paving, sloped area (ramp) to be ADA/TAS compliant including CoP standard truncated dome brick pavers set in concrete block out in sand bed.
- Back fill area affected by this change
- Haul off debris

Front Porch area (make ready and concrete)

- Remove existing asphalt driveway
- Remove/saw cut existing curbs and sidewalks
- Haul off all debris
- 'Cut Down' northern running section of pipe and cable fence that runs from the sidewalk area to the existing porch. Cut shall be made to accommodate the layout of the new porch slab. Re-paint any cutting, grinding, and welding that is necessary painting is to best match existing.
- Strip and stock pile top soil as needed
- Demo/Saw cut existing front porch slab from "hump" to the west corner of the building. Western Portion of porch slab by drinking fountain to remain. Replace within scope of new front porch slab. Approx. 10' x 34' section.
- Form, reinforce, dowel to existing, a new porch slab: from the corner of the building on the west to the existing porch line on the east, the front boundary shall be 15' from the existing southern porch line (approximately 35' from property line along Ozark Dr.)
- Porch shall comply with all ADA/TAS guidelines
- Provide compaction testing
- Provide concrete testing 3 cylinders per pour
- If needed, any grade changes that can not be 'floated out' between old and new shall be stepped and have permanently mounted CoP benches (left from Phase 1) used to prevent any tripping hazards.
- Concrete shall be 3,000 PSI with light broom finish
- Porch shall slope up to 2% away from the existing structure

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- Concrete shall contain all footings needed for support of new roof trusses and transitions needed from the existing structure
- Back fill around slab. Grade shall comply with all applicable codes including ADA/TAS.

Asbestos Abatement

- Provide third party TDSHS licensed air monitoring and testing technician for abatement activities
- Testing by Phased Contrast Microscopy
- Provide copy of air monitoring reports
- Provide permitting necessary for abate Asbestos containing Material (ACM)
- Provide abatement of 10 square feet as detailed in the information posted by the CoP.
- Disposal of ACM as required by law in registered/certified landfill.

New Roof Structure

- Remove all Roofing to deck
- Haul off all debris
- Remove trusses/roof framing on front portion of building, rear portion to remain including decking. Contractor's discretion on if/which exiting roof trusses are to remain to simplify demo/sister-up process. The new trusses are to carry roof load existing trusses may be left in place if feasible.
- Provide miscellaneous blocking and framing to prepare for new truss layout including 'pony wall' in front area to close front wall for higher trusses in porch area.
- East porch soffit area to remain at approximately 8' high, existing framing and soffit materials to be left in place where practicable – paint all remaining items to match new.
- Provide new truss over front portion of building, roof slope 4/12 to match existing rear area that is to remain.
- New Truss/roof line layout shall keep same Eastern facia line, have a Western facia line 1' away from the building's wall and have a southern boundary line 15' away from current porch's southern line location.
- Provide new roof truss over new porch area, roof slope 4/12. In middle area bottom cord to be at approximately 10' above porch floor, this establishes a 32' (e-w) X 25' (n-s) area of a 10' tall flat ceiling. Eastern and western areas to be either flat 8' ceiling or sloped but must ensure constant gutter/facia line.
- New porch area to have exposed wood beams and posts as needed to support roof structure.
- Underside of soffit to have Masonite panels and battens painted to match existing soffits.
- Install soffit and gutters (on all down slope sides) to match existing (white pre-finished). Splash blocks to be provided where downspouts do not 'spill' onto the concrete pavements.
- On gables (one large on the front, one partial large in rear and one small in rear) install board and batten siding to match exiting carport (use Hardie Plank products). Paint color to be selected by CoP.
- Provide new drip edge in entire roof edge, provide gable vents, provide roof vents as necessary, provide plumbing vent flashings as necessary, provide new 30# felt, provide 30 year GAF shingle with manufacturer's 20 NDL warranty (Golden Pledge).
- Provide blown-in fiberglass insulation over conditioned portion of attic area to a level equivalent of R-38.

Exterior Building Improvements

- Remove all steel siding
- Haul off all debris
- Remove all existing doors and windows.
- 'Block up' existing western most door by restrooms.
- Provide 2 new steel doors and frames with half lites. Provide new hardware consisting of new threshold, weather stripping, closer, and CoP standard lockset (all ADA/TAS compliant)

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EXHIBIT
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- Remove existing windows (6 each) and replace with like sizes on north and south walls. Replace single units on east wall with double units. Add single unit on west wall as shown in CoP sketches. Windows shall be of white vinyl construction, single hung with insect screen and have energy efficient insulating glass.
- Adjust window opening framing as necessary and patch repair affected drywall
- Wrap all exposed sheathing with Tyvek or equivalent moisture and vapor barrier. Tape all seams, edges, window openings and penetrations.
- Provide Hardie Plank lap siding
- Provide Hardie Plank trim
- Paint all new trim, exposed framing and siding elements of the exterior improvements

Exterior MEP Improvements

- Provide new natural gas service with tap from Archerwood side along adjacent property line.
- Provide all gas tap fees and meter fees.
- Gas account to be set up in the 'City of Plano's' name
- Provide gas piping from meter in rear to front porch area.
- Provide infrared gas heaters along front porch (flat area of roof) 20' long infrared heaters – Sizing subject to change based on new layout, maximum number closest to this to be installed
- Provide 6 new ceiling fans controlled by switch inside the building – Quantities subject to change based on new layout, maximum number closest to this to be installed
- Provide exterior type fluorescent lighting on the front porch area controlled by switch inside the building – 10 each 2' x 8' exterior type – Quantities subject to change based on new layout, maximum number closest to this to be installed
- Remove existing wall light fixtures and ceiling light fixtures in porch area.
- Provide 2 emergency lights

Interior Improvements

- Remove existing carpet and scrape floor
- Remove existing ceramic tile entry area at south door
- Remove vinyl base through office area
- Provide matching to restroom area 4" vinyl base through out office area
- Provide matching ceramic tile on 'customer' side of service counter
- Provide carpet tile on employee side of service counter (Interface Carpet Tile; Style – Cubic; Color – TBD)
- Provide full height walls at closet (northwest) and Work Area
- Provide new service counter to consist of 42" high wall with plywood front covered in plastic laminate (integral toe kick), 12" deep solid surface (Corian) transaction counter, 36" high employee side plastic laminate counter on plastic laminate knee brackets or legs. Back side shall have removable (for rough in purposes) plastic laminate covered plywood panels, upper portion of wall shall have matching fixed panels. Provide six grommets.
- Service counter shall have half door to with paint finish with self closing hinges and city standard lock set.
- Provide electrical, phone and data outlets for three work stations.
- Work area to consist of full wall, three electrical outlets, 36" tall cabinets, plastic laminate counter top, and uppers. Cabinets shall be white melamine interiors, lowers shall be drawer over door configuration with one adjustable shelf. Uppers shall be 30" tall, 14" deep and have two adjustable shelves. Doors shall be white melamine inside and plastic laminate inside with matching edge banding. Hinges shall be 120 degree European self closing type. Drawers shall be full extension ball bearing type glides. Pulls shall be 4" brushed aluminum wire pulls.
- At closet provide pair of 2'-0" x 6'-8" solid core paint grade doors to match existing at electrical closet including trim and lockset.

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PAGE 5 OF 18

- Paint (low VOC) all walls and ceilings of office area
- Paint (low VOC) southern wall of area outside of restroom
- Paint (low VOC) all new doors
- Provide insulation on all in-filled doors and reframed windows.
- Texture all patch work and new walls to best match existing
- Lighting to remain
- New data, phone and electrical outlets as detailed above
- Review existing fire alarm system and renovate as necessary to meet current codes being enforced in the City of Plano
- Provide drive loop/enunciator as detailed on site plan – enunciator to be mounted inside office area.
- Renovate security system for new door layout provide motion detectors and break glass sensors as necessary.
- Remove unnecessary surface mounted phone and data lines as determined by CoP.
- Provide 4 emergency lights

Landscape Improvements

- An allowance of \$20,000 shall be included to install all trees, bed prep, soil amendment, edging, Texas Pure mulch, plant materials and irrigation as determined by future meetings and design work.
- All work shall be in compliance with Cop Parks Department standards as established in future meetings.
- Irrigation design by irrigation subcontractor based on CoP standards.

General Notes

- All work shall be in accordance with OSHA Standards, applicable federal, state, and local codes, regulations and good construction practices.
- Include all materials, equipment, and labor in its bid to complete the scope of work.
- Daily and final clean-up as well as protection of adjacent surfaces.
- Data and phone pricing only includes raceway and pull strings. All wires, devices and terminations to be by CoP (other than temporary trailer connection)
- Bonding is included in this proposal
- All reporting as required for ARRA funded projects
- Approval of this proposal designates acceptance of the scope of work statement and line item estimate which has been used only to develop a mutually agreed price. The price is accepted as a lump sum fixed firm price and the incorporated scope of work becomes the controlling document taking precedence over line item estimate detail.

Exclusions

- Handling or removal of any hazardous material.
- Hidden or unforeseen conditions.
- Any permits required by the City shall be at 'No Cost'.
- TDHS permit for demo, assumed as a remodel
- No requirement was made for recycling demolition and construction refuse, therefore all site refuse separation, recycling, and record keeping of recycling is excluded.
- Any work not specifically mentioned in this scope of work.

End of Scope

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Project RFP 5053 - Co Plano - Day Labor Center - CDBG Funds - Final

Labor Rate Table 2009 RS Means Facilities with O&P

Equipment Rate Table 2009 RS Means Equipment with O&P

Master Format Level 4	Item Code	Item Description	Quantity	Unit	Labor Gross Total	Mat Gross Total	Equip Gross Total	Gross Costs Total
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Professional Design Services								
01113130	4010	Consultant, small building, using DOE software energy analysis, maximum	35,750.0	SF				10,166.66
								10,166.66
Professional Design Services Total								

Office Trailer								
01521320	0020	Office Trailer, furnished, buy, 20' x 8', excl. hookups	0.3	EA	180.03	1,511.41		1,691.44
								1,691.44
Rent Unfurnished 20 x 8 office trailer for three months								
					180.03	1,511.41		
Office Trailer Total								

Abatement Monitoring								
02821345	0110	OSHA Testing, certified technician, max	2.0	days				444.90
02821345	0210	OSHA Testing, personal sampling, PCM analysis, NIOSH 7400, maximum	2.0	EA	180.36	4.17		184.53
02821345	1200	OSHA Testing, cleaned area samples, TEM air sample analysis, NIOSH 7402, minimum	3.0	EA				236.99
								866.42
Abatement Monitoring Total								

Abatement Work								
02821343	8250	Bulk Asbestos Removal, shingle roofing, built-up, no gravel, non-friable, incl. disp. tools & 4 suits & resp./day/worker	2,700.0	SF	2,576.50	153.57		2,730.07
								2,730.07
Asbestos removal - OSHA/company standard for roof work 3 man crew needed - 1 day minimum								
					2,576.50	153.57		
Abatement Work Total								

Landscape Allowance								
32911316	0100	Soil preparation, mulching, aged barks, 3" deep, hand spread	4,305.8	SY	11,374.15	8,625.85		20,000.00
								20,000.00
Landscape Allowance Total								
					11,374.15	8,625.85		

Phase 1 - Trailer Make ready								
32141316	0715	Precast concrete unit paving slabs, patio block, colors, 12" x 12", 2-3/8" thick	24.0	SF	47.78	32.61		80.39
26051920	9110	Metal clad cable, copper, steel clad, stranded, 600 volt, 3 conductor, #8	0.8	Clf	210.92	236.99		447.90
26051925	0200	Cable connectors, nonmetallic, 600 volt, #14-3 wire to #12-2 wire	2.0	EA	5.50	1.92		7.01
26051935	0040	Wire connector, screw type, insulated, #14 to #8	16.0	EA	27.81	3.34		31.14
26051990	1300	Wire, copper, stranded, 600 volt, #8, type THWN-THHN, in raceway	2.0	Clf	92.27	60.67		152.93
26053305	9120	PVC conduit, schedule 40, 1" diameter, to 15' H, incl terminations, fittings, & support	50.0	LF	146.61	84.05		230.67
elec - TYP all below duplicates for trailer make ready								
26053305	9120	PVC conduit, schedule 40, 1" diameter, to 15' H, incl terminations, fittings, & support	50.0	LF	146.61	84.05		230.67
comm and data - TYP all below duplicates for trailer make ready								
26053305	9240	PVC conduit elbows, 1" diameter, to 15' H	2.0	EA	20.91	3.74		24.65
26053305	9240	PVC conduit elbows, 1" diameter, to 15' H	2.0	EA	20.91	3.74		24.65
26053305	9480	PVC adapters, 1" diameter, to 15' H	2.0	EA	19.20	1.66		20.85
26053305	9480	PVC adapters, 1" diameter, to 15' H	2.0	EA	19.20	1.66		20.85

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Master Format Level 4	Item Code	Item Description	Quantity	Unit	Labor Gross Total	Mat Gross Total	Equip Gross Total	Gross Costs Total
26053305	9610	PVC-LB, LR or LL fittings & covers, 1" diameter, to 15' H	1.0	EA	30.30		6.98	37.29
26053305	9610	PVC-LB, LR or LL fittings & covers, 1" diameter, to 15' H	1.0	EA	30.30		6.98	37.29
26053305	9990	Conduit, to 15' high, minimum labor/equipment charge	1.0	Job	91.63			91.63
26053305	9990	Conduit, to 15' high, minimum labor/equipment charge	1.0	Job	91.63			91.63
26053395	0130	Hole drilling, concrete wall, 8" thick, 1" pipe size, to 10' high	1.0	EA	38.51		6.60	48.98
26281620	4900	Safety switches, heavy duty 3 pole, fusible, 240 volt, 100 amp, NEMA 3R	1.0	EA	195.91		515.05	710.96
26241620	0600	Circuit breakers, bolt-on, 10 k A.I.C., 2 pole, 240 volt, 80 to 100 amp	1.0	EA	72.99		62.25	135.24
26241630	9000	Panelboards, minimum labor/equipment charge	1.0	Job	366.54			366.54
27151313	7100	Unshielded twisted pair (UTP) cable, solid, plenum, #24, 4 pair, category 5	3.0	CJF	157.36		92.90	250.26
27151313	7312	Unshielded twisted pair (UTP) jack, RJ-45, category 5	10.0	EA	56.31		31.53	87.84
27511610	9000	Public address system, minimum labor/equipment charge	4.0	Job	417.09			417.09
work to tie in intercom system					2,306.28	1,236.31	3.86	3,546.45

Phase 1 - Trailer Make ready Total

Master Format Level 4	Item Code	Item Description	Quantity	Unit	Labor Gross Total	Mat Gross Total	Equip Gross Total	Gross Costs Total
Phase 2 - Building and Porch								
01543320	0400B	Rent backhoe-loader 40 to 45 HP 5/8 CY capacity - Rent per day	10.0	days			1,434.55	1,434.55
02411317	5050	Demolish, remove pavement & curb, remove bituminous pavement, 4" to 6" thick, excludes hauling and disposal fees	444.0	SY	1,532.30		768.54	2,300.84
02411317	5300	Demolish, remove pavement & curb, remove concrete, rod reinforced, to 6" thick, excludes hauling and disposal fees	72.0	SY	522.35		260.27	782.62
02411317	5590	Demolish, remove pavement & curb, patio/carport, excludes hauling, foundation, minimum labor/equipment charge	4.0	Job	957.04		483.83	1,440.87
demo porch structure					2,052.0	SF	1,897.19	7,391.66
roof framing demo								
02411921	3000	Selective demolition, gutting, building interior, residential building, includes dumpster fees, minimum labor/equipment charge	1.0	Job	267.76		92.46	360.22
02411923	0840	Selective demolition, rubbish handling, dumpster, 40 C.Y., 13 ton capacity, weekly rental, includes one dump per week, cost to be added to demolition cost.	9.0	week		8,133.33		8,133.33
02411923	0910	Selective demolition, rubbish handling, dumpster, alternate pricing method, delivery, average for all sizes, cost to be added to demolition cost.	1.0	EA		52.14		52.14
02411923	0920	Selective demolition, rubbish handling, dumpster, alternate pricing method, haul, average for all sizes, includes one dump per week, cost to be added to demolition cost.	1.0	EA		152.93		152.93
02411923	2040	Selective demolition, rubbish handling, 100' haul, load, haul to chute and dumping into chute, cost to be added to demolition cost.	228.0	CY	7,276.39			7,276.39
02411923	3080	Selective demolition, rubbish handling, loading & trucking, machine loading truck, includes 2 mile haul, cost to be added to demolition cost.	87.5	CY	820.32		313.25	1,133.58
02411925	0015	Selective demolition, saw cutting, asphalt, up to 3" deep	10.0	LF	5.45		2.64	10.87
02411925	0020	Selective demolition, saw cutting, each additional inch of depth over 3"	30.0	LF	9.63		4.59	15.93
02411925	9000	Selective demolition, saw cutting, minimum labor/equipment charge	1.0	Job	132.30		21.90	154.20

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Master Format Level 4	Item Code	Item Description	Quantity	Unit	Labor Gross Total	Mat Gross Total	Equip Gross Total	Gross Costs Total
31141323	0700	Topsoil stripping and stockpiling, topsoil, clay, dry and soft, adverse conditions, 200 H.P. dozer	98.0	CY	56.67		91.97	148.64
01543650	0020	Mobilization or demobilization, dozer, loader, backhoe or excavator, 70 H.P. to 150 H.P., up to 50 miles	2.0	EA	131.83		162.67	294.49
32061010	0120	Sidewalks, driveways, and patios, bedding for brick or stone, mortar, 2" thick, excludes base	1,700.0	SF	5,038.62	2,266.84		7,305.46
32061010	0400	Sidewalks, driveways, and patios, sidewalk, concrete, cast-in-place with 6 x 6 - W1.4 x W1.4 mesh, broomed finish, 3000 psi, 6" thick, excludes base	1,700.0	SF	2,975.90	3,094.08		6,069.98
32061010	9000	Sidewalks, driveways, and patios, sidewalks, driveways, and patios, excludes base, minimum labor/equipment charge	1.0	Job	297.02			297.02
06050510	6130	Selective Demolition, Wood Framing, wood framing, sheathing from walls, 1/2", from walls	2,160.0	SF	1,010.12			1,010.12
06050510	9000	Selective Demolition, Wood Framing, wood framing, minimum labor and equipment charge	22.0	Job	1,445.92			1,445.92
extra carpentry labor to reframe for new windows and doors 2 hours per opening								
06111024	2102	Wood framing, miscellaneous, firestops, 2" x 6"	400.0	LF	444.90	144.09		588.99
06111028	0110	Porch or deck framing, treated lumber, posts or columns, 4" x 6"	190.0	LF	461.08	295.38		756.46
06111042	0850	Furring, wood, on ceilings, on wood, 1" x 3"	2,000.0	LF	1,921.16	467.65		2,388.81
06111042	9000	Furring, minimum labor/equipment charge	8.0	Job	667.35			667.35
06163610	0202	Sheathing, plywood on roof, CDX, 5/8" thick	3,000.0	SF	1,535.66	1,402.95		2,938.61
06175310	0400	Roof Trusses, fink (W) or King post type, metal plate connected, 4 in 12 slope, 2'-0" O.C., 4' to 60' span	3,000.0	SF	1,657.00	10,503.18	542.22	12,702.40
trusses material factor 2 for extra wide								
06181320	6750	Laminated Framing, parallel strand members, southern pine or western species, 7" wide x 14" deep	120.0	LF	227.51	3,867.60		4,095.10
06181320	9000	Laminated Framing, minimum labor/equipment charge	7.6	Job	5,086.27		1,637.79	6,724.05
12366116	2200	Solid Surface Countertops, acrylic polymer, patterned colors, pricing for orders of 1 - 50 LF, 25" wide	22.0	LF	736.87	1,167.86		1,904.73
07050510	0120	Selective demolition, thermal and moisture protection, downspouts, including hangers	50.0	LF	37.60			37.60
07050510	0420	Selective demolition, thermal and moisture protection, gutters, metal or wood, edge hung	100.0	LF	109.96			109.96
07050510	0670	Selective demolition, thermal and moisture protection, insulation, batts or blankets	1,444.0	CF	273.77			273.77
07050510	1325	Selective demolition, thermal and moisture protection, roof accessories, plumbing vent flashing	3.0	EA	24.74			24.74
07050510	2120	Selective demolition, thermal and moisture protection, roof edge, aluminum soffit and fascia	600.0	LF	276.80			276.80
07050510	2220	Selective demolition, thermal and moisture protection, roof edge, drip edge	300.0	LF	47.40			47.40
07050510	3125	Selective demolition, thermal and moisture protection, roofing, roofing felt, #30	31.0	sq	272.31			272.31
07050510	3170	Selective demolition, thermal and moisture protection, roofing, asphalt shingles, 1 layer	3,100.0	SF	1,175.45			1,175.45

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07050510	4970	Selective demolition, thermal and moisture protection, siding, horizontal clapboards	2,104.0	SF	1,462.61			1,462.61
07050510	9000	Selective demolition, thermal and moisture protection, minimum labor/equipment charge	2.0	Job	264.16			264.16
07311310	0450	Asphalt Shingles, premium, laminated multi-layered shingles, class A, 260-300 lb/sq, 4 bundles/sq	40.0	sq	3,538.98	2,224.50		5,763.48
07311310	0825	Asphalt Shingles, #30 felt underlayment	40.0	sq	213.60	265.42		479.03
07311310	0900	Asphalt Shingles, ridge shingles	66.0	LF	61.73	68.40		130.13
07311310	9000	Asphalt Shingles, minimum labor/equipment charge	50.0	Job	5,150.47			5,150.47
20 yr. NDL warranty								
07712310	0400	Aluminum downspouts, enameled, 3" x 4", .024" thick	100.0	LF	271.11	177.58		448.69
07712310	9000	Downspouts, minimum labor/equipment charge	8.0	Job	758.35			758.35
07714310	0020	Aluminum drip edge, mill finish, 0.16" thick, 5" wide	340.0	LF	283.62	98.84		382.46
07712320	0300	Elbows, aluminum, enameled, .025" thick, 3" x 4"	30.0	EA	113.75	107.12		220.87
07712330	0400	Aluminum gutters, stock units, enameled, 5" box, .032" thick	300.0	LF	946.04	608.58		1,554.62
07712330	9000	Gutters, minimum labor/equipment charge	16.0	Job	1,617.82			1,617.82
08050510	0200	Door demolition, exterior door, single, 3' x 7' high, 1-3/4" thick, remove	3.0	EA	49.29			49.29
08050510	2000	Door demolition, door frames, metal, remove and reset	3.0	EA	125.13			125.13
08050510	9000	Door demolition, minimum labor/equipment charge	1.0	Job	83.42			83.42
08050520	0280	Window demolition, aluminum, to 50 S.F.	7.0	EA	369.38			369.38
08050520	9000	Window demolition, minimum labor/equipment charge	1.0	Job	65.72			65.72
08131313	1240	Doors, commercial, steel, flush, half glass, hollow core, hollow metal, 20 ga., 3'-0" x 6'-8" x 1-3/4" thick	2.0	EA	82.15	581.40		663.56
08131313	9000	Doors, commercial, steel, hollow metal, minimum labor/equipment charge	2.0	Job	166.84			166.84
08121313	0040	Frames, steel, knock down, hollow metal, double, 16 ga., up to 5-3/4" deep, 6'-8" h x 6'-0" w	1.0	EA	48.66	106.17		154.83
08121313	3000	Frames, steel, knock down, hollow metal, 14 gauge, up to 5-3/4" D, 6'-8" H, 3'-0" W, single	2.0	EA	83.42	194.64		278.06
08141609	3400	Doors, wood, architectural, flush, interior, M.D. overlay on hardboard, 1-3/8", 4'-0" x 7'-0"	2.0	EA	132.71	189.59		322.30
08141609	9000	Doors, wood, architectural, minimum labor/equipment charge	1.0	Job	83.42			83.42
08015381	0080	Windows, solid vinyl replacement, double hung, insulated glass, 102 to 111 united inches	10.0	EA	1,074.33	2,654.23		3,728.56
08712030	2440	Door hardware, door closer, rack and pinion, backcheck and adjustable power, top jamb mount, all sizes, hold open arm	2.0	EA	109.96	281.85		391.82
08712050	0020	Door hardware, doorstops, holder and bumper, floor or wall	2.0	EA	20.85	46.77		67.62
08712090	1080	Door hardware, hinges, full mortise, high frequency, steel base, US26, 4-1/2" x 4-1/2"	6.0	pair	318.51			318.51
08712042	0110	Door hardware, mortise lockset, commercial, wrought knobs and full escutcheon trim, keyed, office/entrance/apartment, maximum	3.0	EA	142.19	767.83		910.02
08712042	3190	Door hardware, mortise lockset, commercial, for re-core cylinder, add	3.0	EA		69.20		69.20
08712510	2800	Weatherstripping, doors, metal frame, extruded sections, bronze, for 3' x 7' door	2.0	Opng	334.94	157.99		492.93
08712510	3700	Weatherstripping, for thresholds, door sweep, flush mounted, vinyl	2.0	EA	26.86	21.80		48.66

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08712065	0100	Thresholds, aluminum, 8" wide x 1/2" thick	2.0	EA	54.98	53.72		108.70
09050520	0400	Flooring demolition, carpet, bonded, includes surface scraping	800.0	SF	212.34			212.34
09050520	0560	Carpet Tile, permanent adhesive, removal	800.0	SF	227.51			227.51
09050520	2020	Flooring demolition, tile, ceramic, mud set	16.0	SF	13.55			13.55
09050520	9000	Flooring demolition, minimum labor/equipment charge	4.0	Job	262.90			262.90
09211633	6000	Partition Wall, interior, fire resistant, 2 layers, 2 hour, taped both sides, installed on & incl. 2" x 4" wood studs, 16" O.C., 8' to 12' high, 5/8" gypsum drywall	286.0	SF	929.01	354.25		1,283.26
09017010	0500	Gypsum wallboard, repairs, skim coat surface with joint compound	2,000.0	SF	417.09	37.92		455.01
09017010	9000	Gypsum wallboard, repairs, minimum labor/equipment charge	24.0	Job	4,004.10			4,004.10
09301310	3100	Ceramic tile, floors, natural clay, random or uniform, thin set, color group 2	165.0	SF	484.87	537.01		1,021.88
09301310	9500	Ceramic tile, minimum labor/equipment charge	8.0	Job	1,324.59			1,324.59
09651313	1150	Cove base, rubber or vinyl, standard colors, 4" h, .080" thick	250.0	LF	238.56	161.15		399.71
09651313	1630	Cove base, rubber or vinyl, standard colors, corners, 4" h	24.0	EA	22.90	45.96		68.86
09681310	5060	Carpet Tile, tufted nylon, 42 oz., 18" x 18" or 24" x 24"	100.0	SY	379.18	3,159.80		3,538.98
09912374	0300	Paints & Coatings, walls & ceilings, interior, concrete, drywall or plaster, zero voc latex, primer or sealer coat, sand finish, brushwork	300.0	SF	85.31	13.27		98.59
09912374	0340	Paints & Coatings, walls & ceilings, interior, concrete, drywall or plaster, zero voc latex, primer or sealer coat, sand finish, roller	3,000.0	SF	720.43	151.67		872.10
09912374	0900	Paints & Coatings, walls & ceilings, interior, concrete, drywall or plaster, zero voc latex, 2 coats, sand finish, brushwork	300.0	SF	142.19	22.75		164.94
09912374	0940	Paints & Coatings, walls & ceilings, interior, concrete, drywall or plaster, zero voc latex, 2 coats, sand finish, roller	3,000.0	SF	834.19	246.46		1,080.65
12357013	0500	Casework, base cabinets, hospital, laminated plastic	12.0	LF	803.85	1,964.13		2,767.98
12357013	1650	Casework, base cabinets, hospital, counter top, laminated plastic, incl. backsplash	12.0	LF	200.96	420.89		621.85
12357016	2100	Casework, base cabinets, nurses station, door type, laminated plastic	25.0	LF	1,674.69	4,723.90		6,398.59
12357013	2500	Casework, wall cabinets, laminated plastic	12.0	LF	530.85	1,471.20		2,002.05
22111344	0815	Pipe, steel, black, threaded, 1" diameter, schedule 40, A-106, grade A/B seamless, includes coupling and clevis hanger assembly sized for covering, 10' OC	70.0	LF	506.52	444.58		951.10
22111344	1330	Pipe, steel, galvanized, threaded, 1", schedule 40, Spec. A-53, includes coupling and clevis hanger assembly sized for covering, 10' OC	10.0	LF	72.36	35.39		107.75
22111345	0110	Elbow, 90 Deg., steel, cast iron, black, straight, threaded, standard weight, 1"	10.3	EA	301.27	32.32		333.60
22111345	0550	Tee, steel, cast iron, black, straight, threaded, standard weight, 1"	4.0	EA	190.73	16.56		207.28
22111345	0770	Elbow, 90 Deg., steel, cast iron, galvanized, straight, threaded, standard weight, 1"	3.0	EA	88.25	24.55		112.80
22111345	1150	Tee, steel, cast iron, galvanized, straight, threaded, standard weight, 1"	2.0	EA	95.43	22.12		117.54
22111345	1360	Coupling, steel, cast iron, black, straight, threaded, extra heavy weight, 1"	15.0	EA	382.49	48.82		431.31
22111345	4170	Plug, steel, cast iron, black, threaded, standard weight, 1"	6.0	EA	76.59	21.99		98.59
22111345	9990	Pipe steel fitting, minimum labor/equipment charge	24.0	Job	2,290.22			2,290.22

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22052310	0550	Valves, brass, gas cocks, threaded, 1"	3.0	EA	60.19	37.44		97.64
22111910	0240	Flexible connectors, corrugated, gas, seamless brass, steel fittings, 7/8" OD x 1/2" ID, 24" long	2.0	EA	23.38	30.33		53.72
22111910	9000	Flexible connectors, minimum labor/equipment charge	52.4	Job	5,000.00			5,000.00
Gas service including meter, tap and permit								
23822710	0120	Infra-red unit, gas fired, unvented, electric ignition, input, 100% shutoff, 45 MBH, excludes piping and wiring	2.0	EA	278.06	606.68		884.74
23342310	6946	Fans, residential roof jacks and wall caps, wall cap with back draft damper, 3" & 4" diam. round duct	3.0	EA	103.80	33.65		137.45
26050510	9000	Electrical demolition, minimum labor/equipment charge	40.0	Job	3,665.37			3,665.37
Electrician to move and reconnect existing electrical to allow new trusses to be installed								
26015081	3200	Lighting fixture, maintenance, remove and replace (reinstall), incl. remove, disconnect wire terminations, store, reinstall and reconnect wire terminations	16.0	EA	1,466.15			1,466.15
electrical connections to Gas heaters								
28013051	3300	Fire alarm device, maintenance, remove and replace (reinstall), incl. remove, disconnect wire terminations, store, reinstall and reconnect wire terminations	60.0	EA	4,133.02			4,133.02
to bring fire alarm and security up to standards								
26059010	2110	Switch devices, resi, single pole, ivory, type NM (Romex) cable, 20', 15 amp, incl box & cover plate	3.0	EA	64.74	24.36		89.11
26059010	4050	Receptacle devices, resi, duplex outlet, ivory, w/#12/2, type NM cable, 20', 15 amp, incl box & cover plate	10.0	EA	297.02	94.79		391.82
26059010	4910	Low voltage outlets, resi, telephone receptacle, 4/C phone wire, 20'	6.0	EA	85.88	43.04		128.92
26059010	4920	TV receptacle, resi, 20' of RG59U coax cable, F type connector, incl box & ext cover plate	6.0	EA	136.50	75.84		212.34
26059010	6100	Lighting outlets, resi, box 4" & wire (for fixture), type NM cable, 20'	16.0	EA	230.54	194.14		424.68
26059010	6370	Light fixtures, resi, outdoor, wall mounted, luxury grade	10.0	EA	145.35	1,693.65		1,839.00
26059010	8380	Paddle fan, resi, variable speed (w/o lights), luxury model (DC motor)	6.0	EA	284.38	1,497.75		1,782.13
26521310	0700	Emergency lighting units, nickel cadmium battery operated, twin sealed beam light, 25 W, 6 V each	6.0	EA	549.81	2,521.52		3,071.33
26521310	9000	Emergency lighting units, minimum labor/equipment charge	6.0	Job	549.81			549.81
					95,253.36	61,356.53	7,713.86	164,323.74
Phase 2 - Building and Porch Total								

Master Format Level 4	Item Code	Item Description	Quantity	Unit	Labor Gross Total	Mat Gross Total	Equip Gross Total	Gross Costs Total
Phase 3 - Parking Lot, Regrade Site and Approaches								
01712313	1200	Boundary & survey markers, crew for building layout, 3 person crew	2.0	days	2,114.54		97.32	2,211.86
01452350	0015	Field Testing, for concrete building, costing \$1,000,000, minimum	1.0	Project				3,286.19
field testing, concrete and soils								
01541950	0100	Crane crew, daily use for small jobs, 12-ton truck-mounted hydraulic crane, portal to portal	4.0	days	1,320.80		2,850.14	4,170.94
earth work, grading and back fill crew								
01562310	0410	Barricades, PVC pipe barricade, break-a-way, buy, 3" diam. PVC, with 3 each 1' x 4' reflectorized panels	6.0	EA		1,270.24		1,270.24
01543320	0400B	Rent backhoe-loader 40 to 45 HP 5/8 CY capacity - Rent per day	4.0	days			573.82	573.82
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02411317	5050	Demolish, remove pavement & curb, remove bituminous pavement, 4" to 6" thick, excludes hauling and disposal fees	1,100.0	SY	3,796.25		1,904.03	5,700.28
02411919	0100	Selective demolition, dump charges, typical urban city, building construction materials, includes tipping fees only	30.0	ton		2,085.47		2,085.47
02411923	3080	Selective demolition, rubbish handling, loading & trucking, machine loading truck, includes 2 mile haul, cost to be added to demolition cost.	243.0	CY	2,278.16		869.95	3,148.11
02411923	5000	Selective demolition, rubbish handling, up to 8 C.Y. truck, loading & trucking, haul, per mile, includes 2 mile haul, cost to be added to demolition cost.	4,876.0	CY	1,090.83		1,559.21	2,650.04
01543650	0020	Mobilization or demobilization, dozer, loader, backhoe or excavator, 70 H.P. to 150 H.P., up to 50 miles	2.0	EA	131.83		162.67	294.49
32112323	0370	Base course drainage layers, aggregate base course for roadways and large paved areas, bank run gravel, spread and compacted, 6" deep	210.0	SY	68.74	1,566.00	45.25	1,680.00
32112323	9000	Base course drainage layers, prepare and roll sub-base, minimum labor/equipment charge	7.7	Job	1,012.15			1,012.15
32131323	0100	Concrete paving surface treatment, 4500 psi, fixed form, unreinforced, 12' pass, 8" thick, includes joints, finishing, and curing	210.0	SY	472.19	9,555.24	162.04	10,189.46
32131323	0505	Concrete paving surface treatment, minimum labor/equipment charge	24.0	Job	7,280.18			7,280.18
32131323	0540	Concrete paving surface treatment, reinforcing steel for rigid paving, 18 lbs/SY	210.0	SY	743.18	4,273.31		5,016.50
32131323	0710	Concrete paving surface treatment, transverse joint support dowels	100.0	EA	720.43	631.96		1,352.39
32131323	0730	Concrete paving surface treatment, transverse expansion joints, includes premolded bituminous joint filler	300.0	LF	5,058.21	875.90		5,934.10
32131323	1000	Concrete paving surface treatment, curing, with sprayed membrane, by hand	210.0	SY	148.64	138.02		286.66
32172314	0790	Pavement markings, layout of pavement marking	15,000.0	LF	464.49		104.27	568.76
32172314	0800	lay out and trip charge for small job						
32172314	1200	Pavement markings, parking stall, paint, white, 4" wide	9.0	Stall	32.33	37.54	7.19	77.07
32161313	0435	Pavement markings, handicap symbol	1.0	EA	14.22	10.43		24.65
32141610	0012	Cast-in place concrete curbs & gutters, straight, wood forms, 0.066 C.Y. per L.F., 6" high curb, 6" thick gutter, 30" wide	150.0	LF	853.15	1,990.67		2,843.82
32141610	0540	Brick paving, without joints, (4.5 brick/S.F.), 4" x 8" x 1-1/2"	36.0	SF	194.29	69.62		263.91
32141610	9000	Brick paving, bedding, coarse washed sand bed, 1" thick	36.0	SF	5.66	7.05	0.25	12.97
32171316	1200	Plastic parking bumpers, wheel stops, thermoplastic, 6" x 10" x 6" - 0", 2 dowels per each	24.0	Job	3,973.76			3,973.76
03051385	0210	Winter Protection, temporary shelter, slab on grade, wood frame and polyethylene sheeting, build or remove, maximum	28.9	Msf	6,387.85	5,840.32		12,228.17
03111365	9000	protection of existing structure while unde const						
		C.I.P., concrete forms, slab on grade, minimum equipment/labor charge, includes erecting, bracing, stripping and cleaning	80.0	Job	13,347.00			13,347.00
Phase 3 - Parking Lot, Regrade Site and Approaches Total					51,781.88	30,156.64	8,336.15	93,560.86
Grand Total					163,652.56	103,044.48	16,053.87	296,885.64

RFP 5053 Day Labor CDBG funds Final Version.est

KBR, Inc.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/27/2009

PRODUCER John L. Wortham & Son, L.P.
2727 Allen Parkway
Houston, TX 77019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

713-526-3366
www.worthaminsurance.com

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: ACE American Insurance Co.

22667

INSURER B: Indemnity Insurance Co. of North America

43575

INSURER C:

INSURER D:

INSURER E:

INSURED KBR, Inc.
Kellogg Brown & Root Services, Inc.
601 Jefferson, Suite 3500
Houston, TX 77002

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR/ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	HDOG24934767	11/1/2009	11/1/2010	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 10,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/DP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	ISAH08581563	11/1/2009	11/1/2010	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A	B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below Y/N <input type="checkbox"/> N	WLRC45702753 (AOS) WLRC45705833 (CA&AZ)	11/1/2009 11/1/2009	11/1/2010 11/1/2010	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Re: TCPN State Wide Joc Project Contract R4895

Requestor: Patrick Eno

CERTIFICATE HOLDER

City Of Plano
Attn: Richard Medlen
4850 14th Street
Plano TX 75074

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

John L. Wortham & Son, L

John L. Wortham & Son, L.P.

ACORD 25 (2009/01)

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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing Insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend, or alter the coverage afforded by the policies listed thereon.

CANCELLATION NOTICE

The CANCELLATION NOTICE on the CERTIFICATE OF INSURANCE is amended to include the following wording: The Insurance Companies may cancel the described policy(ies) by mailing or delivering ten (10) days written notice of cancellation to the Named Insured for: (1) Non Payment of premium or (2) any other circumstance permitted by state law or policy conditions.

ADDITIONAL INSURED DISCLAIMER

Coverage for Additional Insureds can vary significantly from policy to policy and thus Additional Insured status does not guarantee protection for all losses. Coverage is subject to actual policy terms and conditions.

EXHIBIT A
PAGE 17 OF 18

CERTIFICATE - ADDENDUM

Named Insured:

KBR, Inc.
Kellogg Brown & Root Services, Inc.
601 Jefferson, Suite 3500
Houston, TX 77002

Certificate Holder:

Issue Date: 10/27/2009

City Of Plano
Attn: Richard Medlen
4850 14th Street
Plano TX 75074

Additional Insured: The Certificate Holder Is Included As An Additional Insured Under The Commercial General Liability And Business Automobile Liability Policies, Excluding Workers Compensation And Employer's Liability, But Only With Respect To And To The Extent Of The Liabilities Assumed By The Insured Under A Written Contract And Subject To The Policies Terms, Conditions & Exclusions.

General Liability, Automobile Liability And Workers' Compensation/Employer's Liability: Waiver Of Subrogation Is Provided In Favor Of The Certificate Holder Under The Commercial General Liability, Business Automobile And Workers' Compensation/Employer's Liability Policies, But Only With Respect To And To The Extent Of The Liability Assumed By The Insured Under A Written Contract And Subject To The Policies Terms, Conditions And Exclusions.

EXHIBIT A
PAGE 18 OF 18

ecertsonline

PAYMENT BOND

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS:

That _____, hereinafter called "**Principal**", and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, hereinafter "**Surety**", are held and firmly bound unto the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter called "Beneficiary", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements described below, in the penal sum of _____ **DOLLARS** (\$ _____) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain written Contract with the Beneficiary, dated the _____ day of _____, _____, A.D. which is made a part hereof by reference, for the construction of certain public improvements that are generally described as follows:

_____.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to

Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anyway affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Texas Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Texas Insurance Code Article 3503.003.

IN WITNESS WHEREOF, this instrument is executed in counterparts, each one of which shall be deemed an original, this the _____ day of _____, _____.

PRINCIPAL: _____
Address _____
Tel. No. _____

ATTEST:

BY: _____
TITLE: _____

SURETY: _____
Address _____
Tel. No. _____

ATTEST:

BY: _____
TITLE: _____

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

For additional information on the above named Surety company you may contact the Texas Department of Insurance at (800)578-4677.

NOTE: Date on Page 1 of Payment Bond must be same date that City Council awarded Contract. Date on Page 2 of Payment Bond must be after the date that City Council awarded the Contract. If Resident Agent is not a corporation, give a person's name.

PERFORMANCE BOND

STATE OF TEXAS §
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS:

That _____ hereinafter called "Principal", and _____, a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, hereinafter called "Surety", are held and firmly bound unto the CITY OF PLANO, TEXAS a home-rule municipal corporation, hereinafter called "Beneficiary", in the penal sum of _____ DOLLARS (\$_____) plus fifteen percent (15%) of the stated penal sum as an additional sum of money representing additional court expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain written Contract with the Beneficiary, dated the _____ day of _____, _____, A.D. which is made a part hereof by reference, for the construction of certain public improvements that are generally described as follows:

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the plans, specifications and contract documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Beneficiary; and, if the Principal shall fully indemnify and save harmless the Beneficiary from all costs and damages which Beneficiary may suffer

by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Texas Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Texas Insurance Code Section 3503.003.

IN WITNESS WHEREOF, this instrument is executed in ____ copies, each one of which shall be deemed an original, this, the ____ day of _____, _____.

PRINCIPAL: _____
Address _____
Tel. No. _____

ATTEST:

BY: _____
TITLE: _____

SURETY: _____
Address _____
Tel. No. _____

ATTEST:

BY: _____
TITLE: _____

EXHIBIT B
PAGE 5 OF 6

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

For additional information on the above named Surety company you may contact the Texas Department of Insurance at (800)578-4677.

NOTE: Date on Page 1 of Performance Bond must be same date that City Council awarded Contract. Date on Page 2 of Performance Bond must be after the date that City Council awarded the Contract. If Resident Agent is not a corporation, give a person's name.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory	
Council Meeting Date:	2/22/10
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

To approve and authorize a contract with Freese and Nichols, Inc. to provide Engineering Services in conjunction with improvements for Park Erosion Control Projects in an amount not to exceed \$82,560 and authorizing the City Manager or his designee to execute any and all documents necessary to effectuate the contract.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,362,000	500,000	1,862,000
Encumbered/Expended Amount	0	-50,704	0	-50,704
This Item	0	-82,560	0	-82,560
BALANCE	0	1,228,736	500,000	1,728,736

FUND(S): MUNICIPAL DRAINAGE CIP

COMMENTS: Funds are included in the 2009-10 Municipal Drainage CIP. This item, in the amount of \$82,560, will leave a current year balance of \$1,228,736 for the Creek Erosion Projects.

STRATEGIC PLAN GOAL: Plans and specifications for erosion control relate to the City's Goal of Safe Large City.

SUMMARY OF ITEM

The attached Engineering Service Agreement with Freese and Nichols, Inc. is for the preparation of plans and specifications for erosion control structures at various park sites.

The total contract fee is \$82,560 and includes basic services, surveying, structural engineering, bid documents, construction plans, and reimbursable expenses. The basic services are \$46,100, and additional services including surveying, are \$36,460. Surveying will be required at multiple sites.

Freese and Nichols, Inc is on the 2009-10 selected list of qualified consultants for engineering services. The fee is consistent with previous park and engineering projects of this type. The total construction estimate for the project is \$610,000. The basic service fee is 7.56% of the estimated construction budget. The total fee, including basic services, surveying, geotechnical investigation, and reimbursable expenses is 13.53% of the estimated construction budget.

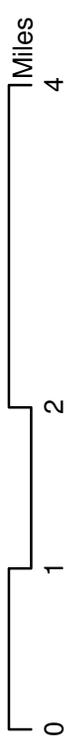
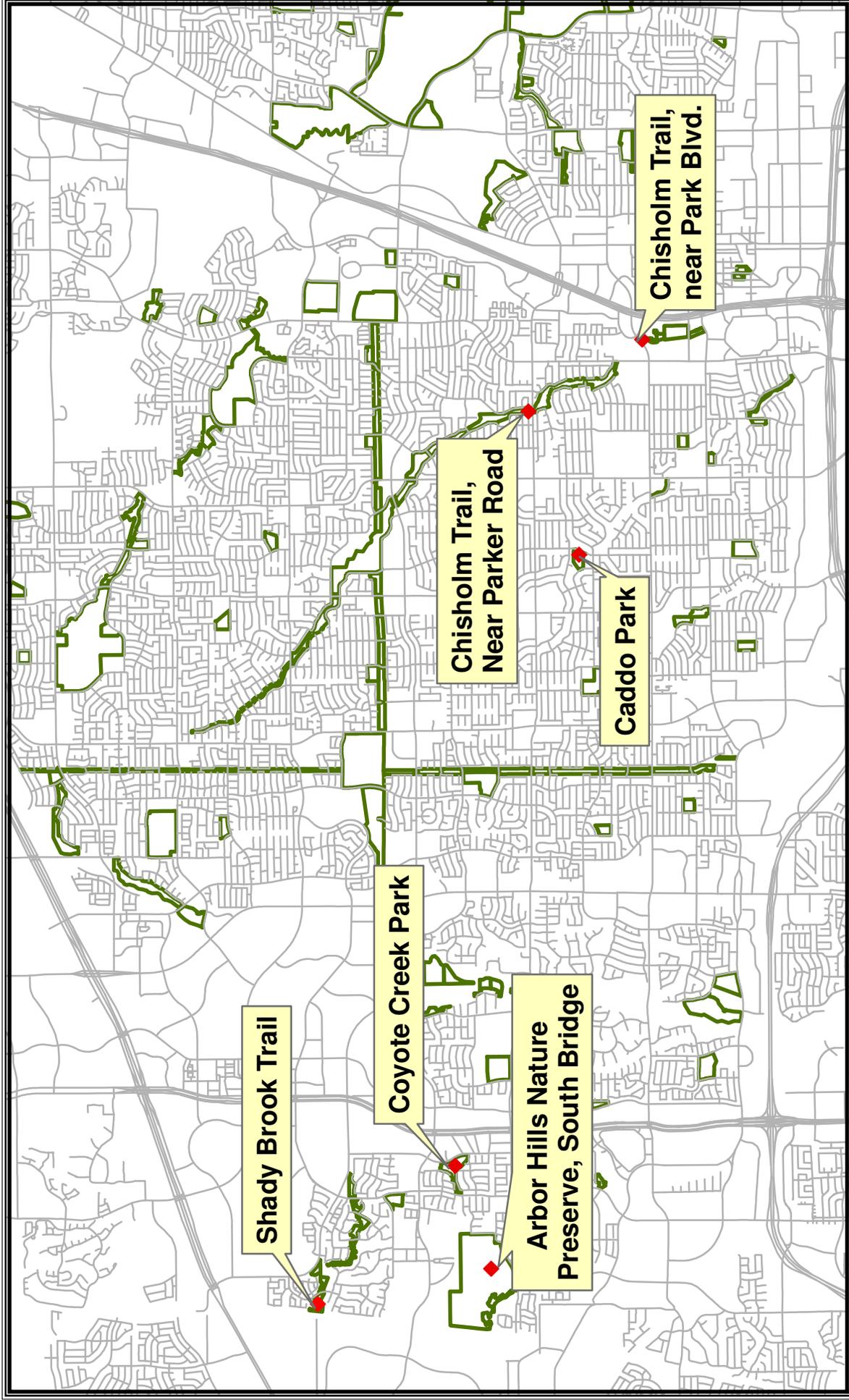


CITY OF PLANO COUNCIL AGENDA ITEM

These improvements are needed to protect trails, storm sewer outfalls, pedestrian bridge abutments, and low water crossings from erosion adjacent to creek banks in parks.

Funding for this project is from the Municipal Drainage Fund and will not come from the General Fund budget. These improvements will not increase operating and maintenance costs.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Location Map Engineering Services Agreement	



Park Erosion Control Structures

Location Map of Project Sites

Park Planning Division

PARK EROSION CONTROL STRUCTURES - 2009

PROJECT NO. 6034

ENGINEERING SERVICES AGREEMENT

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

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **PARK EROSION CONTROL STRUCTURES - 2009** project located in the City of Plano, Collin and Denton County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

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

II. Scope of Services

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

III. Schedule of Work

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

Engineer agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Engineer shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Engineer's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

VII. INDEMNITY

ENGINEER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM THE SERVICES PROVIDED BY ENGINEER AND TO THE EXTENT CAUSED BY THE NEGLIGENT ACT OR OMISSION OR INTENTIONAL WRONGFUL ACT OR OMISSION OF

ENGINEER, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM ENGINEER IS LEGALLY RESPONSIBLE (HEREINAFTER "CLAIMS"). ENGINEER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY ENGINEER IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER SHALL RETAIN CITY APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ENGINEER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND ENGINEER SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Engineer's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made

during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

XIV. Complete Contract

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

XV. Mailing of Notices

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

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

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

Freese and Nichols, Incorporated
1702 North Market Street, Suite 500, LB 1
Dallas, TX 75202-2001
Attn: Kevin R. Johnson

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

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract Interpretation:

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

C. Venue/Governing Law:

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

D. Successors and Assigns:

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

E. Severability:

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

F. Effective Date:

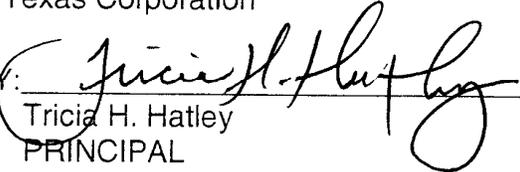
This Agreement shall be effective from and after execution by both parties hereto.

SIGNED on the date indicated below.

**FREESE AND NICHOLS,
INCORPORATED**

A Texas Corporation

DATE: 1-4-10

BY: 
Tricia H. Hatley
PRINCIPAL

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 24th day of January, 2010, by **TRICIA H. HATLEY, PRINCIPAL**, of **FREESE AND NICHOLS, INCORPORATED**, a **TEXAS** corporation, on behalf of said corporation.



Leah Granger
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

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

Notary Public, State of Texas

EXHIBIT "A"
SCOPE OF SERVICES

EROSION CONTROL PROJECTS – CITY PARKS

PROJECT DESCRIPTION

This project consists of the following improvements within the City of Plano, Texas:

1. Chisholm Trail: Storm Drain Outfall & Embankment, Southeast Underpass Area – Stabilization of the existing outfall structure. It is proposed that the existing outfall will be protected with gabion structures.
2. Chisholm Trail: Trail Undermined, Northwest Underpass Area – Stabilization of the existing trail
3. Caddo Park: North Embankment Regrading and Sodding – Regrading of the existing channel embankment to minimize further erosion.
4. Archgate Park: Outfall Structure End of West Parking Lot - Construct outfall structure and stabilize existing drainage outfall channel. The hydrology from the original design will be utilized to size the outfall.
5. Shady Brook Trail: At Kings Manor Area, Bank Cutting at Trail – relocation of existing trail to avoid channel erosion. Construction documents will not be prepared for this site, bid items will be included in the contract documents and City staff will direct the contractor on the location and limits during construction.
6. Harrington Park Trail: Bank Cutting at Trail – relocation of existing trail to avoid channel erosion. Construction documents will not be prepared for this site, bid items will be included in the contract documents and City staff will direct the contractor on the location and limits during construction.
7. Coyote Creek Park: South Creek Gabion Mattresses – channel erosion protection design
8. South Bridge Abutments at Arbor Hills Nature Preserve – New concrete foundation for rock retaining walls adjacent to bridge abutments.

PART I – PRELIMINARY ENGINEERING

- A. Preliminary Design
 1. Facilitate a project kick-off meeting with City of Plano staff. Data Collection and review of any available City reports, pertinent engineering plans, plats, and other features within the project areas.
 2. Prepare preliminary plans:
 - a. Provide a plan of the existing conditions of each site;
 - b. Prepare preliminary construction documents for the proposed improvements at each site.
 3. Hydraulic & Hydrologic Services

- a. Archgate Park
 - i. Obtain existing plans and review drainage calculations
 - ii. Use existing plan drainage area calculations to determine flows and velocities to the channel.
 - iii. Use Rational Method and existing land use to verify the existing runoff for the 100-year storm event with existing plans.
 - iv. Size drainage channel from the parking lot to the receiving stream based on a typical section.
- b. Coyote Creek Park
 - i. Prepare a base map for the area consisting of aerial photography and available two-foot topography.
 - ii. Prepare drainage area maps for the study locations from available two-foot topography.
 - iii. Obtain hydrologic parameters for each sub-watershed including precipitation data, time of concentration, and land use category.
 - iv. Develop an HMS model using the SCS unit hydrograph method to determine existing flows for the 2-, 5-, 10-, 25-, 50-, and 100-year storm events.
 - v. Develop an HMS model using the SCS unit hydrograph method to determine fully developed flows for the 2-, 5-, 10-, 25-, 50-, and 100-year storm events.
 - vi. Prepare an existing and proposed conditions hydraulic model of up to six (6) cross-sections for Coyote Creek.
 - vii. Develop two (2) design alternatives.
 - viii. Evaluate the proposed improvements for possible adverse stream impacts.
4. Prepare a preliminary opinion of probable cost for the proposed solutions. The purpose of the opinion is to confirm that the project is in general accordance with the construction budget. It is not a guarantee of the construction cost.
5. Submit to the City three (3) sets of preliminary plan drawings for each erosion control structure site listed above.
6. Attend one (1) meeting at the City to review and discuss the preliminary plan drawings and engineering comments.

PART II – FINAL ENGINEERING

1. Finalize plans for the erosion control improvements at each park site.
2. Revise preliminary plans and incorporate comments from the City.
3. Incorporate standard details into the plans and prepare additional details as required.
4. Prepare bid documents as needed, City technical specification will be used for the contract documents.
5. Revise the quantity estimate and prepare a revised estimate of probable construction cost based on the final design of the project.
6. Assist in preparing final bid documents. The City will prepare the final form of construction documents. The following information to be supplied by the Engineer shall include:
 - a. One (1) copy of the finalized technical specifications.

- b. Project specific information for use with the City standard construction agreement form, including the notice to contractors, bid proposal and contract bid schedule forms.
 - c. One (1) set of blackline prints of final drawings and one (1) electronic set of final drawings for Purchasing.
7. Provide necessary Storm Water Pollution Prevention Concept Plans in accordance with the City requirements.
 8. Furnish the City with the following final documents:
 - a. Three (3) sets of blackline prints of final drawings for approval by City.

PART III – Bid Phase Services

- A. Assist the City staff in advertising bids. Furnish additional sets of contract documents for bidding or as directed by the City.
 1. Furnish additional sets of plans and bid documents for up to two (2) plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
 2. The cost for information (plans and contract document) provided for the purpose of securing bids shall be recovered by the Engineer by a non-refundable deposit from Contractors. Maintain a list of plan holders.
- B. Assist the City in securing bids, issuing notice to bidders notifying construction news publications. The notice to bidders will be furnished by the City for publication in the local news media. The cost for publications shall be paid by the City.
- C. Assist the City in the opening, tabulation, and analysis of the bids received and furnish recommendations on the award of the contract or the appropriate action to be taken by the City.
 1. Evaluate the lowest and second lowest bidder. Bid evaluation will include the contractor's:
 - a. Past work history;
 - b. Financial resources;
 - c. Physical resources to produce the project.
 2. Provide a summary of the bid analysis to the City for use in the selection and award of the construction project.

PART IV – CONSTRUCTION ADMINISTRATION

- A. Upon completion of the bid or negotiation phase services, FNI will proceed with the performance of construction phase services as described below. FNI will endeavor to protect CITY in providing these services however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. FNI shall

not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

These services are based on the use of FNI standard General Conditions for construction projects. Modifications to these services required by use of other general conditions or contract administration procedures is an Additional Service. If general conditions other than FNI standards are used, the CITY agrees to include provisions in the construction contract documents that will require the construction contractor to include FNI and their subconsultants on this project to be listed as an additional insured on contractor's insurance policies.

- B. Furnish 13 sets of final plans and seven (7) sets of the contract documents marked "For Construction".
- C. Assist the City staff in conducting one pre-construction conference with the Contractor.
- D. Perform up to three (3) site visits to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Contract Documents. If the Engineer is requested to visit the site more frequently, the requested visits shall be considered an Additional Service. In performing the services above, the Engineer will endeavor to protect the City against defects and deficiencies; however, it is understood that the Engineer does not guarantee the Contractor's performance, nor is the Engineer responsible for supervision of the Contractor's operation and employees. The Engineer shall not be responsible for the acts or omissions of any person at the Project sites or otherwise performing any of the work of the Project.
- E. Interpret intent of the drawings and technical specifications for the City and the Contractor. Respond to contractor's verbal technical questions.
- F. Conduct, in company with the City's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with Contract Documents.
- G. Revise the construction drawings in accordance with the information furnished by construction Contractor reflecting the changes in the Project made during construction. The Engineer shall submit one set of "record drawings" to the inspector for review and approval. Upon approval, the city shall have the drawings processed in the following quantities and formats:
 - 1. One (1) set of 24- x 36-inch black-line plans ready for microfilming shall be submitted to the Engineering Department from Design Engineer.
 - 2. Two (2) CD-ROM disks containing scanned images of the 24- x 36-inch final "record drawings" black-line drawings (with "as-built stamps" bearing the signature of the Engineer and the date.) The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-specking, de-shading, de-skewing, etc.) Each file shall be named in numeric order format or converted to DXF format.

PART V - ADDITIONAL SERVICES The following services are beyond the basic scope of services described in the tasks above. FNI will provide these services, as additional services upon authorization by the Owner. Such services will be provided in accordance with the fees presented in Exhibit C.

- A. Field Surveying for Design Phase
 - 1. Establish a local control network and tie into the existing City control network on six sites. (NAD 83 datum);

2. Perform topographic survey of are needed to prepare design plans.
- B. Structural Design
1. Chisholm Trail Outfall
 - a. Structural design for proposed gabion baskets around headwall
 2. Chisholm Trail – Trail Undermined
 - a. Structural design to stabilize trail edge.
 3. Coyote Creek – Gabion walls/baffles/tied mattresses
 - a. Structural design of tie-backs and/or reinforcing of gabion matteressing
 4. South Bridge Abutments
 - a. Structural design for footing improvements for existing rock retaining wall adjacent to the bridge abutments.

The following services are beyond the scope of basic services and additional services described in the tasks above. However, FNI can provide these services, if needed, upon the CITY's request. Such services will be provided in accordance with the rates presented in Exhibit C.

- A. Conduct/attend public meetings. The CITY may decide that public meetings are necessary to assist with project relations or for informational purposes.
- B. Coordination with the USACE for Section 404 permitting, including preparation of documentation for a Nationwide Permit, Letter of Permission (LOP), or standard individual 404 permit.
- C. Field surveying beyond what is identified in Basic Services.
- D. Review fees of any kind including FEMA. This scope assumes CITY will pay all review fees.
- E. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- F. Preparing data and reports for assistance to CITY in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- G. Assisting CITY in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
- H. Assisting CITY in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this AGREEMENT. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this AGREEMENT.
- I. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective work.
- J. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.

- K. Services required to resolve bid protests or to rebid the projects for any reason.
- L. Visits to the site in excess of the number of trips included for periodic site visits, coordination meetings, or contract completion activities.
- M. Any services required as a result of default of the contractor(s) or the failure, for any reason, of the contractor(s) to complete the work within the contract time.
- N. Providing services after the completion of the construction phase not specifically listed.
- O. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the CITY.
- P. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.
- Q. Providing services to review or evaluate construction contractor(s) claim(s), provided said claims are supported by causes not within the control of FNI.
- R. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by CITY.
- S. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by CITY or 2) due to other causes not solely within the control of FNI.
- T. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- U. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services agreement.
- V. Preparation and negotiation of a detailed compensatory mitigation plan for approval by the USACE.
- W. Preparation of documents for a TCEQ individual Section 401 Water Quality Certification.
- X. Consultation with other agencies, including but not limited to the Texas Historical Commission, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Texas Parks and Wildlife Department, Texas General Land Office, or Texas Commission on Environmental Quality.
- Y. Preparation of an Environmental Information Document, Environmental Assessment, Environmental Impact Statement or documentation for a Categorical Exclusion to comply with the regulations pertaining to the National Environmental Policy Act.
- Z. Expert representation at legal proceedings or at contested permit hearings.
- AA. Informal or formal consultation with U. S. Fish and Wildlife Service regarding threatened or endangered species.
- BB. Presence/absence surveys for threatened or endangered species.
- CC. Presence/absence surveys for threatened or endangered species.

PART VI – RESPONSIBILITIES OF CITY

CITY shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Designate in writing a person to act as CITY's representative with respect to the services to be rendered under this AGREEMENT. Such person shall have contract authority to transmit instructions, receive information, interpret and define CITY's policies and decisions with respect to FNI's services for the Project.
- B. Provide all criteria and full information as to CITY's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which CITY will require to be included in the drawings and specifications.
- C. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- D. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this AGREEMENT.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as CITY deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- F. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- G. CITY shall make or arrange to have made all subsurface investigations, including but not limited to borings, test pits, soil resistivity surveys, and other subsurface explorations. CITY shall also make or arrange to have made the interpretations of data and reports resulting from such investigations. All costs associated with such investigations shall be paid by CITY.
- H. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
- I. Give prompt written notice to FNI whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services, or any defect or nonconformance of the work of any Contractor.
- J. Furnish, or direct FNI to provide, Additional Services as stipulated in this agreement.
- K. Bear all costs incident to compliance with the requirements of this section.

EXHIBIT B
SCHEDULE OF WORK

<u>Item</u>	<u>TASKS</u>	<u>Duration</u>
Kick-Off Meeting <i>10 days from Notice to Proceed</i>		<i>1 Day</i>
Design Survey <i>To begin upon completion of kick off meeting</i>		<i>4 weeks</i>
Preliminary Design <i>To begin after City review and approval of the Design Survey</i> <i>To be complete in:</i>		<i>4 weeks</i>
Final Design <i>To begin after City review and approval of the Preliminary Design</i> <i>To be complete in:</i>		<i>3 weeks</i>
Prepare Final Bid Documents <i>To begin after City review and approval of the Final Design</i> <i>To be complete in:</i>		<i>2 weeks</i>
TOTAL		<i>13 weeks</i>

Note: Total project duration does not include review and comment time by the City. Additional time will be added to the contract duration for review and comment, and as other time is required by the City to address conditions in the design process.

**EXHIBIT C
COMPENSATION**

- A. Basic Services:** Compensation to FNI for the Basic Services shall be the total fee computed on a lump sum basis and shall not exceed \$46,100. If additional work and expenses are required, they will not be billed to the CITY without prior notification and written approval by the CITY'S Representative.
- B. Additional Services:** Compensation to FNI for the Additional Services shall be the total fee computed on the basis of the schedule of charges but shall not exceed \$32,960. If additional work and expenses are required, they will not be billed to the CITY without prior notification and written approval by the CITY'S Representative.

Topographic Surveying		\$ 10,780
Structural		\$ 11,880
Bid Phase Services		\$ 2,900
Construction Phase Services		\$ 7,400
Reimbursable Expenses		<u>\$ 3,500</u>
Total		\$ 36,460

If FNI sees the Scope of Services changing so that additional services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify CITY for CITY'S approval before proceeding. Additional Services shall be computed based on the Schedule of Charges.

C. Schedule of Charges for Additional Work:

<u>POSITION</u>	<u>RATE</u>
PRINCIPAL	225
GROUP MANAGER	225
SENIOR ENGINEER	180
ENGINEER (PE)	150
ENGINEER (EIT)	120
ENVIRONMENTAL SCIENTIST VII	185
ENVIRONMENTAL SCIENTIST VI	155
ENVIRONEMNTAL SCIENTIST V	135
ENVIRONMENTAL SCIENTIST IV	120
ENVIRONMENTAL SCIENTIST III	115
ENVIRONMENTAL SCIENTIST II	100
SR. CONSTRUCTION CONTRACT ADMINISTRATOR	155
CONSTRUCTION CONTRACT ADMINISTRATOR	100

GIS COORDINATOR	115
GIS ANALYST	65
TECHNICIAN	80
CONTRACT ADMINISTRATOR	90
WORD PROCESSING/SECRETARIAL	55
CO-OP	50

The ranges and individual salaries will be adjusted annually.

EXPENSES

Plotting

Bond \$2.50 per plot
 Color \$5.75 per plot
 Other \$5.00 per plot

Printing

Offset and Xerox Copies/Prints \$0.10 per side copy
 Color Copies/Prints \$0.50 per side copy
 Binding \$5.75 per book

Travel

55¢ per mile

Computer

Computer Usage \$10.00/hour

OTHER DIRECT EXPENSES

Other direct expenses are reimbursed at actual cost times multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from Dallas, and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, tests, and other work required to be done by independent persons other than staff members.

EXHIBIT "D"
ENGINEERING

INSURANCE

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

1. General Insurance Requirements:

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

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

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

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

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

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

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

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

3.0 Engineer's Insurance – Claims Made

Professional Errors and Omissions

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

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate of \$3,000,000

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

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

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 12/22/2009												
PRODUCER Phone: 214-979-6220 Fax: 214-979-6215 HUB Rigg 777 Main St, C-50 Fort Worth TX 76102		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.												
INSURED Freese and Nichols, Inc. 4055 International Plz #200 Fort Worth TX 76109		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURERS AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: HARTFORD CAS INS CO <i>A</i></td> <td>29424</td> </tr> <tr> <td>INSURER B: HARTFORD INS CO OF THE MIDWEST <i>A</i></td> <td>37478</td> </tr> <tr> <td>INSURER C: TWIN CITY FIRE INS CO CO <i>A</i></td> <td>29459</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: HARTFORD CAS INS CO <i>A</i>	29424	INSURER B: HARTFORD INS CO OF THE MIDWEST <i>A</i>	37478	INSURER C: TWIN CITY FIRE INS CO CO <i>A</i>	29459	INSURER D:		INSURER E:	
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COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	46UUNKJ0711	10/23/2009	10/23/2010	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
B X	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	46UUNKJ7011	10/23/2009	10/23/2010	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A X	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	46XHULO9889	10/23/2009	10/23/2010	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	46WERW4994	10/23/2009	10/23/2010	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

2009 Erosion Control Project-Parks Department
 Blanket Additional Insured with Blanket Waiver of Subrogation Per Written Contract The City and its employees, officers, officials, agents, and volunteers are listed as additional insureds under the Blanket Additional Insured Endorsement for General Liability and Auto with a Blanket Waiver of Subrogation on the General Liability, Auto and Workers Compensation.

CERTIFICATE HOLDER <i>Reviewed WSD</i> City of Plano Mr. Bill Dakin, Jr., ASLA P. O. Box 860358 Plano TX 75086	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. AUTHORIZED REPRESENTATIVE
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EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **FREASE AND NICHOLS, INCORPORATED** (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

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

Freese and Nichols, Inc.

Name of Consultant

By:

[Handwritten Signature]

Signature

Tricia Hatley, P.E.

Print Name

Principal

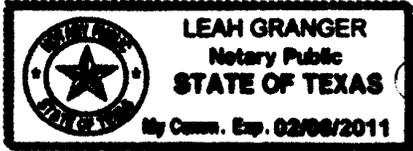
Title

1-4-10

Date

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this 4th day of January, 2010.



[Handwritten Signature]
Notary Public, State of Texas

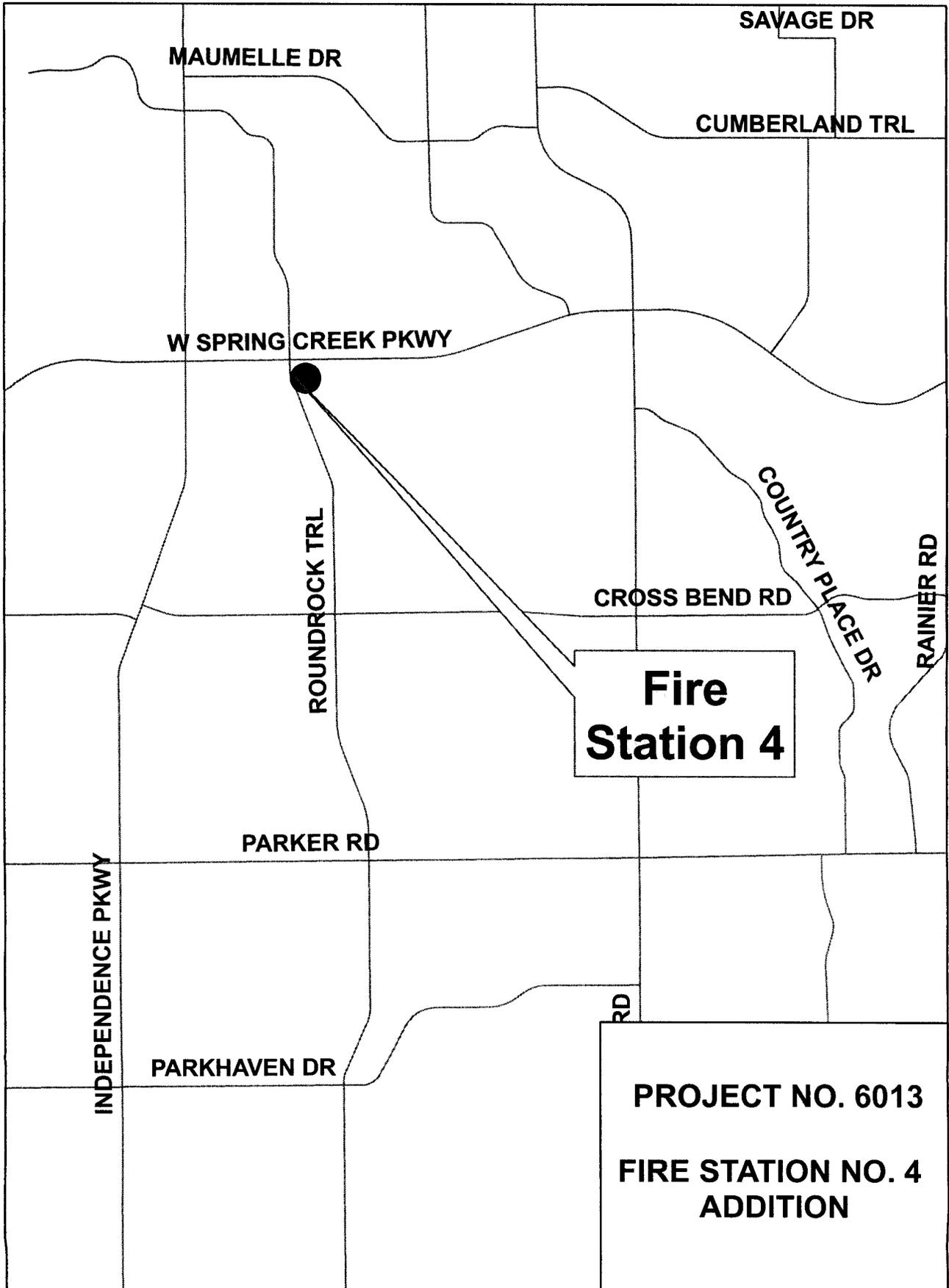


**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #):			Irene Pegues (7198)	
			Project No. 6013	
CAPTION				
Approval of an architectural contract by and between the City of Plano and Kirkpatrick Architecture Studio in the amount of \$166,000 for design and construction oversight of Fire Station 4 Addition; and authorizing the City Manager or his authorized designee to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	2,128,000	0	2,128,000
Encumbered/Expended Amount	0	-32,240	0	-32,240
This Item	0	-166,000	0	-166,000
BALANCE	0	1,929,760	0	1,929,760
FUND(S): FIRE FACILITIES CIP				
<p>COMMENTS: Funds are included in the 2009-10 Fire Facilities CIP. This item, in the amount of \$166,000, will leave a current year balance of \$1,929,760 for the Fire Station #4 project.</p> <p>STRATEGIC PLAN GOAL: Architectural design services for fire facilities relate to the City's Goals of Safe Large City and Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
This agreement with Kirkpatrick Architecture Studio is for architectural design for Fire Station 4 Addition to include oversight. The contract fee is for \$166,000 and is detailed as follows:				
Design Development		\$ 47,500		
Construction Document Development		\$ 73,000		
Construction Bid and Contract		\$ 9,000		
Construction Observation		\$ 36,500		
TOTAL		<u>\$166,000</u>		
The addition to the Fire Station will consist of three new apparatus bays that will include designed training elements for operational training such as confined space entry, rescue basket access from roof positions, etc. The addition will also include additional sleeping quarters that may be used by a future ambulance crew. The project will also repair the paved surface of the site and design a Spring Creek Parkway entry to the site to minimize traffic disruptions by returning trucks.				
Funding is available from the Fire Facilities Community Investment Program. Staff feels the fee is reasonable for this project estimated to cost \$2M.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Architectural Services Agreement; Location Map			N/A	



**CITY OF PLANO
COUNCIL AGENDA ITEM**



SAVAGE DR

MAUMELLE DR

CUMBERLAND TRL

W SPRING CREEK PKWY

ROUNDROCK TRL

CROSS BEND RD

COUNTRY PLACE DR

RAINIER RD

**Fire
Station 4**

PARKER RD

INDEPENDENCE PKWY

PARKHAVEN DR

RD

PROJECT NO. 6013

**FIRE STATION NO. 4
ADDITION**

FIRE STATION 4 ADDITION

PROJECT NO. 6013

ARCHITECTURAL SERVICES AGREEMENT

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

WITNESSETH:

WHEREAS, the City desires to engage the services of the Architect to prepare construction plans, specifications, details and special provisions and to perform other related architectural services in connection with the **FIRE STATION 4 ADDITION** located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Architect

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

II. Scope of Services

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

III. Schedule of Work

The Architect agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the reasonable control of Architect, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

Architect agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Architect shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Architect's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

VII. INDEMNITY

THE ARCHITECT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ARCHITECT'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS

CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE ARCHITECT, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE ARCHITECT IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ARCHITECTS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

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

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Architect's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

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

XIV. Complete Contract

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

XV. Mailing of Notices

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

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

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

Kirkpatrick Architecture Studio
100 West Mulberry
Denton, Texas 76201
Attn: James R. Kirkpatrick, President/Owner

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

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract Interpretation:

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

C. Venue/Governing Law:

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

D. Successors and Assigns:

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

E. Severability:

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

F. Effective Date:

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

SIGNED on the date indicated below.

**KIRKPATRICK ARCHITECTURE
STUDIO**
A Texas Corporation

DATE: _____

BY: _____
James R. Kirkpatrick
PRESIDENT/OWNER

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF DENTON §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **JAMES R. KIRKPATRICK, President/Owner** of **Kirkpatrick Architecture Studio**, a **Texas** corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **THOMAS H. MUEHLENBECK, City Manager** of the **City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

EXHIBIT "A"

SCOPE OF SERVICES

EXHIBIT A PLANO FIRE STATION NO. 4

1. 2.4 DESIGN SERVICES

2.4.1 The Architect's design services shall include normal structural, mechanical and electrical engineering services.

2.3.2 The Architect shall provide a preliminary evaluation of the schematic design information furnished by the Owner.

2.4.3 DESIGN DEVELOPMENT DOCUMENTS

2.4.3.1 Based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Architects shall prepare for approval by the Owner, Design Development Documents consisting of drawings and other instruments to fix and describe the relationships, forms, size and appearance of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

2.4.4 CONSTRUCTION DOCUMENTS

2.4.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

2. 2.5 CONSTRUCTION PROCUREMENT SERVICES

2.5.1 The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding form, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.

2.5.2 The Architect shall assist the Owner in establishing a list of prospective bidders or contractors.

2.5.3 The Architect shall assist the Owner in bid validation or proposal evaluation and determination of the successful bid or proposal, if any.

3. 2.6 CONTRACT ADMINISTRATION SERVICES

2.6.1 GENERAL ADMINISTRATION

2.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

2.6.1.2 The Architect's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates at the issuance to the Owner of the final Certificate for Payment. However, the Architect shall be entitled to a Change in Services when Contract Administration Services extend 90 days after the date of Substantial Completion of the Work.

2.6.1.3 The Architect shall be a representative of and shall advise and consult with the Owner during the provision of the Contract Administration Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement.

2.6.1.4 The Architect shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared or approved by the Architect and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.

2.6.1.5 The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under, and requirements of, the Contract Documents on written request of either the Owner or Contractor.

2.6.1.6 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor and shall not be liable for the results of interpretations or decisions so rendered in good faith.

2.6.2 EVALUATIONS OF THE WORK

2.6.2.1 The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner and the Architect, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

2.6.2.2 The Architect shall report to the Owner known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

2.6.2.3 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

2.6.2.4 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

2.6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents.

2.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, or (3) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.6.4 SUBMITTALS

2.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents

2.6.5 CHANGES IN THE WORK

2.6.5.1 The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents.

2.6.6 PROJECT COMPLETION

2.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

2.6.6.2 The Architect's inspection shall be conducted with the Owner's Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

2.6.6.4 The Architect shall receive from the Contractor and forward to the Owner: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens.

4. 2.7 FACILITY OPERATION SERVICES

2.7.1 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall conduct a meeting with the Owner and the Owner's Designated Representative to review the facility operations and performance and to make appropriate recommendations to the Owner.

5. 2.8 RESPONSIBILITIES OF THE PARTIES**2.8.1 OWNER**

2.8.1.1 The Owner shall provide full information in a timely manner regarding requirements for and limitations on the Project.

2.8.1.2 The Owner's Designated Representative shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or the Owner's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services

2.9.2 ARCHITECT

2.9.2.1 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project.

2.9.2.2 The Architect's Designated Representative shall be authorized to act on the Architect's behalf with respect to the Project.

2.9.2.3 The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any errors, omissions or inconsistencies in such services or information.

6. 2.10 TERMS AND CONDITIONS**2.10.1 COST OF THE WORK**

2.10.1.1 The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

2.10.1.2 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

2.10.1.3 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.

2.10.2 CHANGE IN SERVICES

2.10.2.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the Architect's control. Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation and to any Reimbursable Expenses.

2.10.2.2 If any of the following circumstances affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation:

- .1** change in the instructions or approvals given by the Owner that necessitate revisions in Instruments of Service;
- .2** enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service;
- .3** decisions of the Owner not rendered in a timely manner;
- .4** significant change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget, or procurement method;

2.10.3 MEDIATION

2.10.3.1 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

2.10.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

2.10.4 MISCELLANEOUS PROVISIONS

2.10.4.1 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary.

2.10.5 TERMINATION OR SUSPENSION

2.10.5.1 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

2.10.5.2 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

2.10.5.3 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable

7. 2.11 PAYMENTS TO THE ARCHITECT

2.11.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services. No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

2.11.1.1 Reimbursable Expenses are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

- .1** fees paid for securing approval of authorities having jurisdiction over the Project;
- .2** reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;
- .3** expense of models and mock-ups requested by the Owner;

2.11.1.2 Direct Personnel Expense is defined as the direct salaries of the Architect's Personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

EXHIBIT "B"

PROJECT SCHEDULE **EXHIBIT B**
PLANO FIRE STATION 4

Notice to Proceed	1 February 2010
Program Verification and Design Development Completion	15 February 2010
Public Meeting	23-25 February 2010
Review and Approval by City	1 March 2010
Construction Documents (100%)	5 April 2010
Construction Documents Review by City (Including Permit Review)	19 April 2010
Release Documents for Bidding	26 April 2010
Receive Bids	18 May 2010

EXHIBIT "C"

COMPENSATION	EXHIBIT C PLANO FIRE STATION 4
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1. BASIS FOR COMPENSATION FOR SERVICES

1.1 For Services described in Exhibit "A", Scope of Services

Basic Services	\$166,000.00
Architectural	
Structural	
Mechanical-Electrical-Plumbing	
Civil	
Landscape	
Cost Estimate	

1.2 Services provided by the City of Plano

- Topographical & Boundary Survey
- Geotechnical Subsurface Soils Investigation
- ADA Review
- Bid Documents Printing

1.3 Progress Payments for Basic Services

Design Development Phase	\$47,500.00
Construction Documents Phase	\$73,000.00
Bidding/Contract Phase	\$9,000.00
Construction Phase	<u>\$36,500.00</u>

Total Fee for Basic Services \$166,000.00

Statements for services rendered shall be submitted and paid monthly.
Invoices shall be due 15 days from date of invoice.

EXHIBIT "D"

ARCHITECTURE

INSURANCE

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

1. General Insurance Requirements:

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

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

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

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

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

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

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

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

3.0 Consultant's Insurance – Claims Made

Professional Errors and Omissions

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

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate of \$3,000,000

ARCHITECTURE

City of Plano - Insurance Checklist

("X" means the coverage is required.)

Coverages Required

Limits (Figures Denote Minimums)

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

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **Kirkpatrick Architecture Studio** (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

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

Kirkpatrick Architecture Studio
Name of Contractor

By: _____
Signature

James R. Kirkpatrick
Print Name

President/Owner
Title

Date

STATE OF TEXAS §
 §
COUNTY OF DENTON §

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

Notary Public, State of Texas



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/10		
Department:		Parks and Recreation		
Department Head		Amy Fortenberry		
Agenda Coordinator (include phone #): Susan Berger (7255)				
CAPTION				
Ratification of expenditures to Sunbelt Pools in the amount of \$65,938 for an emergency repair at Harry Rowlinson Natatorium made necessary to preserve or protect the public health or safety of the municipality's residents; said repairs being essential to maintain proper filtration and circulation as required by State codes.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	200,809	329,191	200,000	730,000
Encumbered/Expended Amount	-200,809	-166,445	0	-367,254
This Item	0	-65,938	0	-65,938
BALANCE	0	96,808	200,000	296,808
FUND(S): CAPITAL RESERVE				
<p>COMMENTS: Funds are included in the 2009-10 Capital Reserve. This item, in the amount of \$65,938, will leave a current year balance of \$96,808 for the Recreation Center Equipment and Pool Equipment projects.</p> <p>STRATEGIC PLAN GOAL: Ratification of emergency repairs for recreation center and pool equipment relates to the City's Goal of Premier City in Which to Live.</p>				
SUMMARY OF ITEM				
<p>Emergency repairs at Harry Rowlinson Natatorium in the amount of \$39,366 to Sunbelt Pools were approved to comply with State and local codes for filtration and circulation rates. After removal of the filter media, more significant operational problems were discovered. It was necessary to replace the existing gravity sand filters with a high rate sand filter. The additional cost for this change is \$26,572, making the repair cost \$65,938. Funds are available in the Capital Reserve Fund.</p> <p>The purchase was made utilizing a Buyboard contract (288-08).</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/22/10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #):				Project No. 5387
CAPTION				
Approval of the purchase of materials testing services for the McDermott Road from Ohio Drive to Coit Road project, in the amount of \$80,061, from Terracon Consultants, Inc., through an existing contract/agreement 2009-186-D, and authorizing the City Manager or his authorized designee to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	34,513	3,140,487	0	3,175,000
Encumbered/Expended Amount	-34,513	-2,141,470	0	-2,175,983
This Item	0	-80,061	0	-80,061
BALANCE	0	918,956	0	918,956
FUND(s): STREET IMPROVEMENT CIP				
COMMENTS: Funds are included in the 2009-10 Street Improvement CIP. This item in the amount of \$80,061 will leave a current year balance of \$918,956 for the McDermott – Coit to Ohio project. STRATEGIC PLAN GOAL: Materials testing services relate to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
Staff recommends approval of this expenditure for construction materials testing, in the amount of \$80,061. Terracon Consultants, Inc. is one of the six contracted vendors for this service during 2009-2010 (2009-186-D). Funding is available from the 2009-2010 Community Investment Program; therefore, staff recommends approval.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Exhibit C			N/A	

EXHIBIT C

TERRACON CONSULTANTS, INC.
COMPENSATION

Client: City of Plano
Attn: Mr. Lee Stimpson
P.O. Box 860358
Plano, Texas 75086

Date: February 1, 2010

Project: McDermott Road from Ohio Drive to Coit Road
Plano, Texas

Proposal No. : P94091273R

	Unit Rate	Quantity	Total
EARTHWORK			
Sr. Field Technician, (min. 4 hrs./trip)	45.00	240	10,800.00
Moisture/Density Curves (TX DOT 113E, 114E), ea.	225.00	10	2,250.00
* Atterberg limits, each (Tex 106-E)	75.00	10	750.00
* Material finer than #200 sieve, each (Tex 111-E)	50.00	10	500.00
* Linear Shrinkage of soils, ea (Tex 107-E)	25.00	8	200.00
* Wet Ball Mill, ea (Tex 116-E)	220.00	4	880.00
Triaxial Test, ea (Tex 117-E)	1250.00	2	2,500.00
* Soil Resistivity (Tex 129-E)	100.00	4	400.00
* pH test of soils, ea (Tex 128-E)	55.00	4	220.00
* Soundness test of soils, ea (Tex 411-A)	315.00	6	1,890.00
* Lime determination,(5 points PI & pH), each (Tex 112-E)	275.00	3	825.00
* Lime Pulverizations, each (plus tech rate) (Tex 101-E)	20.00	120	2,400.00
Nuclear Gauge Fee, per trip	50.00	120	6,000.00
Vehicle charge, per trip	45.00	80	3,600.00
		Subtotal	\$ 33,215.00
CONCRETE			
Engineering technician, hour (min. 4 hrs./trip)	40.00	200	8,000.00
Overtime engineering technician, hour	60.00	30	1,800.00
* Concrete test cylinders, each (Tex 418-A)	14.00	240	3,360.00
Concrete mix design review, each	150.00	4	600.00
* Sand Equivalent, ea (Tex 203-F)	165.00	20	3,300.00
* Organic Impurities (Tex 408-A)	55.00	2	110.00
* Sieve Analysis (FA & CA), Fineness Modulus (Tex 401-	55.00	40	2,200.00
* Deleterious Material test, ea (Tex 413-A)	100.00	2	200.00
* Curing Compound, % solids, ea (ASTM D 2369)	300.00	3	900.00
Vehicle charge, per trip	45.00	40	1,800.00
		Subtotal	\$ 22,270.00
REINFORCING STEEL			
Placement observation, hour	45.00	80	3,600.00
Vehicle charge, trip	45.00	20	900.00
		Subtotal	\$ 4,500.00

EXHIBIT C

TERRACON CONSULTANTS, INC.
 COMPENSATION

Client: City of Plano
 Attn: Mr. Lee Stimpson
 P.O. Box 860358
 Plano, Texas 75086

Date: February 1, 2010

Project: McDermott Road from Ohio Drive to Coit Road
 Plano, Texas

Proposal No. : P94091273R

	Unit Rate	Quantity	Total
MSE WALL OBSERVATION AND TESTING			
Earthwork technician, full time, hour (min. 4 hrs./trip)	45.00	120	5,400.00
Moisture/Density Curves (TX DOT 113E, 114E), ea.	225.00	3	675.00
* Atterberg limits test (PI), each (TEX 106-E)	75.00	3	225.00
* Sieve analysis of aggregate, each (Tex 110-E)	55.00	3	165.00
* Material finer than #200 sieve, each (Tex 111-E)	50.00	3	150.00
Nuclear Gauge Fee, per trip	50.00	20	1,000.00
Vehicle charge, trip	45.00	20	<u>900.00</u>
		Subtotal	\$ 8,515.00
DRILLED PIERS			
Project manager, hour	110.00	4	440.00
Engineering technician, hour (min. 4 hours)	45.00	52	2,340.00
Overtime engineering technician, hour	67.50	12	810.00
* Concrete test cylinders, each (Tex 418-A)	14.00	24	336.00
Vehicle charge, per trip	45.00	8	<u>360.00</u>
		Subtotal	\$ 4,286.00
STRUCTURAL STEEL & PRECAST CONCRETE			
Field weld observation by CWI, hour (min. 4 hours)	70.00	28	1,960.00
Vehicle charge, trip	45.00	7	<u>315.00</u>
		Subtotal	\$ 2,275.00
ENGINEERING / MANAGEMENT			
Project manager, per hour	100.00	50	<u>5,000.00</u>
		Subtotal	\$ 5,000.00
ESTIMATED TOTAL COST / BUDGET			\$ 80,061.00

(*) denotes tests that are not listed in our annual contract. These tests are required by TXDOT, as discussed at the preconstruction meeting held at the TXDOT offices prior to start of construction.

EXHIBIT C

**TERRACON CONSULTANTS, INC.
COMPENSATION**

Client: City of Plano
Attn: Mr. Lee Stimpson
P.O. Box 860358
Plano, Texas 75086

Date: February 1, 2010

Project: McDermott Road from Ohio Drive to Coit Road
Plano, Texas

Proposal No. : P94091273R

Clarifications and Assumptions

1. The testing and observation in this Cost Estimate represents all the testing and observation services to be provided on this project unless additional services are requested by the client. No other testing or observation is included in this proposal estimate.
2. We obtained estimated quantities from drawings and typical City of Plano and TXDOT specifications with regard to test frequency.
3. We have assumed that drilled piers will be completed in six (10 hours) working day.
4. We have assumed in-place density tests at one per 100 linear feet per lift for retaining wall and utility backfill, and we have also assumed one per 5,000 sf per lift for paving subgrade.
5. We have assumed a concrete test frequency of one set of four (4) cylinders per 60 c.y. for structural concrete, and four (4) cylinders per 180 c.y. for pavements.
6. We have assumed in-place density tests at one per 100 lf per ft depth of MSE Wall backfill.
7. We have assumed 7 periodic trips to observe erection of structural steel and weldments by an AWS CWI.
8. We have included project management time to attend pre-construction and progress meetings as called, to coordinate our agreed scope of QC/QA activities, to review and sign all reports, and to monitor budget issues among other normal project manager activities.

Limitations of Authority of Terracon

1. Terracon is not authorized to release, revoke, alter or enlarge the requirements of the contract documents.
2. Terracon will not approve or accept any portion of the work.
3. Terracon will not assume or perform any duties of the Contractor.
4. Terracon has no authority to stop the work.
5. Terracon will perform observations, sampling and testing of materials and construction as listed in this proposal. Additional services will be provided when required by the Architect / Engineer and authorized by the client.
6. Terracon is not responsible for site safety issues except as it pertains to the behavior of our employees on site.

EXHIBIT C

**TERRACON CONSULTANTS, INC.
COMPENSATION**

Client: City of Plano
Attn: Mr. Lee Stimpson
P.O. Box 860358
Plano, Texas 75086

Date: February 1, 2010

Project: McDermott Road from Ohio Drive to Coit Road
Plano, Texas

Proposal No. : P94091273R

Other Clarifications and Requests

Our office is located at 8901 Carpenter Freeway in Dallas, Texas. Our main phone is 214-630-1010. Our fax is 214-630-7070.

services. All services must be scheduled through our dispatcher. Cancellations shall also be through our dispatcher. Our dispatch is available between the hours of 6:30 am to 4:30 pm. After hours calls are handled by our voice mail system. It is recommended that you schedule services through our dispatch during our regular working hours noted above. Voice mail is checked the following morning. Same day call-ins or after hour voice mail call-ins for work the following day are subject to the availability of personnel. We can not guarantee service for same day call-ins.

To aid us in assisting you on your project, we request a set of specifications (project manual) and a set of half-size plans to use in the field. We also request to be copied any applicable addendums, plan changes or RFI's.

Compensation for our services will be based upon the actual work and tests performed in accordance with the unit rates shown. The estimated costs we have indicated are approximate. ESTIMATED TOTAL COST does not include: any retests or reobservations; or any changes to the contract documents. Invoices for our services are payable within 30 days with no retainage.

Unit prices are for local services portal to portal, between 7:00 am and 5:00 pm, Monday through Friday. Overtime will be charged at the rate of 1.50 times the normal rate. Only those services requested and authorized will be provided.

Five (5) copies of test reports are included for distribution as directed by the client at no additional charge. Additional copies of test reports requested and approved by the client will be charged at \$0.45 per page to cover copying and mailing costs.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		February 22, 2010		
Department:		Building Inspections		
Department Head		Selso Mata		
Agenda Coordinator (include phone #): Diana Gallegos 5993				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, amending the existing Building Inspections Department Fee Schedule to provide City Services and Programs; Repealing all previous Fee Schedules and charges for services listed in the Building Inspections Department Fee Schedule and providing a repealer clause, a severability clause, and an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 09-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	65,608	175,000	240,608
BALANCE	0	65,608	175,000	240,608
FUND(S): GENERAL FUND				
<p>COMMENTS: This item will add additional revenue to the 2009-10 Building Inspections Budget as well as future year Budgets due to changes to the Building Inspections Permit Fee Schedule. Projected supplemental revenue of \$65,608 is anticipated for the remainder of 2009-10 and approximately \$175,000 per year in future years. These revenue increases and fees associated with new services are a mid-year change and will be in addition to the 2009-10 budgeted revenues.</p> <p>STRATEGIC PLAN GOAL: Modification of the Building Inspection Fee Schedule relates to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
The adjusted permit fees are commensurate with other cities in the region. The revised fee schedule will be consistent and proportionate with the cost structures required for our permit services.				
List of Supporting Documents: Fee Schedule mark up			Other Departments, Boards, Commissions or Agencies	

EXHIBIT "A"

**CITY OF PLANO – BUILDING INSPECTIONS DEPARTMENT
FEE SCHEDULE**

ACCESS CONTROL

5.25
Per \$1000.00
Valuation of
Project - 40.00 minimum

ACCESSORY BUILDING / DETACHED PATIO COVERS

~~5.00~~ 5.25
Per \$1000.00
Valuation of
Project-~~\$35~~ 40 minimum

ADDENDUM OR PLAN REDRAW

(1/2 hr minimum)

30.00 / hr.
40.00 / hr.

ANTENNA PERMIT

30.00

AFTER HOURS INSPECTIONS/ SATURDAYS

Inspections outside of normal business hours

120.00

APPEAL BOARDS

Board of Adjustment

Residential (Homestead)

150.00

Residential (Homestead) Encroachments on homes
built prior to May 1987

75.00

Other Residential

~~250.00~~ 265.00

Commercial

~~250.00~~ 265.00

Signs

~~250.00~~ 265.00

Building Standards Commission

Residential

50.00

Commercial

~~250.00~~ 265.00

AWNING

5.25
Per \$1000.00
Valuation of
Project - 40.00 minimum

BANNER PERMIT

75.00

CARPORT (SEE ACCESSORY BUILDING)

CERTIFICATE OF OCCUPANCY

(Fee assessed only in cases of **Reoccupancy** without

100.00

construction)

Clean and Show 75.00

House-Lights 75.00

Multi-Family Complex 75.00 /per building.

COMMERCIAL PROJECT

(New, Addition, Alteration or Interior Finish)

Separate permit fees for fire, mechanical, electrical, plumbing and water meters are required.

Foundation Only Permit (all permit fees must be paid prior to issuing foundation only permit) An additional 25% of building permit fee maximum \$2500.00

Building Permit 5.00 5.25 Per \$1000.00 Valuation of project

Express Permitting (see express permits)

COOLING TOWERS 35.00 5.25 Per \$1000.00 Valuation of

DEMOLITION PERMIT 50.00

ELECTRICAL PERMIT (COMMERCIAL)
(Calculated by Square footage)

New Installations and Full Remodel/Alterations:

Square footage of Building Floor Area

0-3000 sq. ft. 60.00 70.00

3001-10,000 sq. ft. 80.00 90.00

10,001-100,000 sq. ft. 100.00 110.00

over 100,000 sq. ft. 120.00 130.00

EXPRESS PERMITS 10.00 per \$1000 Valuation (Building permit only) \$100.00Min

FENCE 45.00

Residential Permit Fee 35.00

Day Laborer Fee 10.00

Commercial Permit Fee 50.00 60.00

Day Laborer Fee 10.00

FLAGPOLE

40.00

FOUNDATION REPAIR

~~5.00~~ 5.25
Per \$1000.00
Valuation of
Project-~~\$35~~ 40.00 minimum

FOUNTAIN

~~55.00~~ 60.00

IN-HOME DAYCARE (ANNUAL FEE)

~~50.00~~ 60.00

LAWN IRRIGATION SYSTEMS

(per back flow device)

Residential Permit Fee 165.00 175.00
Day Laborer Fee 10.00

Commercial Permit Fee 250.00 260.00
Day Laborer Fee 10.00

ENCROACHMENT LETTERS OR OTHER VERIFICATION LETTER

(Paid in advance with 24 hours notice) ~~25.00~~ 40.00

MECHANICAL AND/OR PLUMBING PERMIT (COMMERCIAL)

0-3000 sq. ft. ~~60.00~~ 70.00
3001-10,000 sq. ft. ~~80.00~~ 90.00
10,001-100,000 sq. ft. ~~100.00~~ 110.00
over 100,000 sq. ft. ~~120.00~~ 130.00

MOBILE HOME HOOKUPS

Plumbing (Gas hookups) 50.00
Electrical hookups 50.00

MOVING PERMITS

Any building in transit through the City of Plano 50.00

Any building originating or terminating within 100.00
the City limits of Plano
In addition, electrical, mechanical, plumbing and
building permits will be required for structures
terminating within the City.

Note: Applicants shall deposit a bond in the sum of \$10,000 before a permit is issued and a valid certificate of insurance in force in the amount of \$100,000 per person for bodily injuries including death and not less than \$300,000 for bodily injuries including death to all persons on account of one accident; and \$100,000 per accident for property damage.

OUTDOOR FIREPLACE

~~5.00~~ 5.25
Per \$1000.00
Valuation of
Project-\$35 40.00 minimum

PARK FEE

Apartments 323.96/unit
Residential 467.47

PHOTOVOLTAIC

5.25
Per \$1000.00
Valuation of Project

PLAN REVIEW DEPOSIT

(Fee is applied to the total permit fee and is non-refundable.) 65% of building permit fee

PLUMBING CERTIFICATE (Service Inspection) ~~30.00~~ 40.00

PLUMBING PERMIT (See Mechanical Permit Fees)

PROMOTIONAL PERMIT 60.00

REGISTRATION OF CONTRACTORS (ANNUAL REGISTRATION FEE)

- General Contractor 100.00
- Irrigation Contractor 100.00
- Mechanical Contractor 100.00
- Electrical Contractor (every 2 years 200.00) * 100.00
 - Master Electrician (every 2 years 50.00) * 25.00
 - Journeyman Electrician (every 2 years 20.00) * 10.00
 - Residential Specialist (every 2 years 20.00) * 10.00
 - Sign Master (every 2 years 20.00)* 10.00
- Sign Journeyman (every 2 years 20.00)* 10.00
- Sign Contractor (every 2 years 200.00) 100.00
- Solid Waste Disposal Contractor 20.00
- (for each additional identification tag) 10.00
- Annual Renewal Fee 10.00
- (per vehicle identification tag)

*2 year registration for local license only

➤ Registration may be prorated based on state license renewal

REINSPECTION FEES:

(Must be paid before scheduling any final inspections)

First Reinspection Fee 50.00
Second Reinspection Fee 75.00
Third Reinspection Fee 100.00
After hours and Saturday Inspections 120.00

SAME DAY INSPECTION Per trade ~~60.00~~ 75.00

REPRINT OR LOST PERMIT ~~10.00~~ 20.00

RE-ROOF (Multi-family-one permit per building)

~~5.00~~ 5.25
Per \$1000.00
Valuation of
Project-~~\$35.00~~ 40.00 minimum

RESIDENTIAL (Addition, Alteration and New Construction)

Minimum fee ~~35.00~~ 40.00

ADDITION

~~5.00~~ 5.25
Per \$1000.00
Valuation of
Addition valued at \$10,000 or greater,
add Plan Review Fee Project-~~\$35.00~~ 40.00 minimum
45.00

ALTERATION to Existing Structure
Building Permit (if applicable)

~~5.00~~ 5.25
Per \$1000.00
Valuation of
Project-~~\$35.00~~ 45.00 minimum
plus (+)

Alteration valued at \$10,000 or greater add
add Plan Review 45.00
plus (+)

Electrical Permit (if applicable)
Per square foot .01
Minimum Fee ~~35.00~~ 45.00

plus (+)

Plumbing Permit (if applicable)
Per square foot .01
Minimum Fee ~~35.00~~ 45.00

plus (+)

Mechanical Permit (if applicable)
Per square foot .01
Minimum Fee ~~35.00~~ 45.00

NEW SINGLE FAMILY RESIDENCE

Cost per square foot (under roof) ~~.23~~ .25

plus (+)

Park Fee 467.47
Plan Review Fee ~~75.00~~ 80.00
Plumbing Certificate ~~30.00~~ 40.00

Duplex

Cost per square foot ~~.23~~ .25

plus (+)

Park Fee	934.94
Plan Review	90.00
Plumbing Certificate	60.00 80.00
plus (+)	

SATELLITE DISH (SEE ANTENNA PERMIT FEE)

SIDEWALK OR APPROACH IN RIGHT OF WAY

(New or replacement)	35.00 40.00
----------------------	------------------------

SIGNS

Non-illuminated Sign	75.00
Illuminated (includes electrical fee)	95.00

SPAS (IN GROUND)

Permit Fee	75.00 140.00	85.00 150.00
Day Laborer Fee	10.00	

SPAS (PORTABLE)

50.00

SWIMMING POOL (IN GROUND)

Permit Fee	200.00 290.00	210.00 300.00
Day Laborer Fee	10.00	

SWIMMING POOL (ABOVE GROUND)

Permit Fee	45.00	55.00
Day Laborer Fee	10.00	

SWIMMING POOL/SPA COMBINATION

Fee	200.00 290.00	210.00 300.00	Permit
Day Laborer Fee	10.00		

TEMPORARY SALES/SEASONAL

~~35.00~~ 40.00

TEMPORARY C.O.

100.00
Plus an additional 100.00 for each
outstanding trade

TENT

50.00

TRAILER PERMIT

CONSTRUCTION TRAILER

Commercial	35.00 40.00
Residential	35.00 40.00

SALES/LEASING TRAILER

~~5.00~~ 5.25
Per \$1000.00 Valuation of
Project-~~\$35.00~~ 40.00 minimum

WATER ESTIMATE FEE (IF APPLICABLE)

40.00

WATER WELLS

60.00

XEROGRAPHIC COPIES

Standard Size Copies (per copy/ **per side**)*

.10

Microfilm copy (per copy)*

.25

* No charge if less than \$1.00 fee.

A Resolution of the City Council of the City of Plano, Texas, amending the existing Building Inspections Department Fee Schedule to provide City Services and Programs; Repealing all previous Fee Schedules and charges for services listed in the Building Inspections Department Fee Schedule and providing a repealer clause, a severability clause, and an effective date.

WHEREAS, on September 22, 2008 by Resolution 2008-9-24 (R), the City Council of the City of Plano, Texas amended the current Building Inspection Department Fee Schedule; and

WHEREAS, the City Council recognizes the importance of providing effective and efficient administration of services and programs of the City of Plano which contribute to the health, safety, and general welfare of the citizenry; and

WHEREAS, to provide for the continuance of needed City services and programs, the City Council is of the opinion that a Building Inspections Department Fee Schedule (Fee Schedule”) should be adopted to include the additional services and providing City services and programs to the users of such, and the City Council has been presented a proposed Fee Schedule, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, upon full review and consideration of the Fee Schedule, the City Council is of the opinion that the Fee Schedule should be adopted and approved, that all previous fee schedules and charges for services listed in the Fee Schedule attached hereto should be repealed in all respects, and that a copy of the amended Fee Schedule should be on file with and made available to the public at the Building Inspections Department;

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

Section I. The Building Inspections Department Fee Schedule attached hereto as Exhibit “A”, 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 adopted and approved, and previous fee schedules and charges for the services listed on the attachment are repealed in all respects.

Section II. The amended Fee Schedule shall be on file with and made available to the public at the Building Inspections Department.

Section III. All provisions of the Resolutions of the City of Plano in conflict with the provisions of this Resolution are hereby repealed, and all other provisions of the Resolutions of the City of Plano not in conflict with the provisions of this Resolution shall remain in full force and effect.

Section IV. It is the intention of the City Council that this Resolution, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision, or portion of this Resolution shall not affect the validity or constitutionality of any other portion of this Resolution.

Section V. The fees in this resolution shall become effective March 1, 2010.

DULY PASSED AND APPROVED this, the 22nd day of February, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane Wetherbee, CITY ATTORNEY

EXHIBIT "A"

CITY OF PLANO – BUILDING INSPECTIONS DEPARTMENT
FEE SCHEDULE

<u>ACCESS CONTROL</u>	5.25 Per \$1000.00 Valuation of Project - 40.00 minimum
<u>ACCESSORY BUILDING / DETACHED PATIO COVERS</u>	5.25 Per \$1000.00 Valuation of Project - 40.00 minimum
<u>ADDENDUM OR PLAN REDRAW</u> <u>(1/2 hr minimum)</u>	40.00 / hr.
<u>ANTENNA PERMIT</u>	30.00
<u>AFTER HOURS INSPECTIONS/ SATURDAYS</u> Inspections outside of normal business hours	120.00
<u>APPEAL BOARDS</u>	
Board of Adjustment	
Residential (Homestead)	150.00
Residential (Homestead) Encroachments on homes built prior to May 1987	75.00
Other Residential	265.00
Commercial	265.00
Signs	265.00
Building Standards Commission	
Residential	50.00
Commercial	265.00
<u>AWNING</u>	5.25 Per \$1000.00 Valuation of Project - 40.00 minimum
<u>BANNER PERMIT</u>	75.00
<u>CARPORT (SEE ACCESSORY BUILDING)</u>	
<u>CERTIFICATE OF OCCUPANCY</u>	100.00
(Fee assessed only in cases of Reoccupancy without construction)	
Clean and Show	75.00
House-Lights	75.00
Multi-Family Complex	75.00 /per building.

COMMERCIAL PROJECT

(New, Addition, Alteration or Interior Finish)

Separate permit fees for fire, mechanical, electrical, plumbing and water meters are required.

Foundation Only Permit
(all permit fees must be paid prior to issuing foundation only permit)

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of building permit fee
maximum \$2500.00

Building Permit

5.25 Per \$1000.00 Valuation
of Project - 40.00 minimum

Express Permitting (see express permits)

COOLING TOWERS

5.25 Per \$1000.00 Valuation
of Project

DEMOLITION PERMIT

50.00

ELECTRICAL PERMIT (COMMERCIAL)

(Calculated by Square footage)

New Installations and Full Remodel/Alterations:

Square footage of Building Floor Area

0-3000 sq. ft.	70.00
3001-10,000 sq. ft.	90.00
10,001-100,000 sq. ft.	110.00
over 100,000 sq. ft.	130.00

EXPRESS PERMITS

10.00 per \$1000 Valuation (Building permit only) \$100.00Min

FENCE

45.00

Residential Permit Fee 35.00
Day Laborer Fee 10.00

Commercial Permit Fee 50.00 60.00
Day Laborer Fee 10.00

FLAGPOLE

40.00

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5.25 Per \$1000.00 Valuation
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FOUNTAIN 60.00

IN-HOME DAYCARE (ANNUAL FEE) 60.00

LAWN IRRIGATION SYSTEMS

(per back flow device)

Residential Permit Fee	165.00	175.00
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(Paid **in advance** with **24 hours notice**) 40.00

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In addition, electrical, mechanical, plumbing and building permits will be required for structures terminating within the City.

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OUTDOOR FIREPLACE

5.25 Per \$1000.00 Valuation
of Project - 40.00 minimum

PARK FEE

Apartments	323.96/unit
Residential	467.47

PHOTOVOLTAIC

5.25 Per \$1000.00 Valuation of Project

PLAN REVIEW DEPOSIT

(Fee is applied to the total permit fee and is non-refundable.)

65% of building permit fee

PLUMBING CERTIFICATE (Service Inspection)

40.00

PLUMBING PERMIT (See Mechanical Permit Fees)

PROMOTIONAL PERMIT

60.00

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- General Contractor 100.00
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- Mechanical Contractor 100.00
- Electrical Contractor (every 2 years 200.00) * 100.00
 - Master Electrician (every 2 years 50.00) * 25.00
 - Journeyman Electrician (every 2 years 20.00) * 10.00
 - Residential Specialist (every 2 years 20.00) * 10.00
 - Sign Master (every 2 years 20.00)* 10.00
- Sign Journeyman (every 2 years 20.00)* 10.00
- Sign Contractor (every 2 years 200.00) 100.00
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- (for each additional identification tag) 10.00
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- (per vehicle identification tag)
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SAME DAY INSPECTION Per trade 75.00

REPRINT OR LOST PERMIT

20.00

RE-ROOF (Multi-family-one permit per building)

5.25 Per \$1000.00 Valuation of Project - 40.00 minimum

RESIDENTIAL (Addition, Alteration and New Construction)

Minimum fee 40.00

ADDITION

5.25 Per \$1000.00 Valuation

	of Project - 40.00 minimum
Addition valued at \$10,000 or greater, add Plan Review Fee	45.00
ALTERATION to Existing Structure Building Permit (if applicable)	5.25 Per \$1000.00 Valuation of Project - 40.00 minimum
	plus (+)
Alteration valued at \$10,000 or greater add add Plan Review	45.00
	plus (+)
Electrical Permit (if applicable) Per square foot Minimum Fee	.01 45.00
	plus (+)
Plumbing Permit (if applicable) Per square foot Minimum Fee	.01 45.00
	plus (+)
Mechanical Permit (if applicable) Per square foot Minimum Fee	.01 45.00
NEW SINGLE FAMILY RESIDENCE Cost per square foot (under roof)	.25
	plus (+)
Park Fee Plan Review Fee Plumbing Certificate	467.47 80.00 40.00
Duplex Cost per square foot	.25
	plus (+)
Park Fee Plan Review Plumbing Certificate	934.94 90.00 80.00
	plus (+)
<u>SATELLITE DISH (SEE ANTENNA PERMIT FEE)</u>	
<u>SIDEWALK OR APPROACH IN RIGHT OF WAY</u>	
(New or replacement)	40.00
<u>SIGNS</u>	
Non-illuminated Sign	75.00
Illuminated (includes electrical fee)	95.00

<u>SPAS (IN GROUND)</u>		150.00
Permit Fee	140.00	
Day Laborer Fee	10.00	
<u>SPAS (PORTABLE)</u>		50.00
<u>SWIMMING POOL (IN GROUND)</u>		300.00
Permit Fee	290.00	
Day Laborer Fee	10.00	
<u>SWIMMING POOL (ABOVE GROUND)</u>		55.00
Permit Fee	45.00	
Day Laborer Fee	10.00	
<u>SWIMMING POOL/SPA COMBINATION</u>		300.00
Permit Fee	290.00	
Day Laborer Fee	10.00	
<u>TEMPORARY SALES/SEASONAL</u>		40.00
<u>TEMPORARY C.O.</u>		100.00
		Plus an additional 100.00 for each outstanding trade
<u>TENT</u>		50.00
<u>TRAILER PERMIT</u>		
CONSTRUCTION TRAILER		
Commercial		40.00
Residential		40.00
SALES/LEASING TRAILER		5.25 Per \$1000.00 Valuation of Project - 40.00 minimum
<u>WATER ESTIMATE FEE (IF APPLICABLE)</u>		40.00
<u>WATER WELLS</u>		60.00
<u>XEROGRAPHIC COPIES</u>		
Standard Size Copies (per copy/ per side)*		.10
Microfilm copy (per copy)*		.25

* No charge if less than \$1.00 fee.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		2/22/2010			
Department:		Purchasing			
Department Head		Mike Ryan			
Agenda Coordinator (include phone #): Sharron Mason x7247					
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Agreement by and between Tony Picchioni and the City of Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date. The term of this Agreement shall be an initial three (3) years with a City option to extend an additional three (3) additional one (1) year periods.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2009-10, 2010-11, 2011-12, 2012-13	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	205,064	146,015	351,079
Encumbered/Expended Amount		0	-87,589	0	-87,589
This Item		0	-29,203	-146,015	-175,218
BALANCE		0	88,272	0	88,272
FUND(S): GENERAL					
<p>COMMENTS: This item approves price quotes. Expenditures will be made in the Human Resources Department based on need within the approved budget appropriations for each year of the contract. The estimated annual amount to be spent in FY 2009-10 is \$29,203. The estimated future annual amounts (\$58,406 in FY 2010-11; \$58,406 in FY 2011-12; and \$29,203 in FY 2012-13) total \$146,015, which will be made within approved budget appropriations.</p> <p>STRATEGIC PLAN GOAL: Providing consulting services for Human Resources Department relates to a "Financially Strong City with Service Excellence."</p>					
SUMMARY OF ITEM					
This Agreement is for professional consulting services by Tony Picchioni, which shall be coordinated through the Human Resources Director. The term of this agreement shall be an initial three (3) years with a City option to extend an additional three (3) additional one (1) year periods.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution and Agreement					

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Agreement by and between Tony Picchioni and the City of Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed agreement for Professional Consultant Services between Tony Picchioni, and the City of Plano, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

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

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

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

Section II. The City Manager or his authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

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

DULY PASSED AND APPROVED this the 22nd day of February, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**AN AGREEMENT BETWEEN THE CITY OF PLANO AND
TONY PICCHIONI FOR PROFESSIONAL CONSULTANT SERVICES**

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter referred to as "City" and **TONY PICCHIONI**, of Plano, Texas, hereinafter referred to as "Professional" to be effective from and after the date of execution by City.

WITNESSETH:

WHEREAS, the City has identified a need for professional consultant services (hereinafter the "Project"); and

WHEREAS, City desires to engage the services of the Professional to assist in such Project and to render its services on the terms and conditions provided in this Agreement; and

WHEREAS, the Professional agrees to render its services to the City as provided herein;

THEREFORE, the City hereby engages the services of the Professional, and in consideration of the mutual promises herein contained, the parties agree as follows:

**I.
TERM**

The term of this Contract shall be a period of three (3) years commencing upon the effective date hereof; provided however, that the City shall have the right and option to extend the term hereof by three (3) additional one (1) year periods by giving written notice to Professional of City's election to so extend the terms hereof, such notice to be given not more than sixty (60) days prior to the expiration of the initial term. The parties further agree that City may cancel and terminate this Contract without cause, upon ten (10) days written notice to Professional.

**II.
SERVICES**

All services provided by the Professional shall be coordinated through the Human Resources Director or her designee as follows:

- informal resolution conferences
- mediation
- 40 hour Conflict Mediation (certificate program for the State of Texas)
- communication and skill building

- intervention with interpersonal conflict
- coaching and mentoring
- negotiation skills
- facilitation
- serve as Director and facilitator/instructor of the City's succession plan, the Management Preparation Program of Plano (MP³)
- facilitating the Dispute Resolution System
- monitor the mentoring program and provide training, guidance, and support for participants
- develop and conduct training classes through the Professional Development Center for conflict management, communication skills, interest based negotiations, third party facilitation, and other classes as requested

III. COMPENSATION/EXPENSES

Professional shall provide sixty (60) hours of service at the **monthly rate of FOUR THOUSAND EIGHT HUNDRED SIXTY SEVEN AND 17/100 DOLLARS (\$4,867.17)** in connection with the Project. In consideration for the services to be rendered under this Agreement, including all expenses, Professional shall be paid a fee not to exceed **FIFTY EIGHT THOUSAND FOUR HUNDRED SIX AND NO/100 DOLLARS (\$58,406.00)** annually. Professional may invoice City upon completion and acceptance of services to be provided or may invoice City on a monthly basis. Such invoices shall be itemized to show services performed, expenses and corresponding charges. Professional shall keep accurate records of its services and expenses incurred in the performance of this Agreement and shall make the same available to City for inspection and copying upon five (5) days notice thereof. These records shall be kept by Professional for two (2) years following the expiration of this Agreement. No interest or other late payment charges shall ever be due.

Professional recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Professional and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

**IV.
ADDITIONAL SERVICES**

In addition to the above services, Professional will also provide training to other organizations where such services are requested through or in conjunction with the City. City and Professional agree that compensation for these additional services shall be divided at the rate of forty percent (40%) for City and sixty (60%) for Professional for all fees received less actual expenses incurred by City.

**V.
USE OF AGENTS OR ASSISTANTS**

Neither this Agreement nor any duties or obligations hereunder shall be assignable by the Professional without the prior written consent of City. Upon consultation and with the approval of the Human Resource Director or his/her designee, professional may engage the services of any agents or assistants which he may deem proper, and he may further employ, engage, or retain the services of such other persons or corporations to aid or assist it in the proper performance of his duties. The cost of the services of such agents or assistants shall be borne by Professional at his sole cost and expense.

**VI.
INSURANCE**

Professional agrees to meet all insurance requirements, and to require all consultants who perform work for Professional to meet all insurance requirements, as set forth in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. Workers' compensation insurance is waived for a contractor who is a sole proprietor only after he/she has fully executed a Sole Proprietor Affidavit certifying his/her status as attached hereto as Exhibit "B".

**VII.
OWNERSHIP OF DOCUMENTS**

All documents and reports developed as a result of the services of this Agreement shall be the property of the City. Any use by Professional of the information developed for publication or work with other clients must receive prior written permission from the City.

Upon termination of this Agreement, Professional shall transfer, assign and make available to City, or its representatives, all property and materials in its possession or control belonging to the City and paid for by the City. In the event that the material, which is the subject of this Agreement, is copyrightable subject matter, Professional and City agree that for the purposes of this order the material shall be a work made for hire and the property of the City. In the event that the material which is the subject of this Agreement is not copyrightable

subject matter, or for any reason is determined not to be a work made for hire, then and in such event Professional hereby assigns all right, title and interest to said material to City for the fees specified herein.

**VIII.
MAXIMUM COMPENSATION UPON TERMINATION BY CITY OR
PROFESSIONAL**

In the event of termination by City without cause, the Professional shall be compensated only for actual expenses and fees incurred by Professional in providing those services acceptable to City which are within the scope of work under this Agreement to date of notice of termination. Expenses do not include overhead such as utilities, rent, insurance, etc., and shall not exceed the total amount due under this Agreement.

**IX.
INDEPENDENT CONTRACTOR**

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

**X.
INDEMNIFICATION**

THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY

OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

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

XI. ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding. The parties agree that this Agreement and its attachments constitute the entire understanding of the parties. In the event of conflict between the Agreement and Proposal, the Agreement shall control.

XII. SUCCESSORS AND ASSIGNS

City and Professional each bind themselves, their successors, executors, administrators and assigns to the other party to this Agreement. Neither City nor Professional will assign, sublet, subcontract or transfer any interest in this Agreement without the written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without

the written consent of City. Subject to the provision regarding assignment, this Agreement shall be binding on the administrators, legal representatives, successors, and assigns of the respective parties.

**XIII.
GOVERNING LAW/VENUE**

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas. The parties agree that it is performable in Collin and Denton County, Texas and that exclusive venue shall be in Collin County, Texas.

**XIV.
APPLICABLE LAW**

This Agreement is entered into subject to the charter and ordinances of City as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable federal and state laws. Professional shall make any and all reports required in accordance with federal, state or local law, including but not limited to proper reporting to the Internal Revenue Service as required in accordance with Professional's income.

**XV.
SEVERABILITY**

In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**XVI.
AFFIDAVIT OF NO PROHIBITED INTEREST**

Professional acknowledges and represents it is aware of the laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Agreement voidable. At the time of executing this Agreement, a representative of Professional will execute the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "C".

**XVII.
NONWAIVER**

It is further agreed that one (1) or more instances of forbearance by City in the exercise of its rights herein shall in no way constitute a waiver thereof.

**XVIII.
PARAGRAPH HEADINGS**

The descriptive headings of the several Articles, Sections and Paragraphs contained in this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

**XIX.
CONTRACT INTERPRETATION**

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

EXECUTED on the dates indicated below.

CITY OF PLANO, TEXAS, a home-rule
Municipal Corporation

By: _____
THOMAS H. MUEHLENBECK
City Manager
1520 K Avenue
P. O. Box 860358
Plano, Texas 75086-0358

Date: _____

By: _____
TONY PICCHIONI
Address: _____

Date: _____

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2010 by **TONY PICCHIONI**.

Notary Public in and for the
State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

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

Notary Public in and for the
State of Texas

City of Plano
Contractor Insurance Requirements and Agreement
 Requirements

Contractors performing work on City property or public right-of-way for the City of Plano shall provide the City a certificate of insurance evidencing the coverages and coverage provisions identified herein. Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. The City, at its own discretion, may require a certified copy of the policy.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City of Plano.

Listed below are the types and amounts of insurance required. The City reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

Type of Insurance	Amount of Insurance	Provisions
1. Commercial General (Public) Liability to include coverage for: a) Premises/Operations b) Products/Completed Operations c) Independent Contractors d) Personal Injury e) Contractual Liability	\$500,000 each occurrence, \$1,000,000 general aggregate; Or \$1,000,000 combined single limits	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage. City prefers that insurer be rated B+VI or higher by A.M.Best or A or higher by Standard & Poors
2. Business Auto Liability	As required by State of Texas	
3. Workers' Compensation & Employers' Liability	Statutory Limits \$100,000 each accident	City to be provided a waiver of subrogation

Questions regarding this insurance should be directed to the City of Plano Purchasing Department (972) 941-7557.

*This form must be signed and returned with your quotation to verify that you can and will meet the insurance requirements listed herein should you be selected to perform work for the City, and will provide the certificates of insurance acceptable to the City. **A PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE OF INSURANCE.***

**CITY OF PLANO, TEXAS
SOLE PROPRIETOR AFFIDAVIT
(Must be signed and Notarized by Contractor)**

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

I, **TONY PICCHIONI**, being over twenty-one years of age and qualified in every respect to make this affidavit, do hereby swear as follows:

My name is **TONY PICCHIONI** and I am Sole Proprietor. I am an Independent Contractor pursuant to Section 406.097(c) and Section 406.097(a) of the Texas Workers' Compensation Act. I do not have any employees. In the event I have to hire an employee, I will provide to such employee or employees Workers' Compensation coverage as is required by law. I assume the responsibilities of an independent contractor in the performance of the work that I will perform professional consultant services for the City of Plano.

Signed By: _____
TONY PICCHIONI

Printed Name

SIGNED AND SWORN to before me on the _____ day of _____, 20__.

Notary Public in and for
the State of Texas

My commission expires:

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that **TONY PICCHIONI** (herein "Contractor") is not employed by the City of Plano nor is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

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

By: _____
TONY PICCHIONI

Print Name

Title

Date

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

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

Notary Public, State of Texas

EXHIBIT C
PAGE 1 OF 1



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #): Irene Pegues (X-7152)				
CAPTION				
A resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Interlocal Cooperative Agreement by and between the City of Plano and the North Central Texas Council of Governments (NCTCOG), for a Traffic Signal Project; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2009-10	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	53,920	0
BALANCE		0	53,920	0
FUND(s):				
<p>COMMENTS: This item allows the City to enter into an interlocal agreement with NCTCOG for the Computerized Signal System project. If this request is approved, the City's commitment will be \$13,480 or 20% of the project cost, and NCTCOG will reimburse the City 80% of the project cost, up to \$53,920, for traffic surveillance cameras.</p> <p>STRATEGIC PLAN GOAL: Interlocal agreements for street widening relate to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
This agreement provides funding to install traffic surveillance cameras at the intersections of Custer Road at Hedgcoxe Road, and Custer Road at McDermott Road, and to optimize the signal operations at these locations. Funding is 20% City and 80% from NCTCOG. The City portion is funded from existing CIP funds.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Interlocal Agreement			N/A	

A resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Interlocal Cooperative Agreement by and between the City of Plano and the North Central Texas Council of Governments (NCTCOG), for a Traffic Signal Project; authorizing its execution by the City Manager or his authorized designee; 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 Cooperative Agreement by and between the City of Plano, Texas, and the North Central Texas Council of Governments, providing terms and conditions for a Traffic Signal Project, 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 his authorized designee should be authorized to execute it on behalf of the City of Plano.

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

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

Section II. The City Manager or his authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

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

DULY PASSED AND APPROVED the 22ND day of February, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"

INTERLOCAL COOPERATIVE AGREEMENT
Between
THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS
and
CITY OF PLANO
for
TRAFFIC SIGNAL PROJECT

WHEREAS, the North Central Texas Council of Governments (NCTCOG) has been designated as the Metropolitan Planning Organization for the Dallas-Fort Worth Metropolitan Area by the Governor of Texas in accordance with federal law; and,

WHEREAS, the Regional Transportation Council (RTC), comprised primarily of local elected officials, is the regional transportation policy body associated with NCTCOG and has been and continues to be a forum for cooperative decisions on transportation; and,

WHEREAS, it is the goal of the RTC to encourage the implementation of projects to reduce vehicle emissions that create ozone; and,

WHEREAS, on April 14, 2005, the RTC approved funding for implementation of a Local Air Quality Program in the Dallas-Fort Worth Metropolitan Area for the implementation of projects and programs that address the federal 8-hour ozone standard; and,

WHEREAS, on July 13, 2006, the RTC awarded funds to City of Plano for Traffic Signal projects; and,

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code provides authority for the North Central Texas Council of Governments, and City of Plano to enter into this agreement for the provision of governmental functions and services of mutual interest;

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

1. Parties

- 1.1. This Interlocal Agreement, hereinafter referred to as the "Agreement", is made and entered into by and between the North Central Texas Council of Governments, hereinafter referred to as "NCTCOG", and the Public Sector Sponsor, City of Plano, hereinafter referred to as the "SPONSOR". NCTCOG and the SPONSOR may each be referred to as a "Party", and may be collectively referred to as "Parties" to this agreement.

2. Terms of Agreement

- 2.1. **Scope of Service.** The SPONSOR covenants and represents to the NCTCOG that the SPONSOR shall implement Traffic Signal projects as provided for in Appendix A hereinafter referred to as the “**SCOPE**”.
- 2.2. Changes to the SCOPE must be agreed to by both parties, in writing.
- 2.3. SPONSOR agrees that emissions reductions provided by each Scope Activity may be used by NCTCOG to meet air quality requirements and goals.
- 2.4. **Notice to Proceed.** A Notice to Proceed shall be issued for each Scope Activity upon receipt of Local Match payment and completion of Notice to Proceed Prerequisites as identified in the SCOPE. A Notice to Proceed shall not be issued for any Scope Activity prior to the Funding Year as identified in the SCOPE.
- 2.5. **Time of Performance.** The SPONSOR shall not commence performance of any Scope Activity, nor incur any costs or obligations associated with those services, until the SPONSOR has received a written Notice to Proceed from NCTCOG for the Scope Activity. All work and services required by this Agreement shall be completed in a reasonable period of time in accordance with RTC policies.
- 2.6. **Termination.** Either party reserves the right to terminate this Agreement in whole or in part. Notice of termination must be provided in writing, shall set forth the reasons for termination, and shall provide for a minimum of 30 days to cure the defect. Termination is effective only in the event the party fails to cure the defect within the period stated in the termination notice including any written extensions. If the Agreement is terminated, NCTCOG shall only be liable for payment for services rendered before the effective date of termination, plus reasonable contract closeout costs, as mutually agreed upon.

The Parties may terminate this Agreement at any time by mutual written concurrence. Parties also agree that should a necessitated switch from local funds to federal funds occur for any Scope Activities, this agreement will be terminated with respect to those Scope Activities.
- 2.7. **Unused Local Match.** Upon completion of any Scope Activity or termination of the Agreement, any remaining Local Match funds provided by the SPONSOR may be returned to the SPONSOR or may be used as a Local Match payment for another project or Scope Activity awarded funds by RTC, at the discretion of the SPONSOR.
- 2.8. **Closeouts.** Closeouts shall occur upon completion of each Scope Activity including completion of Scope Activity Closeout Requirements identified in the SCOPE, complete receipt of payment, and submittal of final closeout reports. Closeout of this Agreement does not invalidate any continuing obligations imposed by this Agreement.

3. Amendments

- 3.1. **Agreement.** This Agreement embodies all of the agreements of the parties relating to its subject matter, supersedes all prior understandings and agreements regarding such subject matter.
- 3.2. **Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intent of the Parties.
- 3.3. **Changed Circumstances.** If future federal, State, or local statute, ordinance, regulation, rule, or action render this Agreement, in whole or in part, illegal, invalid, unenforceable, or impractical, the parties agree to delete and/or to modify such portions of the Agreement as are necessary to render it valid, enforceable, and/or practical. Each section, paragraph, or provision of this Agreement shall be considered severable, and if, for any reason, any section, paragraph, or provision herein is determined to be invalid under current or future law, regulation, or rule, such invalidity shall not impair the operation of or otherwise affect the valid portions of this instrument.
- 3.4. **Modifications.** Modifications to this Agreement must be agreed to in writing.
- 3.5. **Other Funding Awards.** In the event that a Scope Activity is awarded funding under another federal or state program, that Scope Activity may no longer be eligible to receive reimbursement under this agreement and the SCOPE shall be modified to reflect this change.

4. Budget

- 4.1. **Funding.** NCTCOG shall reimburse the eligible and allowable expenses of each Scope Activity in an amount not to exceed the awarded funds identified in Appendix A. Funds may not be available for reimbursement prior to the fiscal year (October 1st through September 30th) as identified in the SCOPE. Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.
- 4.2. **Match.** The SPONSOR shall provide the required local match for each Scope Activity as outlined in Appendix A. The SPONSOR shall provide a check payable to the North Central Texas Council of Governments in the amount specified in Appendix A. A Notice to Proceed for each Scope Activity will not be issued unless or until the local match for that Scope Activity has been received. If the local match amount for any Scope Activity has not been received within two (2) years of the date this Agreement is executed, NCTCOG reserves the right to reprogram funding.
- 4.3. **Cost Overruns.** The SPONSOR is responsible for any cost overruns.

- 4.4. Unused Funds.** In the event that a Scope Activity is completed for less than the total awarded funding as identified in the SCOPE, any unused local funds shall be returned to the SPONSOR, except as directed by the SPONSOR under paragraph 2.7, and the remaining RTC/Local funds shall be reprogrammed by the RTC.

5. Payments

- 5.1. Reimbursement.** Invoices shall be submitted at regular intervals following the first costs incurred for each Scope Activity. Additionally, an invoice shall be submitted by October 15th of each year for each Scope Activity for work performed but not invoiced during the previous fiscal year. Reimbursement shall be made at the end of the NCTCOG fiscal year (October 1st through September 30th) and upon closeout of each Scope Activity.
- 5.2. Required Documentation.** Requests for reimbursement shall include an itemized list of expenses for which reimbursement is requested, as well as supporting documentation. Expenses should be grouped according to the Scope Activity for which the expense was incurred and a Location Reference Number should be indicated for each expense.
- 5.3. Eligible Expenses.** Costs must be determined by NCTCOG to be the reasonable, necessary, actual, and eligible costs of conducting the Scope Activity. Expenses related to utility relocation will not be eligible for reimbursement.
- 5.4. Availability of Funds.** This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the receipt and availability of RTC/Local funds. If RTC/Local funds are not available due to a default of local funds being paid to NCTCOG, the SCOPE shall be modified to reflect the reduced availability of funds.

6. Rights

- 6.1. Authority.** The SPONSOR shall have no authority to act for or on behalf of the NCTCOG except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. The SPONSOR may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of NCTCOG.
- 6.2. Assignment.** Without the prior written consent of the NCTCOG, the SPONSOR may not transfer or assign any rights or responsibilities under or any interest in this Agreement.

7. Miscellaneous Provisions

- 7.1. **Indemnification.** The parties agree that neither party is an agent, partner, servant, or employee of the other party.
- 7.2. **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that, if the performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within reasonable time of the existence of such force majeure.
- 7.3. **Contractual Relationship.** It is understood and agreed that the relationship described in this Agreement between the parties is contractual in nature and is not to be construed to create a partnership of joint venture or agency relationship between the parties. Nor shall any party be liable for any debts incurred by the other party in the conduct of such other party's business or functions.
- 7.4. **Guidelines and Procedures.** The SPONSOR agrees to implement and manage all Scope Activities in accordance with operating standards and procedures established by SPONSOR's governing body.
- 7.5. **Insurance.** The SPONSOR shall comply with the insurance requirements imposed by State and local laws, regulations, and ordinances.
- 7.6. **Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.
- 7.7. **Disputes and Remedies.** The SPONSOR and NCTCOG shall negotiate in good faith toward resolving any disputes that arise under this Agreement. Venue shall be Tarrant County, Texas.
- 7.8. **Public Comment Process.** Public meeting and public hearing notices regarding this project shall be provided to NCTCOG within five (5) days of publication. Meeting minutes, summaries of communication, and copies of written responses to public comments and questions shall be transmitted to the NCTCOG Contact Person as identified on the Agreement Cover Sheet within thirty (30) days following the meeting
- 7.9. **Notice.** Notices to either party by the other party required under this Agreement shall be in writing and delivered to the addresses shown below. A copy shall concurrently be provided to the Contact Person, provided on the Agreement Cover Sheet, of the party receiving notice.

NCTCOG

Mailing Address:

Michael Morris, P.E., Transportation Director
North Central Texas Council of Governments
Transportation Department
P.O. Box 5888
Arlington, Texas 76005-5888

Telephone No.: (817) 695-9240

Facsimile No.: (817) 640-3028

SPONSOR

Mailing Address:

Lloyd Neal, PE, Transportation Engineering
Manager
City of Plano
P. O. Box 860358
Plano, Texas 75086

Telephone No.: (972) 941-7151

Facsimile No.: (972) 423-9587

Physical Address:

Michael Morris, P.E., Transportation Director
North Central Texas Council of Governments
Transportation Department
616 Six Flags Drive
Arlington, Texas 76011

Physical Address:

Lloyd Neal, PE, Transportation Engineering
Manager
City of Plano
1520 Avenue K, Room 250
Plano, Texas 75074

The above contact information, or the contact information provided on the Agreement Cover Sheet, may be modified without requiring an amendment to the Agreement.

8. Subcontracting

- 8.1. All work and services required hereunder will be performed by the SPONSOR, or under its supervision, and SPONSOR shall ensure that all personnel engaged in the performance of work or services shall be fully qualified and properly authorized or licensed under the applicable federal, state and local law, statutes, and ordinances to perform such work or services.
- 8.2. The SPONSOR shall ensure that the services performed under all subcontracts comply with all terms and conditions of this Agreement as if the SPONSOR performed such services. Where the SPONSOR contracts with another entity or individual, including a subgrantee or recipient (Subcontractor), to perform any or all of the SCOPE, the SPONSOR will enter written contractual agreements requiring the Subcontractor to comply with the provisions of this Agreement.
- 8.3. The SPONSOR shall comply with their Agency set standards and practices when soliciting and acquiring all subcontractors for Scope Activities.

9. Design Standards/Certification.

- 9.1. **Design Guidelines.** SPONSOR agrees to design, build, and maintain equipment and facilities described in the SCOPE in compliance with standards and procedures established by SPONSOR'S governing body.

- 9.2. **Inspections.** SPONSOR agrees to perform field inspections at appropriate intervals to be determined by SPONSOR to ensure project compliance with the standards and procedures established by SPONSOR'S governing body. Copies of such reports shall be provided to NCTCOG upon request.
- 9.3. **Blueprints/Designs.** The SPONSOR shall provide the NCTCOG with copies and recent updates of any final designs or schematics pertaining to the Scope Activities upon request.
- 9.4. The SPONSOR shall ensure that all required documents of the Scope Activities, including but not limited to insurance certificates, performance or payment bonds, and required licenses and permits of a SPONSOR or the SPONSOR'S subcontractors be kept on file, current, and available to the NCTCOG upon request. Additionally, any relevant performance documents pertaining to the Scope Activities, such as correspondence, evaluations, reports submitted by the subcontractor and/or the SPONSOR'S contract administration team, payment requests, and copies of invoices shall be provided to the NCTCOG upon request.

10. Accessibility and Maintenance of Records

- 10.1. The SPONSOR shall maintain a record keeping system for all of its activities, including program records and financial management records, which support and document all expenditures of funds made under this Agreement, in accordance with federal regulations, state rules, and the Interlocal Cooperative Agreement. This section shall not be interpreted to require maintenance of multiple exact duplicate copies of any record or document.
- 10.2. All records must be maintained for a minimum of three (3) years after SCOPE closeout. In the event that any litigation or claim is still pending before the expiration of the three-year period, these records shall be retained until resolution of the litigation or claim. NCTCOG and their duly authorized agents shall have access to all records that are directly applicable to this agreement for the purpose of making audit(s) examinations.

11. Audits or Evaluations

- 11.1. The SPONSOR shall provide NCTCOG, for its review, a copy of any audit received as a result of SPONSOR policy or audits of federal and state governments relating to the expenditure of reimbursement funds under this Agreement. Such audits shall include or be accompanied by any applicable audit management letter issued and applicable responses to the auditor's findings and recommendations. All audits shall be submitted to NCTCOG within thirty (30) days of receipt of each issued report.

- 11.2. NCTCOG reserves the right to conduct financial and program monitoring of all awards to the SPONSOR and to perform an audit of all records, related to this Agreement. An audit by NCTCOG may encompass an examination of all financial transactions, all accounts and reports, as well as an evaluation of compliance with the terms and conditions of this Agreement.

12. Reports

- 12.1. Annually and as indicated in the SCOPE, the SPONSOR shall provide to NCTCOG written progress reports for work completed on Scope Activities. At a minimum, progress reports should included the information required by the SCOPE.
- 12.2. Upon request from NCTCOG, the SPONSOR shall provide reports on the status of the Scope Activities.

13. Assurances

- 13.1. **Equal Employment Opportunity.** The SPONSOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The SPONSOR shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 13.2. **Nondiscrimination on the Basis of Disability.** The SPONSOR agrees that no otherwise qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under the project. The SPONSOR shall insure that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, set forth in 49 CFR, Part 27 and any amendments thereto.
- 13.3. **Interest of Public Officials.** No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- 13.4. **Noncollusion.** The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee or agent working for it, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee or agent, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. If the SPONSOR breaches or violates this warranty, NCTCOG shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the

Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

- 13.5. Gratuities.** Any person doing business with or who, reasonably speaking, may do business with NCTCOG under this Agreement may not make any offer of benefits, gifts or favors to employees of NCTCOG. Failure on the part of the SPONSOR to adhere to this policy may result in termination of this Agreement.
- 13.6. Debarment/Suspension.** The SPONSOR is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. The SPONSOR and its subcontractors shall comply with Federal and State regulations regarding Debarment and Suspension. The SPONSOR shall include a statement of compliance with Federal and State Debarment and Suspension regulations in Third-Party contracts.
- 13.7. Restrictions on Lobbying.** The SPONSOR is prohibited from using funds awarded under this agreement for lobbying purposes. The SPONSOR shall include a statement of compliance with this provision in applicable procurement solicitations and Third-Party contracts.
- 13.8. Disadvantaged Business Enterprise.** The SPONSOR shall comply with SPONSOR'S policies and procedures regarding Disadvantage Business Enterprise (DBE) participation in carrying out this Agreement. Upon request, SPONSOR shall report DBE participation.
- 13.9. Compliance with Regulations.** During the performance of this Agreement, the SPONSOR, for itself, its assignees, and successors agrees to comply with all applicable local, state, and federal regulations.
- 13.10. Copyrights.** Except as otherwise provided in the terms and conditions of the Agreement, NCTCOG is free to copyright any books, publications, or other copyrightable materials developed in the course of this Agreement. Except as otherwise provided in the terms and conditions of the Agreement, the NCTCOG shall reserve a royalty-free nonexclusive and irrevocable right to produce, publish, or otherwise use, and to authorize others to use, the work for government purposes.
- 13.11. Constitutional Prohibition.** The SPONSOR shall not use funds under this agreement for the acquisition, construction, reconstruction, rehabilitation, or operation of structures used for religious purposes.

Appendices

The following appendices are attached and made part of this Agreement.

Appendix A Scope of Services

IN WITNESS HEREOF, the parties have executed this Agreement in duplicate original at Arlington, Tarrant County, Texas, the _____ day of _____, 2010.

CITY OF PLANO

**NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS**

Signature

R. Michael Eastland
Executive Director

Printed Name

APPROVED AS TO FORM:

Title

General Counsel

ATTEST:

Traffic Signal Retiming Scope Activities for Plano

Scope Activity*	Traffic Signal Retiming Project (2 locations)
11804	Custer Rd from Hedgcoxe Rd to McDermott Dr

Scope

Add progressive signal timing, communications equipment, and communications software to 2 existing signals

Notice to Proceed Prerequisites

Submittal of a list of Scope Activity milestones to NCTCOG.
Remittance of required 20% Local Match (\$13,480.00) to NCTCOG

Progress Report Requirements

Status reports shall be submitted by the first of each month following issuance of a Notice to Proceed for each month until completion of the Scope Activity and at the end of each fiscal year in which costs are incurred for this Scope Activity. Reports shall include the scope activity name, the date that the report is submitted, a list of activities carried out during the previous month, and an indication of how far along the project is (including estimated let/completion dates and actual let/completion dates for all phases).

Budget Information**

Funding Year 2008

Total Reimbursable Costs:	\$	67,400.00	Share
RTC/Local Funds:	\$	53,920.00	80%
Local Match:	\$	13,480.00	20%

Locations

Location Reference Number*	Location	Signal ID	Description of Work
11804-1001	Custer/FM 2478 at FM 2170	4672	Moderate traffic signal hardware upgrades and retiming (cabinet and controller upgrades, signal interconnect)(no lead-lag to lead-lag)
11804-1002	Custer/FM 2478 at Hedgcoxe	4665	Moderate traffic signal hardware upgrades and retiming (cabinet and controller upgrades, signal interconnect)(no lead-lag to lead-lag)

* A Location Reference Number should be indicated for all expenses when requesting reimbursements.

** Funding Year refers to the NCTCOG Fiscal Year which runs from October 1 through September 30.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/2010		
Department:		Planning		
Department Head		P. Jarrell		
Agenda Coordinator (include phone #): T. Stuckey - 7156				
CAPTION				
An Ordinance of the City of Plano, Texas, repealing Ordinance No. 98-4-7 as amended by Ordinance No. 2008-8-12, codified as Section 16-19, Fees for Zoning, Rezoning and Other Miscellaneous Fees, of Article II, Fees Generally, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, Texas; establishing a new fee schedule for zoning, rezoning, and other miscellaneous procedures; and providing a repealer clause, a savings clause, a severability clause, and an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	\$5,830	\$10,000	\$15,830
BALANCE	0	\$5,830	\$10,000	\$15,830
FUND(S): GENERAL FUND				
<p>COMMENTS: This item will add additional revenue to the 2009-10 Planning and Engineering Budgets as well as future year Budgets due to changes to the Planning and Engineering Fees. Projected supplemental revenue of \$5,830 is anticipated for the remainder of 2009-10 and approximately \$10,000 per year in future years. These revenue increases are a mid-year change and will be in addition to the 2009-10 budgeted revenues.</p> <p>STRATEGIC PLAN GOAL: Modification of the Planning and Engineering Fees relates to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
Proposed development fee increase. Refer to attached memo.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Memo				
Ordinance				

February 9, 2010

MEMO

TO: Thomas H. Muehlenbeck, City Manager
Frank F. Turner, Deputy City Manager

FROM: Tina M. Firgens, Planning Manager

SUBJECT: Proposed Development Fees Increase

Planning and Engineering staff were asked to evaluate the current development application filing fees to determine if any of the fees collected should be adjusted. This fee evaluation was conducted in conjunction with other departments within the city including Building Inspections and Property Standards.

The last comprehensive development fee update was completed in 1989, with subsequent minor fee amendments adopted in 1998 and 2008. While it has been some time since the fees were last comprehensively amended, staff has continuously surveyed other cities' fees during these past several years to make sure Plano's fees remain competitive.

Based upon staff's most recent assessment, proposed fee increases are appropriate to consider since some of our fees are less than surrounding cities. The city of McKinney's development fees are lower than the city of Plano's fees, while the city of Richardson's fees are higher.

Additionally, the fee schedule should be representative of the types of development applications submitted and the staff time required for processing applications. The types of development applications submitted today differ than the past. For example, many large lot developments are no longer being submitted for review since a majority of the city has been developed. Also, redevelopment applications for smaller developments are more complex, requiring additional staff time, and the number of minor site improvement applications has increased.

Lastly, as part of this effort, staff has identified opportunities where the fee schedule could be simplified to eliminate confusion and be updated to be consistent with recent amendments to our development processes. For example, fees collected for general tree surveys and tree preservation plans are proposed to be consolidated with the landscape plan fee, with the landscape plan fee having a minimum base fee instead of being calculated as a percentage of another plan type that may or may not be required. Also, the land study application has been replaced with a concept plan application through recent amendments to the Subdivision and Zoning Ordinances this past year.

(2009); however, the fee schedule has not been updated to reflect the change in the ordinances.

Attached to this memo is a summary of the city's current development fees and proposed fees for City Council's consideration. The fees proposed are in alignment with surrounding cities' development fees. The proposed fee increases are anticipated to generate a nominal increase in overall development revenue (approximately 5%). Staff's anticipates an estimated increase of \$5,830 for FY2009-2010, and an estimated increase of \$10,000 for FY2010-2011. However, these revenue projections will fluctuate depending upon the number of development applications submitted.

Please let me know if you need additional information.

xc: Phyllis Jarrell, Director of Planning
 Alan Upchurch, Director of Public Works & Engineering

PROPOSED FEE SCHEDULE – EFFECTIVE MARCH 1, 2010

NO.	FEE	EXISTING	PROPOSED
(1)	Amended Plat	\$140.00 plus \$5/lot	<i>\$250 plus \$5 per lot</i>
(2)	Annexation/ Disannexation	No charge	(no change)
(3)	Concept Plan	\$310	<i>\$350</i>
(4)	Conveyance Plat	\$190	(no change)
(5)	Engineering Inspection Fee	3.7% of estimated costs of public improvements	<i>4.0% of estimated costs of public improvements</i>
(6)	Façade Plan	No fee	<i>\$100</i>
(7)	Final Plat	\$140 plus \$5/lot with an approved preliminary plat; otherwise the fee shall be the same as for a preliminary plat	<i>\$250 plus \$5 per lot</i>
(8)	Flood Study Analysis	\$3,000.00 for the analysis of new flood studies as required in the Design Manual for Storm Drainage Facilities (Ord. No. 93-6-11)	(no change)
(9)	General Tree Survey	\$60 for 10 or more trees on property	<i>No fee – included in landscape plan fee</i>
(10)	Heritage Resource Designation	\$30	(no change)
(11)	Landscape Plan	15% of preliminary plat fee	<i>\$100 per acre with a minimum fee of \$250</i>
(12)	Land Study - Phase I	\$8/acre or portion thereof plus \$10	<i>Omitted – plan approval deleted from Subdivision Ordinance in 2009</i>
(13)	Land Study - Phase II	\$28/lot plus \$10	<i>Omitted – plan approval deleted from Subdivision Ordinance in 2009</i>
(14)	Minor Plat	Same as final plat (\$140 plus \$5/lot with an approved preliminary plat; otherwise the fee shall be the same as for a preliminary plat)	<i>\$250 plus \$5 per lot</i>
(15)	Preliminary Plat	Commercial & Multi-Family - \$190/acre plus \$10; Residential - \$37/lot plus \$10	<i>\$280 per acre for all types of development</i>

NO.	FEE	EXISTING	PROPOSED
(16)	Preliminary Site Plan	\$50/acre or portion thereof plus \$10	<i>\$50 per acre with a minimum fee of \$250</i>
(17)	Priority Processing	\$2,500 in addition to other applicable fees	(no change)
(18)	Replat	\$140 plus \$5/affected lot (Final plats will be charged the same as a replat when filed with a vacation of plat.)	<i>\$250 plus \$5 per lot</i>
(19)	Site Plan	\$100/acre or portion thereof plus \$10	<i>\$100 per acre with a minimum fee of \$250</i>
(20)	Site Plan – Substantially Conforming	\$50	<i>\$100</i>
(21)	Specific Use Permit	\$110 plus \$6/acre or portion thereof	<i>\$250</i>
(22)	Street Name Change (after preliminary plat approval)	\$250	(no change)
(23)	Subdivision Mapping Fees	\$80 for single-family final plats with Auto/Cad diskette; \$200 for single-family final plats without Auto/Cad diskette; \$30 for commercial/multi-family final plats with Auto/Cad diskette; \$50 for commercial/multi-family final plats without Auto/Cad diskette	<i>No fee – included in preliminary plat fee</i>
(24)	Subdivision Name Change (after preliminary plat approval)	\$100	(no change)
(25)	Traffic Impact Analysis	\$1,000 for analyses submitted as required under section 3-1400 of the comprehensive zoning ordinance of the city (Ordinance No. 86-3-14)	(no change)
(26)	Tree Mitigation	\$175 per caliper inch, based on the total number of caliper inches to be mitigated	(no change)
(27)	Tree Preservation Plan	\$110 for 10 or fewer trees; \$100 per acre of vegetated area plus \$10 for other properties	<i>No fee – included in landscape plan fee</i>

NO.	FEE	EXISTING	PROPOSED
(28)	Vacation of Plat	\$30	(no change)
(29)	Zoning Appeal	\$110 plus \$5 for each property owner listed on the public hearing notice	(no change)
(30)	Zoning Case Withdrawal	Refund 50% of filing fee prior to mailing or publication of a notice of public hearing. After public notice has been given, no refund will be made.	(no change)
(31)	Zoning Requests	\$460 for single-family, patio home, duplex, or townhouse districts.	Residential Zoning: \$600
		\$1,210 for zero to 50 acres plus \$10/acre or portion of an acre additional over 50 acres for all other zoning and planned development requests.	Commercial and Multifamily Zoning: \$1,500 for 0-50 acres, plus \$10 per acre over 50 acres
			Planned Development Zoning: \$1,500 for 0-50 acres, plus \$10 per acre over 50 acres
(32)	Zoning Verification Letter	\$20	\$50

The Engineering Inspection Fee is a percentage of the actual contract cost of city-maintained improvements, to be paid prior to the release of engineering plans and/or site plans. Contracts are to be provided to verify costs.

The fees for all concept plans, preliminary and final plats, conveyance plats, and replats apply as well to areas outside the corporate city limits but within the extra-territorial jurisdiction of the City of Plano.

Fees calculated on a per acre basis shall be rounded up to the next whole acre.

An Ordinance of the City of Plano, Texas, repealing Ordinance No. 98-4-7 as amended by Ordinance No. 2008-8-12, codified as Section 16-19, Fees for Zoning, Rezoning and Other Miscellaneous Fees, of Article II, Fees Generally, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, Texas; establishing a new fee schedule for zoning, rezoning, and other miscellaneous procedures; and providing a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, on April 13, 1998, by Ordinance No. 98-4-7, and as amended on August 25, 2008, by Ordinance No. 2008-8-12, the City Council adopted a fee schedule for zoning, rezoning, and other miscellaneous procedures, and such ordinance was codified as Section 16-19, Fees for Zoning, Rezoning, and Other Miscellaneous Fees, of Article II, Fees Generally, of Chapter 16, Planning and Development, of the Code of Ordinances; and

WHEREAS, the City Council recognizes that certain adjustments to fees are necessary to cover increased administrative costs for providing specific services; and

WHEREAS, generation of resources through fees needed to administer the programs and services of the City of Plano is of vital concern to all citizens and must be considered periodically for the City; and

WHEREAS, the City Council, based upon staff recommendations and review and considerations of these matters, has determined that it is in the best interest of the City of Plano, Texas, to repeal the fee schedule adopted by Ordinance No. 98-4-7 and as amended by Ordinance No. 2008-8-12, and establish a new fee schedule of the filing, analysis, inspection and mapping of zoning cases, concept plans, preliminary site plans, site plans, substantially conforming site plans, preliminary or final plats, replats, vacation of plats, traffic impact analysis, amended plats, conveyance plats, minor plats, landscape plans, general tree surveys, tree preservation plans, tree mitigation, engineering inspection, and subdivision mapping.

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

Section I. Ordinance No. 98-4-7, duly passed and approved by the City Council of the City of Plano, Texas, on April 13, 1998, and as amended by Ordinance No. 2008-8-12, duly passed and approved by the City Council of the City of Plano, Texas, on August 25, 2008, and codified as Section 16-19, Fees for Zoning, Rezoning and Other Miscellaneous Fees, of Article II, Fees Generally, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, are hereby repealed.

Section II. Section 16-19, Fees for Zoning, Rezoning and Other Miscellaneous Fees, of Article II, Fees Generally, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, Texas, is hereby replaced to read in its entirety as follows:

“Sec. 16-19. Fees for Zoning, Rezoning and Other Miscellaneous Fees.

Any person, firm or corporation desiring to submit for approval or inspection of a zoning case, concept plan, preliminary site plan, site plan, substantially conforming site plan, preliminary or final plat, vacation of plat, replat, amended plat, conveyance plat, minor plat, landscape plan, general tree survey, tree preservation plan, tree mitigation, engineering inspection fee, or traffic impact analysis, shall, at the time said zoning case, study, plan or plat is filed with the Planning Department or at the time deemed appropriate by said Department, pay to the City of Plano a fee in accordance with the following fee schedule. Fees are non-refundable except as noted:

(1)	Amended Plat	\$250 plus \$5 per lot
(2)	Annexation/ Disannexation	No charge
(3)	Concept Plan	\$350
(4)	Conveyance Plat	\$190
(5)	Engineering Inspection Fee	4.0% of estimated costs of public improvements
(6)	Façade Plan	\$100
(7)	Final Plat	\$250 plus \$5 per lot
(8)	Flood Study Analysis	\$3,000.00 for the analysis of new flood studies as required in the Design Manual for Storm Drainage Facilities (Ord. No. 93-6-11)
(9)	General Tree Survey	No charge
(10)	Heritage Resource Designation	\$30
(11)	Landscape Plan	\$100 per acre with a minimum fee of \$250

(12) Minor Plat	\$250 plus \$5 per lot
(13) Preliminary Plat	\$280 per acre for all types of development
(14) Preliminary Site Plan	\$50 per acre with a minimum fee of \$250
(15) Priority Processing	\$2,500 in addition to other applicable fees
(16) Replat	\$250 plus \$5 per lot
(17) Site Plan	\$100 per acre with a minimum fee of \$250
(18) Site Plan – Substantially Conforming	\$100
(19) Specific Use Permit	\$250
(20) Street Name Change (after preliminary plat approval)	\$250
(21) Subdivision Mapping Fees	No charge
(22) Subdivision Name Change (after preliminary plat approval)	\$100
(23) Traffic Impact Analysis	\$1,000 for analyses submitted as required under section 3-1400 of the comprehensive zoning ordinance of the city (Ordinance No. 86-3-14)
(24) Tree Mitigation	\$175 per caliper inch, based on the total number of caliper inches to be mitigated
(25) Tree Preservation Plan	No charge
(26) Vacation of Plat	\$30

(27) Zoning Appeal	\$110 plus \$5 for each property owner listed on the public hearing notice
(28) Zoning Case Withdrawal	Refund 50% of filing fee prior to mailing or publication of a notice of public hearing. After public notice has been given, no refund will be made.
(29) Zoning Requests	Residential Zoning: \$600 Commercial and Multifamily Zoning: \$1,500 for 0-50 acres, plus \$10 per acre over 50 acres Planned Development Zoning: \$1,500 for 0-50 acres, plus \$10 per acre over 50 acres
(30) Zoning Verification Letter	\$50

The Engineering Inspection Fee is a percentage of the actual contract cost of city-maintained improvements, to be paid prior to the release of engineering plans and/or site plans. Contracts are to be provided to verify costs.

The fees for all concept plans, preliminary and final plats, conveyance plats, and replats apply as well to areas outside the corporate city limits but within the extra-territorial jurisdiction of the City of Plano.

Fees calculated on a per acre basis shall be rounded up to the next whole acre.”

Section III. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section IV. 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 discontinuing, abating, modifying or altering any penalty accruing or to accrue, or affecting any rights of the municipality under any section or provisions of any Ordinances at the time of passage of this Ordinance.

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 unconstitutionality of any other portion of this Ordinance.

Section VI. This Ordinance shall become effective immediately on March 1, 2010.

DULY PASSED AND APPROVED THIS THE 22 DAY OF FEBRUARY, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular <input type="checkbox"/> Statutory
Council Meeting Date:	February 22, 2010
Department:	Property Standards
Department Head	Cynthia O'Banner
Agenda Coordinator (include phone #): Gloria Carter x 5150	

CAPTION

An Ordinance of the City of Plano, Texas amending Subsection 302.4 Weeds and Landscaping of Sec. 6-52 Deletions, additions and amendments to Chapter 3 of the International Property Maintenance Code, Division 2 Amendments, Article III Property Maintenance Code of Chapter 6 Buildings and Building Regulations of the Code of Ordinances of the City of Plano and Sec. 14-3 Weeds, rubbish or unsanitary matter, Article I In General of Chapter 14 Offenses-Miscellaneous of the Code of Ordinances of the City of Plano by revising the administrative fee assessed, updating definitions, clarifying designated personnel authorized to enforce the provisions, providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause and an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	8,750	30,000	38,750
BALANCE	0	8,750	30,000	38,750

FUND(s): **GENERAL FUND**

COMMENTS: This item will add additional revenue to the 2009-10 Property Standards Budget as well as future year Budgets due to changes to the Property Standards administrative fee. Projected supplemental revenue of \$8,750 is anticipated for the remainder of 2009-10 and approximately \$30,000 per year in future years. This revenue increase is a mid-year change and will be in addition to the 2009-10 budgeted revenues.

STRATEGIC PLAN GOAL: Modification of the Property Standards administrative fee relates to the City's Goal of Financially Strong City with Service Excellence.

SUMMARY OF ITEM

This ordinance amendment will update administrative fees assessed by the Property Standards Department to reflect the increased costs of processing reimbursement requests and liens associated with abating high grass and weeds, overhanging tree limbs, accumulated trash and other violations. Updating the department and personnel designated to enforce the provisions of the ordinance will provide clarification and consistency.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

List of Supporting Documents: Memo Ordinance Markup	Other Departments, Boards, Commissions or Agencies



MEMORANDUM

To: Tom Muehlenbeck, City Manager

From: Cynthia O'Banner, Property Standards Director

Thru: Mark Israelson, Assistant City Manager

Re: Administrative Fees – Abatement Services

Date: February 9, 2010

As stipulated in the Texas Health and Safety Code Sec. 342.006, a municipality may “pay for the work done or improvements made and charge the expenses to the owner of the property”. In order to have the “work done or improvements made”, various steps must be followed. In doing so, costs are incurred by the city in its extended efforts to provide owners and/or other responsible parties with due process. Reasonable and prudent administrative fees to recoup these costs or charges are authorized by state and local codes and are structured based on the costs of the municipality to administer the terms of the adopted code abatement sections.

In 1989, Texas State Statute provided authority to charge and recover expenses and interest for abatement of certain nuisance violations. Sections 342.005 and 342.007 of the Texas Health and Safety Code authorizes the governing body of a municipality to punish an owner or occupant of property in violation of an adopted ordinance and assess expenses incurred and accruing interest against the real estate on which the work is done or improvement made by filing a statement of expenses with the county clerk. On September 28, 1992, the City of Plano adopted a provision for an administrative fee to recover related property abatement costs incurred by the City.

The initiation of actions to abate violations utilizing contractor’s services is required for specific violations that continue to exist after effecting notices to correct. Extended staff time, mandated certified mailing, increased photo processing, posting and other document reproduction costs are incurred by the City during this process and are assessed as an administrative fee. These costs are in addition to expenses charged by the contractor to complete the abatement service.

The City of Plano has not increased the \$150.00 administrative fee assessment since implementation of the fee in 1992. To adequately recover incurred costs, an increase in the administrative fee is needed. A recent analysis of costs incurred by the City to recoup related expenditures shows an increase of \$47.44. Based on a survey of cities within the metropolitan area, increasing the administrative fee to \$200.00 would place the fee comparable to administrative fees charged by other nearby municipalities.

Please advise of any questions or concerns.

/co'b

-

An Ordinance of the City of Plano, Texas amending Subsection 302.4 Weeds and Landscaping of Sec. 6-52 Deletions, additions and amendments to Chapter 3 of the International Property Maintenance Code, Division 2 Amendments, Article III Property Maintenance Code of Chapter 6 Buildings and Building Regulations of the Code of Ordinances of the City of Plano and Sec. 14-3 Weeds, rubbish or unsanitary matter, Article I In General of Chapter 14 Offenses-Miscellaneous of the Code of Ordinances of the City of Plano by revising the administrative fee assessed, updating definitions, clarifying designated personnel authorized to enforce the provisions, providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause and an effective date.

WHEREAS, on September 27, 2004 and September 28, 1992, the City Council of the City of Plano duly passed Ordinance No. 2004-9-30 and Ordinance No. 92-9-34 which adopted administrative fees for the cost to administer the terms of Section 6-52 and Section 14-3 respectively.

WHEREAS, the City Council recognizes that certain adjustments to fees are necessary to cover increased administrative costs for providing specific services; and

WHEREAS, generation of resources through fees needed to administer the programs and services of the City of Plano is of vital concern to all citizens and must be considered for each year in concurrence with the annual budget for the City; and

WHEREAS, the definition of "Code Official" is added to provide clarity and consistency to other sections of the Code of Ordinances of the City of Plano; and

WHEREAS, the City Council, based upon staff recommendations and review and consideration of these matters, and in concurrence with the adoption of the annual budget for the City of Plano, has determined that it is in the best interest of the City of Plano, Texas, to revise the fees and definitions hereinafter set forth, and that they are proper and should be approved and adopted.

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

Section I. Subsection 302.4 Weeds and Landscaping of Sec. 6-52 Deletions, additions and amendments to Chapter 3 of the International Property Maintenance Code, Division 2 Amendments, Article III Property Maintenance Code of Chapter 6 Buildings and Building Regulations of the Code of Ordinances of the City of Plano is hereby amended to read in its entirety as follows:

"Subsection 302.4, Weeds and Landscaping

All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches (12") in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Damaged or dead trees, shrubs, or ground cover must be promptly removed. Landscaping shall be maintained to minimize property damage and public safety hazards.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice violation or after allowing, permitting or causing the same or similar violation to occur within a one year anniversary of service of a notice of violation, they shall be subject to prosecution in accordance with Section 1-4 (b) of the City Code of Ordinances for each offense. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs incurred for such removal shall be paid by the owner or agent responsible for the property. The charges to be collected by the city under this section shall include, in addition to the costs and expenses of mowing or correcting a condition upon a tract of land, the sum of ~~one hundred fifty dollars (\$150.00)~~ **two hundred dollars (\$200.00)** per lot or tract of land, which sum is hereby found to be the cost to the City of administering the terms of this section.”

Section II. Sec. 14-3(a) Weeds, rubbish or unsanitary matter, Article I In General of Chapter 14 Offenses-Miscellaneous of the Code of Ordinances of the City of Plano is hereby amended to add to Definitions:

“Code Official shall mean the official who is charged with the administration and enforcement of this code, their designee or any City employee or employees designated by the City Manager to perform activities related this section.”

Section III. Sec. 14-3(e-i), Weeds, rubbish or unsanitary matter, Article I In General of Chapter 14 Offenses-Miscellaneous of the Code of Ordinances of the City of Plano is hereby amended to read in its entirety as follows:

“(e) In the event that any person violates the provisions of this section, the ~~chief building official (“official”), or his designee~~ **Code Official**, shall give notice to such person setting forth the noncompliance with this section. Such notice shall be given in any one of the following ways:

- (1) Personally to the owner in writing;
- (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
- (3) If personal service cannot be obtained:
 - a. By publication at least once;
 - b. By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

If the notice to a property owner is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

If such person fails or refuses to comply with the demand for compliance in the notice within seven (7) days of such notice or publication, the city may do such work or cause such work to be done to bring the real property into compliance with this section. The costs, charges, and expenses incurred in doing or having such work done or improvements made to the real property shall be a charge to and personally liability of such person (called "charges").

The charges to be collected by the city under this section shall include, in addition to the costs and expenses of mowing or correcting a condition upon a tract of land, the sum of ~~one hundred fifty dollars (\$150.00)~~ **two hundred dollars (\$200.00)** per lot or tract of land, which sum is hereby found to be the cost to the city of administering the terms of this section.

If a notice as provided herein is delivered to the owner of such real property, and he fails or refuses to comply with the demand for compliance within the applicable time period as herein provided, the aforementioned costs, charges, and expenses shall be, in addition to a charge to and personal liability of the owner, a privileged lien upon and against such real property, including all fixtures and improvements thereon. In order to perfect such lien, the ~~official, or his designee,~~ **Code Official** shall first give such owner written notice of demand for payment of such charges. Such written notice may be given by any one (1) of the methods provided for the initial notice requiring compliance. If the owner fails or refuses to make complete payment of the charges within twenty (20) days of such notice, the ~~official, or his designee,~~ **Code Official** shall file a written statement of such charges with the county clerk of the county in which the real property is located, for filing in the county land records. The statement shall be sufficient if it contains the following:

- (1) The name of the owner;
- (2) A description of the real property;
- (3) The amount of the charges, including interest thereon;
- (4) A statement that all prerequisites required by this section for the imposition of the charges and the affixing of the lien have been met;
- (5) A statement signed by the ~~official, or his designee,~~ **Code Official** under oath, that the statements made therein are true and correct.

The statement may also contain such other information deemed appropriate by the ~~official, or his designee,~~ **Code Official**.

All charges shall bear interest at the rate of ten (10) percent per annum from the date the city incurs the expense. The city may bring suit to collect the charges, institute foreclosure proceedings, or both. The statement, as provided herein, or certified copy thereof, shall be prima facie evidence of the city's

claim for charges or right to foreclose the lien. The owner or any other person responsible as provided herein, shall be jointly and severally liable for the charges.

(f) In the event that a property owner permits or allows weeds to grow on the premises to a height greater than forty-eight (48) inches and such weeds are deemed by the ~~city's chief building official ("official"), or his designee,~~ **Code Official** to be an immediate danger to the health, life, or safety of any person, the building official, or his designee, without notice to the property owner, may do such work or cause such work to be done to bring the real property into compliance with this section. The costs, charges, and expenses incurred in doing or having such work done or improvements made to the real property shall be assessed to the property owner. Not later than the tenth day after the date upon which the weeds were abated under this section, notice shall be given to the property owner of the abatement. Such notice shall be sufficient if it contains the following:

- (1) An identification of the property, which is not required to be a legal description;
- (2) A description of the violations that occurred on the property;
- (3) A statement that the city abated the weeds;
- (4) The amount of the charges, including interest thereon; and
- (5) An explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.

(g) If, not later than the thirtieth day after the date of the abatement of the weeds, the property owner files a written request for a hearing with the ~~chief building official~~ **Code Official**, the official, ~~or his designee,~~ shall conduct an administrative hearing on the abatement of weeds under this section. The administrative hearing shall be conducted not later than the twentieth day after the date the request for a hearing is filed. The property owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(h) The city may inform the property owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city, without notice, may take any action permitted to bring the real property into compliance with this section and assess the costs, charges, and expenses incurred in such action to the owner.

(i) The provisions of this section shall be enforced by representatives of the city's ~~building inspections~~ **property standards** department. Notwithstanding

any provisions of this section to the contrary, the ~~official, his designee, or any property standards specialist~~ **Code Official** has authority to issue immediate citations to persons violating any provision of this section in the presence of said official. It shall be unlawful for any person to interfere with the official, ~~his designee, or a property standards specialist~~ in the exercise of their duties under this section.”

Section IV. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section V. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section VI. The repeal of any ordinance or part of ordinances affected by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this ordinance.

Section VII. Any person, firm or corporation violating any term or provision of this Ordinance shall be subject to a fine in accordance with Section 1.4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VIII. This Ordinance shall become effective from and after its passage and publication as required by law.

DULY PASSED AND APPROVED this 22nd day of February, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

—

An Ordinance of the City of Plano, Texas amending Subsection 302.4 Weeds and Landscaping of Sec. 6-52 Deletions, additions and amendments to Chapter 3 of the International Property Maintenance Code, Division 2 Amendments, Article III Property Maintenance Code of Chapter 6 Buildings and Building Regulations of the Code of Ordinances of the City of Plano and Sec. 14-3 Weeds, rubbish or unsanitary matter, Article I In General of Chapter 14 Offenses-Miscellaneous of the Code of Ordinances of the City of Plano by revising the administrative fee assessed, updating definitions, clarifying designated personnel authorized to enforce the provisions, providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause and an effective date.

WHEREAS, on September 27, 2004 and September 28, 1992, the City Council of the City of Plano duly passed Ordinance No. 2004-9-30 and Ordinance No. 92-9-34 which adopted administrative fees for the cost to administer the terms of Section 6-52 and Section 14-3 respectively.

WHEREAS, the City Council recognizes that certain adjustments to fees are necessary to cover increased administrative costs for providing specific services; and

WHEREAS, generation of resources through fees needed to administer the programs and services of the City of Plano is of vital concern to all citizens and must be considered for each year in concurrence with the annual budget for the City; and

WHEREAS, the definition of “Code Official” is added to provide clarity and consistency to other sections of the Code of Ordinances of the City of Plano; and

WHEREAS, the City Council, based upon staff recommendations and review and consideration of these matters, and in concurrence with the adoption of the annual budget for the City of Plano, has determined that it is in the best interest of the City of Plano, Texas, to revise the fees and definitions hereinafter set forth, and that they are proper and should be approved and adopted.

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

Section I. Subsection 302.4 Weeds and Landscaping of Sec. 6-52 Deletions, additions and amendments to Chapter 3 of the International Property Maintenance Code, Division 2 Amendments, Article III Property Maintenance Code of Chapter 6 Buildings and Building Regulations of the Code of Ordinances of the City of Plano is hereby amended to read in its entirety as follows:

“Subsection 302.4, Weeds and Landscaping

All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches (12”) in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Damaged or dead trees, shrubs, or ground cover must be promptly removed. Landscaping shall be maintained to minimize property damage and public safety hazards.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice violation or after allowing, permitting or causing the same or similar violation to occur within a one year anniversary of service of a notice of violation, they shall be subject to prosecution in accordance with Section 1-4 (b) of the City Code of Ordinances for each offense. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs incurred for such removal shall be paid by the owner or agent responsible for the property. The charges to be collected by the city under this section shall include, in addition to the costs and expenses of mowing or correcting a condition upon a tract of land, the sum of two hundred dollars (\$200.00) per lot or tract of land, which sum is hereby found to be the cost to the City of administering the terms of this section.”

Section II. Sec. 14-3(a) Weeds, rubbish or unsanitary matter, Article I In General of Chapter 14 Offenses-Miscellaneous of the Code of Ordinances of the City of Plano is hereby amended to add to Definitions:

“*Code Official* shall mean the official who is charged with the administration and enforcement of this code, their designee or any City employee or employees designated by the City Manager to perform activities related this section.”

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“(e) In the event that any person violates the provisions of this section, the Code Official, shall give notice to such person setting forth the noncompliance with this section. Such notice shall be given in any one of the following ways:

- (1) Personally to the owner in writing;
- (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
- (3) If personal service cannot be obtained:
 - a. By publication at least once;
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- (5) A statement signed by the Code Official under oath, that the statements made therein are true and correct.

The statement may also contain such other information deemed appropriate by the Code Official.

All charges shall bear interest at the rate of ten (10) percent per annum from the date the city incurs the expense. The city may bring suit to collect the charges, institute foreclosure proceedings, or both. The statement, as provided herein, or certified copy thereof, shall be prima facie evidence of the city's claim for charges or right to foreclose the lien. The owner or any other person

responsible as provided herein, shall be jointly and severally liable for the charges.

(f) In the event that a property owner permits or allows weeds to grow on the premises to a height greater than forty-eight (48) inches and such weeds are deemed by the Code Official to be an immediate danger to the health, life, or safety of any person, the building official, or his designee, without notice to the property owner, may do such work or cause such work to be done to bring the real property into compliance with this section. The costs, charges, and expenses incurred in doing or having such work done or improvements made to the real property shall be assessed to the property owner. Not later than the tenth day after the date upon which the weeds were abated under this section, notice shall be given to the property owner of the abatement. Such notice shall be sufficient if it contains the following:

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(i) The provisions of this section shall be enforced by representatives of the city's property standards department. Notwithstanding any provisions of this section to the contrary, the Code Official has authority to issue immediate citations to persons violating any provision of this section in the presence of

said official. It shall be unlawful for any person to interfere with the official in the exercise of their duties under this section.”

Section IV. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

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DULY PASSED AND APPROVED this 22nd day of February, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/22/10		
Department:		City Manager		
Department Head		Tom Muehlenbeck		
Agenda Coordinator (include phone #): Di Zucco x7551				
CAPTION				
Discussion and direction regarding calendar and time line for Arts of Collin County Project.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

PROPOSED TIMELINE TO AWARDING CONTRACTS/GMP

February 15th

- Construction price release ready (pending Kevin Cain/Hunt approval)
- Work with banks on proposal for line of credit -ongoing
- Work with cities on beginning to draft contribution agreement -ongoing
- PIO officer meeting to coordinate communications – Date?
- Secure updated quotes of support from Owner cities

February 19th

- City of Allen Meeting packet posted publicly - February 19th
- Financing press release ready (need quote from Allen)

February 23rd

- Allen City Council approve guarantee of line of credit - February 23

February 24th

- Distribute financing press release

February 25th

- Arts for the Arts & Business for the Arts
- Press release and photos of 2/25 events

February 26th

- Meet with City Managers/Mayors– agree to present project to all 3 city councils with banking line of credit as bridge loan and Allen as guarantor, direction to finalize contribution agreement

March 1st-March 23rd

- City Attorney's continue with Contribution agreement – must be finalized by March 10
- Agreement with Bank finalized with Commission and City approvals
- On Council Agendas
Frisco March 2 and March 16
Plano March 8 and 22
Allen March 9 or 23

Press release approvals of contributions

March 29th or 30th

ACC Board award contract to Hunt

DATE TBD – March 30th?

Press conference

Press release award construction

Action items for planning:

- Groundbreaking complete plan
- Press conference plan/Press Packet

DRAFT