

CITY COUNCIL

1520 AVENUE K



DATE: 4/13/2015
CALL TO ORDER: 7:00 p.m.
INVOCATION: Sr. Pastor Sam Fenceroy
Mt. Olive Church of Plano
PLEDGE OF ALLEGIANCE: Plano Police Explorer Post 911

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>OUR MISSION - THE CITY OF PLANO IS A REGIONAL AND NATIONAL LEADER, PROVIDING OUTSTANDING SERVICES AND FACILITIES THROUGH COOPERATIVE EFFORTS THAT ENGAGE OUR CITIZENS AND THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</p> <p>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</p> <p><u>PROCLAMATIONS & SPECIAL RECOGNITION</u></p> <p>PROCLAMATION: National Volunteer Week honors our local volunteers and those throughout the country.</p> <p>PRESENTATION: The Urban Land Institute is presenting an award to the City of Plano.</p> <p><u>COMMENTS OF PUBLIC INTEREST</u></p> <p><u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></p> <p><u>CONSENT AGENDA</u></p> <p><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(a)	<p><u>Approval of Minutes</u> March 17, 2015 March 23, 2015</p>	
	<p><u>Approval of Expenditures</u> Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</p>	
(b)	<p>Bid No. 2015-92-B for the purchase and installation of sewage ejectors for the Municipal Center to Hoffman Texas, Inc., dba Roto-Rooter Service & Plumbing in the amount of \$53,338; and authorizing the City Manager to execute all necessary documents.</p>	
(c)	<p>Bid No. 2015-142-B for Centralized Waste Collection Station to Mart, Inc. in the amount of \$575,000; and authorizing the City Manager to execute all necessary documents.</p>	
(d)	<p>CSP No. 2015-58-B for the construction of Fire Station 2 and 6, PD 802 Renovations to Thos. S. Byrne, Ltd., in the amount of \$5,400,000; and authorizing the City Manager to execute all documents.</p>	
(e)	<p>Bid No. 2015-179-B for the Independence Parkway Paving Repairs Project No. 6359 for Public Works to Jim Bowman Construction Company, L.P. in the amount of \$4,236,710; and authorizing the City Manager to execute all necessary documents.</p>	
(f)	<p>Bid No. 2015-115-C for a one (1) year contract with three (3) City optional renewals for Athletic Field Mowing and Landscape Maintenance for the Parks Department to Lawn Star Landscape in the estimated annual amount of \$54,892; and authorizing the City Manager to execute all necessary documents.</p>	
(g)	<p>Bid No. 2015-78-C for a one (1) year contract with three (3) City optional one (1) year renewals for Median and Right-of-Way Landscape Maintenance for the Parks Department to Carruthers Landscape Management, Inc. in the estimated annual amount of \$140,000, which includes the bid price plus optional contract services for unforeseen/unplanned projects and services; and authorizing the City Manager to execute all necessary documents.</p>	
(h)	<p>Bid No. 2015-158-B for Bluebonnet Trail Signal and Crossing at Preston Road to Jim Bowman Construction Co., L.P. in the amount of \$210,208; and authorizing the City Manager to execute all necessary documents.</p>	
(i)	<p>RFP No. 2015-083-B for Design, Fabrication, and Installation of Exhibits at Oak Point Park Nature and Retreat Center for Parks and Recreation to Réalisations Inc. Montréal in the amount of \$249,750; and authorizing the City Manager to execute all necessary documents.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>Purchase from an Existing Contract</p>	
(j)	To approve the purchase of cable installation for Oak Point Park Nature and Retreat Center in the amount of \$77,268 from ABLe Communications, Inc. through an existing contract; and authorizing the City Manager to execute all necessary documents. (Contract No. 2011-195-C)	
(k)	To approve the purchase of one (1) Kenworth T800 Truck/Tractor for Fleet Services to be utilized by Compost Operations & Marketing in the amount of \$139,374 from MHC Kenworth through an existing TASB/BuyBoard contract; and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 430-13)	
(l)	To approve the purchase of one (1) Freightliner M2106 Grapple Truck for Fleet Services to be utilized by the Environmental Waste Services Division in the amount of \$142,385 from Freightliner of Austin through an existing TASB/BuyBoard contract; and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 430-13)	
(m)	To approve the purchase of one (1) Crane Carrier Refuse Truck Chassis in the amount of \$167,763 from Bond Equipment Company, Inc. and one (1) DaDee Scorpion Automated Single Arm Body in the amount of \$112,045 from DaDee Manufacturing for a total amount of \$279,808 for Fleet Services, to be utilized by the Environmental Waste Services Division through existing TASB/BuyBoard contracts; and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 425-13 and 430-13)	
	<p>Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)</p>	
(n)	To approve a Professional Construction Materials Testing Agreement by and between the City of Plano and GME Consulting Services, Inc., in the amount of \$74,146 for Royal Oaks Drive – Jupiter Road to Spring Creek Parkway - Paving and Water Improvements; and authorizing the City Manager to execute all necessary documents.	
(o)	To approve the terms and conditions of a Discretionary Service Agreement by and between the City of Plano and Oncor Electric Delivery Company in the amount of \$76,502; providing for the relocation of an existing pad mounted transformer at 15th Place; and authorizing the City Manager to execute all necessary documents.	
(p)	To approve a Professional Services Agreement by and between the City of Plano and Brown & Gay Engineers, Inc., in the amount of \$199,998 for the Dallas North Estates Project No. 6528; and authorizing the City Manager to execute all necessary documents.	
	<p>Approval of Change Order</p>	
(q)	To Lone Star Civil Construction, Inc. for the Preston Road Corridor Project, increasing the contract by \$157,826, Change Order No. 1, original Bid No. 2013-92-B; and authorizing the City Manager to execute all necessary documents.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(r)	<p>To Lone Star Civil Construction, Inc., increasing the contract by \$105,313 for the Residential Concrete Pavement Rehab, Zone M5, Project No. 6424, Change Order No.1, Bid No. 2014-221-B; and authorizing the City Manager to execute all necessary documents.</p>	
<p>Approval of Expenditure</p>		
(s)	<p>To approve an expenditure for a compactor system in the amount of \$62,676 from Industrial Disposal Supply Company, LTD dba IDS for Public Works, Environmental Waste Division; and authorizing the City Manager to execute all necessary documents.</p>	
(t)	<p>To approve the purchase and installation of Generator Controls at the Shiloh Pump Station in the amount of \$252,125 from Legacy Contracting, L.P. dba Control Specialist Services, L.P.; and authorizing the City Manager to execute all necessary documents.</p>	
<p>Adoption of Resolutions</p>		
(u)	<p>To approve the terms and conditions of a First Amendment to the Economic Development Incentive Agreement by and between the City of Plano, Texas and Mustang Technology Group, L.P., a Texas Limited Partnership; authorizing its execution by the City Manager; and providing an effective date.</p>	
(v)	<p>To approve the terms and conditions of an Agreement with the State of Texas for State contracted traffic signal construction with the City of Plano providing limited materials and labor; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date.</p>	
(w)	<p>To approve the terms and conditions of a Memorandum of Understanding between the City of Plano, the Regional Transportation Council, and the North Central Texas Council of Governments for which the City will be reimbursed for the purchase of a 2.628 acre tract of vacant land located at 1106 Avenue K in the City of Plano, Collin County, Texas, for future development as a passenger station for the Cotton Belt Rail station; authorizing its execution by the City Manager; and providing an effective date.</p>	
<p>Adoption of Ordinances</p>		
(x)	<p>To adopt and enact Supplement Number 110 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date.</p>	
<p><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></p>		
<p><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></p>		

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></p>	
(1)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-40 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 50.6± acres of land located at the southwest corner of State Highway 121 and future Ridgeview Drive in the City of Plano, Collin County, Texas, from Regional Employment and Regional Commercial to Planned Development-497-Single-Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Headquarters 121 Venture, Ltd.</p>	
(2)	<p>Consideration of a request for reconsideration of the appeal of Zoning Case 2014-47 (Request for a Specific Use Permit for Mid-Rise Residential on 2.4± acres located at the northeast corner of Spring Creek Parkway and Headquarters Drive) pursuant to Resolution No. 2002-9-23(R).</p>	
(3)	<p>Consideration of a Resolution to approve the terms and conditions of a lease agreement between the City of Plano and SWC Tollway and 121, LLC for the lease of city-owned property located on the north side of Headquarters Drive and east of Leadership Drive, upon which is located a city-owned elevated water tank intended to be removed; authorizing its execution by the City Manager; and providing an effective date.</p>	
(4)	<p>Consideration of a Resolution to approve the terms and conditions of a development agreement by and between Texas InTownHomes, LLC and the City of Plano for the Rice Field development project located at the southwest corner of 18th Street and G Avenue, authorizing its execution by the City Manager; and providing an effective date.</p>	
(5)	<p>Consideration of a Resolution to approve the terms and conditions of a development agreement between the City of Plano and 14th and J, LLC for development of Municipal Center South; authorizing its execution by the City Manager; and providing an effective date.</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal/L Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. The Senator Florence Shapiro Council Chambers is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</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:		04/13/2015		
Department:		City Manager's Office		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
CAPTION				
PROCLAMATION: National Volunteer Week honors our local volunteers and those throughout the country.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		04/13/2015		
Department:		City Manager's Office		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
CAPTION				
PRESENTATION: The Urban Land Institute is presenting an award to the City of Plano.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
March 17, 2015**

COUNCIL MEMBERS PRESENT

Harry LaRosiliere, Mayor
Lissa Smith, Mayor Pro Tem
Ben Harris, Deputy Mayor Pro Tem
Pat Miner
André Davidson
Patrick Gallagher
Jim Duggan
David Downs

STAFF PRESENT

Bruce Glasscock, City Manager
Frank Turner, Deputy City Manager
LaShon Ross, Deputy City Manager
Jim Parrish, Deputy City Manager
Paige Mims, City Attorney
Lisa C. Henderson, City Secretary

Mayor LaRosiliere called the meeting to order at 5:30 p.m., Tuesday, March 17, 2015, in Training Room A of the Municipal Center, 1520 K Avenue. A quorum was present. Mayor LaRosiliere then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated in order to consult with an attorney and receive Legal Advice, Section 551.071; to receive information regarding Economic Development, Section 551.087; and to discuss Real Estate, Section 551.072; for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor LaRosiliere reconvened the meeting back into the Preliminary Open Meeting at 6:15 p.m. in the Senator Florence Shapiro Council Chambers.

Consideration and action resulting from Executive Session discussion

No items were brought forward.

Personnel – Appointments

Tax Increment Financing Reinvestment Zone #2

Upon a motion made by Council Member Miner and seconded by Council Member Duggan, the Council voted 8–0 to appoint Roy Wilshire as an interim member.

Discussion and direction regarding Board/Commission Annual Appointment Process

City Secretary Henderson spoke to the process for the Board and Commission appointments and reappointments for the upcoming year. She provided a timeline of the events; notification, reappointment, reception, appointment of new members, and recognition of outgoing members; discussed the methods of notification for open Board and Commission positions; and success of each method of notification. Council stated concurrence to forego the review committee process, continue to receive attendance reports with the reappointment information, and requested a second reception be held on the western side of Plano at a recreation facility.

Council items for discussion/action on future agendas

No items were discussed.

Consent and Regular Agendas

No items were discussed.

Nothing further was discussed. Mayor LaRosiliere adjourned the meeting at 6:23 p.m.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, City Secretary

**PLANO CITY COUNCIL
REGULAR SESSION
March 17, 2015**

COUNCIL MEMBERS PRESENT

Harry LaRosiliere, Mayor
Lissa Smith, Mayor Pro Tem
Ben Harris, Deputy Mayor Pro Tem
Pat Miner
André Davidson
Patrick Gallagher
Jim Duggan
David Downs

STAFF PRESENT

Bruce Glasscock, City Manager
Frank Turner, Deputy City Manager
LaShon Ross, Deputy City Manager
Jim Parrish, Deputy City Manager
Mark Israelson, Assistant City Manager
Paige Mims, City Attorney
Lisa C. Henderson, City Secretary

Mayor LaRosiliere convened the Council into the Regular Session on Monday, March 17, 2015, at 7:00 p.m. in the Senator Florence Shapiro Council Chambers of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Senior Pastor Kevin Boyd from Legacy Church led the invocation and Junior Girl Scout Troop 6600 from Davis Elementary led the Pledge of Allegiance and Texas Pledge.

Mayor LaRosiliere administered the Oath of Office to new Planning and Zoning Commission Members Hilton Kong and Michael O'Hanlon and presented a Certificate of Appreciation to Mr. Kong for his service on the Tax Increment Financing Reinvestment Zone No. 2 Board. He recognized Rice Middle School Students for being one of the winners of the Verizon Innovative App Challenge. Mayor LaRosiliere and Plano Fire Rescue presented Citizen Lifesaving Award Certificates to Pam Taylor, Dr. Sheffield Kadane, Doug Murphy, and Jake Harden. He recognized the 2014 MP3 Graduates Allison Friloux, Curtis Howard, Karen Fetchko, Matthew Yager, Samuel Grissom, and Program Director Dr. Tony Picchioni.

COMMENTS OF PUBLIC INTEREST

No one appeared to speak.

CONSENT AGENDA

Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 8-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

Approval of Minutes

February 23, 2015 (Consent Agenda Item “A”)

Approval of Expenditures

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

Bid No. 2015-113-B for Erosion Control at Valley Creek and Stone Creek – Project No. 5995, to Ark Contracting Services, Inc. in the amount of \$671,875; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

Bid No. 2015-137-B for Royal Oaks Drive - Jupiter Road to Spring Creek Parkway - Paving and Water Improvements to Tri-Con Services, Inc. in the amount of \$2,245,000; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

Bid No. 2015-015-B for Windhaven Parkway – Spring Creek Parkway to West City Limits project to Tiseo Paving Co. in the amount of \$3,414,288; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

Bid No. 2015-143-P for the Pavement Maintenance Requirements with two (2) City optional renewals, Project No. 6500 for Public Works to Jerusalem Corporation, in the amount of \$1,337,000; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “E”)

Bid No. 2015-118-B for McCall Plaza and Parking Lot Renovation to Cole Construction, Inc. in the amount of \$1,664,364; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “F”)

Bid No. 2015-44-C for a one (1) year contract with three (3) City optional renewals, for the purchase of batteries for Inventory Control & Asset Disposal from Continental Batteries in the estimated annual amount of \$35,424 and Interstate Batteries in the estimated annual amount of \$19,752 for an estimated annual total of \$55,176; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “G”)

Purchase from an Existing Contract

To approve the purchase of five (5) Toro Groundsmaster 7200 zero turn mowers, for Fleet Services to be utilized by the Parks Department, in the amount of \$79,734 from Professional Turf Products through an existing TASB/BuyBoard contract; and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 447-14) (Consent Agenda Item “H”)

To approve the purchase of two (2) combination jet/vacuum trucks in the amount of \$640,463 from Freightliner of Austin through an existing TASB/BuyBoard contract, one (1) 1,000 gallon jet only truck in the amount of \$176,329 from Houston Freightliner through an existing HGAC contract, and one (1) 700 gallon, dual reel, jet only truck in the amount of \$120,534 from Rush Truck Center through an existing TASB/BuyBoard contract, for Fleet Services to be utilized by the Public Works Department in the total amount of \$937,326; and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 430-13/HGAC Contract No. HT06-14) (Consent Agenda Item "I")

To approve the purchase of ten (10) Horton Type I, Ford F550 623 Med Units, for Fleet Services to be utilized by the Fire Department, in the amount of \$2,377,360 from Professional Ambulance through an existing HGAC contract; and authorizing the City Manager to execute all necessary documents. (HGAC Contract No. AM10-14) (Consent Agenda Item "J")

To approve the purchase of the removal and relocation of wireless networking equipment at White Rock Water Tower affecting multiple departments in the amount of \$144,974 from Scientel Wireless, LLC through an existing HGAC (Houston-Galveston Area Council) contract; and authorizing the City Manager to execute all necessary documents. (CW10-14) (Consent Agenda Item "K")

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

To approve a Professional Services Agreement by and between the City of Plano and Walker Parking Consultants/Engineers, Inc. in the amount of \$58,300 for the Downtown Plano Parking Study project; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "L")

To approve a Professional Services Agreement by and between the City of Plano and Walter P. Moore & Associates, Inc. in the amount of \$160,330 for Downtown Brick Pavers & Pavement project; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "M")

To approve a Professional Services Agreement by and between the City of Plano and RJN Group, Inc. in the amount of \$234,791 for Sanitary Sewer Assessment - Indian and Russell Creeks project; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "N")

To approve a Professional Services Agreement by and between the City of Plano and Pacheco Koch, LLC, in the amount of \$299,660 for the Russell Creek Drive Improvements – Independence to Sutherland project; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "O")

To approve an Engineering Services Agreement by and between the City of Plano and GME Consulting Services, Inc. for materials testing services, in the amount of \$100,000 for the Requirements Contract 1 – Arterial Project No.6565; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "P")

To approve an Engineering Services Agreement by and between the City of Plano and Team Consultants, Inc. for materials testing services, in the amount of \$100,000 for the Requirements Contract 1 – Residential Project No.6566; and authorizing the City Manager to execute all necessary documents.(Consent Agenda Item “Q”)

To approve a Landscape Architect Services Agreement by and between the City of Plano and KENDALL + Landscape Architecture, in the amount of \$139,000 for design services for a dog park at Bob Woodruff Park; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “R”)

To approve an Engineering Services Agreement by and between the City of Plano and Kimley-Horn and Associates, Inc. in the amount of \$172,594 for the design services for arterial side path improvements at designated locations along the City's on-street bicycle route system; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “S”)

To approve a contract made and entered into by and between the City of Plano, the Board of Trustees of the Plano Independent School District, and Sharon Rowe, the Elections Administrator of Collin County, Texas, pursuant to the authority in Subchapter D, Section 31.092, of Chapter 31, of the Texas Election Code, regarding the coordination, supervision, and running of the City's May 9, 2015 Joint General Election in the amount of \$31,588. (Consent Agenda Item “T”)

Adoption of Resolutions

Resolution No. 2015-3-1(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of DeSoto, Texas to allow employees of each city to participate in training classes offered by the other city; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “U”)

Resolution No. 2015-3-2(R): To approve the terms and conditions of a First Amendment of Tax Abatement Agreement by and between the City of Plano, Texas, Ericsson WiFi Inc., a Delaware corporation formerly known as Ericsson Real Estate Holdings, Inc., and Ericsson Inc., a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “V”)

Resolution No. 2015-3-3(R): To approve the terms and conditions of an Interlocal Agreement (ILA) between City of Plano and the North Texas Tollway Authority (NTTA) related to the construction of a new U-turn bridge crossing the Dallas North Tollway on the north side of Legacy and participation in the cost of construction of the improvements to the Dallas North Tollway between President George Bush Turnpike (SH 190) and Headquarters Drive, authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date. (Consent Agenda Item “W”)

Resolution No. 2015-3-4(R): To approve the terms and conditions of a Third Amendment to Employment Agreement by and between Bruce D. Glasscock and the City of Plano for City Manager services; authorizing its execution by the Mayor; and providing an effective date. (Consent Agenda Item “X”)

Resolution No. 2015-3-5(R): To authorize the City Manager to enter into a Joint Election Agreement with the Plano Independent School District and Collin County Community College District for the purpose of conducting a joint election on May 9, 2015; and providing an effective date. (Consent Agenda Item “Y”)

Resolution No. 2015-3-6(R): To authorize participation in the Solar Ready II Project and adoption of Solar Energy Best Management Practices; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “Z”)

Resolution No. 2015-3-7(R): To approve the Investment Portfolio Summary for the quarter ending December 31, 2014; and providing an effective date. (Consent Agenda Item “AA”)

Adoption of Ordinances

Ordinance No. 2015-3-8: To amend City of Plano Ordinance No. 2013-10-24, codified as Article II, Building Code, of Chapter 6 of the Code of Ordinances; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause and an effective date. (Consent Agenda Item “BB”)

END OF CONSENT

Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-48 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 6.4± acres of land located on the north side of Park Boulevard, 334± feet east of Los Rios Boulevard in the City of Plano, Collin County, Texas, from Planned Development-13-Retail to Single-Family Residence Attached directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Lyons Equities, Inc., Trustee Texas Corp. (Tabled at the February 9, 2015 and February 23, 2015 Council meetings.) (Regular Item “1”)

Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 8-0, to remove the item from the table.

Director of Planning Day stated the applicant requested the item be tabled to the April 27, 2015 City Council meeting.

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Mayor Pro Tem Smith, the Council voted 8-0, to table the item to the April 27, 2015 City Council meeting.

Public Hearing and consideration of an Ordinance as requested in Zoning Case 2014-49 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 656 so as to allow the additional use of Single-Family Residence Attached on 6.3± acres of land located on the south side of Park Boulevard, 115± feet west of Molly Lane, in the City of Plano, Collin County, Texas, presently zoned Planned Development-6-Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Lyons Equities, Inc., Trustee Texas Corp. (Tabled at the February 9, 2015 and February 23, 2015 Council meetings.) (Regular Item “2”)

Upon a motion made by Council Member Davidson and seconded by Mayor Pro Tem Smith, the Council voted 8-0, to remove the item from the table.

Director of Planning Day stated the applicant requested the item be tabled to the April 27, 2015 City Council meeting.

Upon a motion made by Council Member Miner and seconded by Council Member Davidson, the Council voted 8-0, to table the item to the April 27, 2015 City Council meeting.

Public Hearing and consideration of an Appeal of the Planning & Zoning Commission’s Denial of Zoning Case 2014-46 – Request to rezone 14.5± acres from Research/Technology Center to Planned Development- Research/Technology Center located on the south side of Plano Parkway, 1,950± feet west of Shiloh Road in order to allow Office- Showroom/Warehouse with modified development standards. Zoned Research/Technology Center. Applicant: Industrial Developments International, LLC (IDI Gazeley) (Tabled at February 23, 2015 Council meeting.) (Regular Item “3”)

Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 8-0, to remove the item from the table.

Director of Planning Day spoke to the location, current zoning and uses of the adjacent properties. She stated the requested modified standards for Office-Showroom/Warehouse use include:

1. Maximum Height: 20 story, not to exceed 325 feet in height. One story buildings shall not exceed 41 feet, inside clear height (Exclusive of interior support structures), except as specified in Other Setback Requirements below.
2. Maximum Loading Spaces or Berths: 16
3. An Office-Showroom/Warehouse use is permitted only when the first floor of the building housing said uses does not exceed 225,000 square feet of gross floor area.
4. Screening of loading and trash collection areas from adjacent properties is not required.

Public Hearing and consideration of an Appeal (Cont'd.)

Ms. Day stated the Planning and Zoning Commission unanimously denied the request. She spoke to the requested modifications in relation to the Research/Technology (RT) District. Doug Johnson from IDI Gazeley, the applicant, spoke to recent modifications of the original request to the plan to include a maximum of 168,000 square feet, remove the clear height component, partial landscaping at the rear of the property, and maintaining the requested 16 loading spaces. He discussed the property and nearby businesses. Mr. Johnson provided a rendering of the proposed building and discussed the type of tenants expected.

Mayor LaRosiliere opened the public hearing. Allen Smith spoke in opposition of the appeal. Mayor LaRosiliere closed the public hearing. The Council discussed the stipulations and requirements if the appeal is approved. In response to Council Member Davidson, Ms. Day stated the project presented to Council has been amended from what was presented to the Planning and Zoning Commission. Council member Miner expressed concerns about using the RT district for Industrial district purposes. Council Member Duggan stated the project is appropriate and that too much land in the RT district is not being utilized.

A motion to approve the appeal with the following stipulations: Four parking spaces per thousand square feet; Warehouse/Showroom use allowed when first floor does not exceed 168,000 square feet; and maximum of 1 loading space per 10 square feet up to 16 was made by Council Member Gallagher and seconded by Council Member Duggan, the motion failed due to the lack of a super majority vote by a vote of 5-3, with Mayor Pro Tem Smith, Council Member Miner and Council Member Downs voting in opposition. A motion to deny the appeal was made by Council Member Miner and seconded by Council Member Downs, the motion failed due to the lack of a super majority vote by a vote of 4-4, with Mayor LaRosiliere, Council Member Davidson, Council Member Duggan, and Council Member Gallagher voting in opposition.

The Council took a brief recess at 8:32 p.m. and reconvened into open session at 8:42 p.m.

Public Hearing and consideration of an Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2014-47 - Request for a Specific Use Permit for Mid-Rise Residential on 2.4± acres located at the northeast corner of Spring Creek Parkway and Headquarters Drive. Zoned Commercial Employment. Applicant: Winstead, P.C. (Tabled at February 23, 2015 Council meeting.) (Regular Item "4")

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Council Member Miner, the Council voted 8-0, to remove the item from the table.

Director of Planning Day gave a brief review of the project, location, surrounding property uses, property challenges, and additional uses for the property. Kirk Williams, representing the applicant, spoke briefly regarding the project being consistent with the comprehensive plan and future land use plan. Megan Lasch spoke to the project features and resident programs. She addressed open space concerns, amenities and the location. Michael Sealy, the property owner stated the site is difficult to develop with another use.

Mayor LaRosiliere opened the public hearing. Bill Kula, John Maluso, and Greg Urech spoke in opposition of the project. Marty Mascari, Terry Harvey, Trish Patterson, Ann Lott, and Lisa Stephens spoke in favor of the project. Mayor LaRosiliere closed the public hearing.

Public Hearing and consideration of an Appeal (Cont'd.)

Council Member Davidson expressed concern for the limited outdoor space. Ms. Lasch provided details of the open space areas located on the property. Ms. Day clarified the need for the Specific Use Permit, the allowable uses for the property, the centerline distance requirement, and uses of the adjoining property. City Attorney Mims stated this is a zoning case and the Council should focus their decision based on land use only.

A motion to approve the appeal was made by Council Member Downs and seconded by Council Member Duggan, the motion failed due to the lack of a super majority vote by a vote of 5-3, with Mayor Pro Tem Smith, Deputy Mayor Pro Tem Harris and Council Member Davidson voting in opposition. A motion to deny the appeal was made by Deputy Mayor Pro Tem Harris and seconded by Council Member Miner, the motion failed due to the lack of a super majority vote by a vote of 4-4, with Mayor LaRosiliere, Council Member Duggan, Council Member Gallagher and Council Member Downs voting in opposition.

Public Hearing and consideration of a Resolution to support an application for a nine percent (9%) housing tax credit (HTC) financing to the Texas Department of Housing and Community Affairs (TDHCA) for the proposed affordable residential development project, located at Palomino Crossing, Block 1, Lot 4; and designating the City Manager to certify this resolution to TDHCA; and declaring an effective date. (Tabled at the February 23, 2015 Council meeting.) (Regular Item "5")

Upon a motion made by Council Member Miner and seconded by Council Member Gallagher, the Council voted 8-0, to remove the item from consideration.

Public Hearing and adoption of Ordinance No. 2015-3-9 as requested in Zoning Case 2015-01 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 657 so as to allow the additional use of Food Truck Park on 1.2± acres of land located at the southwest corner of 14th Street and M Avenue, in the City of Plano, Collin County, Texas, presently zoned Downtown Business/Government and Planned Development-369- Light Commercial with Specific Use Permit No. 124 for Contractors Shop and Storage; 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, a publication clause, and an effective date. Applicant: Terrell-Lewis Investments, LLC and Milestone Terrain (Regular Item "6")

Development Review Manager Hill stated this request is to allow a food truck park in downtown Plano and is consistent with development in the area. He stated the Planning and Zoning Commission and Staff recommend approval of the Specific Use Permit. Mayor LaRosiliere opened the public hearing. No one appeared to speak. Mayor LaRosiliere closed the public hearing.

Upon a motion made by Council Member Miner and seconded by Council Member Downs, the Council voted 8-0, to grant Specific Use Permit No. 657 so as to allow the additional use of Food Truck Park on 1.2± acres of land located at the southwest corner of 14th Street and M Avenue, in the City of Plano, Collin County, Texas, presently zoned Downtown Business/Government and Planned Development-369- Light Commercial with Specific Use Permit No. 124 for Contractors Shop and Storage, as requested in Zoning Case No. 2015-01; and further to adopt Ordinance No. 2015-3-9.

Public Hearing and adoption of Ordinance No. 2015-3-10 as requested in Zoning Case 2014-50 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 11.4± acres of land located on the north side of Premier Drive, 885± feet east of Renaissance Drive in the City of Plano, Collin County, Texas, from Corridor Commercial to Planned Development-496-Corridor Commercial; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Fairview Farm Land Co., LTD & Fairview Premier Drive LLC (Regular Item “7”)

Development Review Manager Hill stated this request is on a vacant property adjacent to an assisted living facility and a hotel currently under construction. He spoke to the applicant proposing standards and requesting a planned development to allow for low density single-story detached multi-family product. Mr. Hill stated although the property has commercial zoning currently, the future land use designation is for residential. He stated Staff and the Planning and Zoning Commission recommended approval with the following stipulations:

The permitted uses and standards shall be in accordance with the existing Corridor Commercial (CC) zoning district unless otherwise specified herein:

Multifamily residence is a permitted use and shall be developed in accordance with the Multifamily Residence-2 (MF-2) zoning district with the following exceptions:

1. Minimum Side Yard Setback: 10 feet
2. Maximum Height: One story (20 feet)
3. Maximum Number of Units: 122 total, of which no more than 26 will be duplexes. The remaining units will be detached, single units.

Jon Van de Voorde from NexMetro Communities, representing the applicant, provided an overview of the project consisting of 122 single story living units, the demographics, compliance with the comprehensive plan, and proposed standards. He spoke to the reduced density, available open spaces, property features including garages, private courtyards, and an amenity facility. Rodney Haggard, property owner, spoke to the difficulty developing the property and asked for Council support. Mayor LaRosiliere opened the public hearing. No one appeared to speak. Mayor LaRosiliere closed the public hearing.

In response to Council Member Miner, Mr. Hill stated the planned development zoning does not require a screening wall but the applicant has indicated a screening wall will be constructed around perimeter.

Upon a motion made by Council Member Duggan and seconded by Council Member Gallagher, the Council voted 8-0, to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 11.4± acres of land located on the north side of Premier Drive, 885± feet east of Renaissance Drive in the City of Plano, Collin County, Texas, from Corridor Commercial to Planned Development-496-Corridor Commercial as requested in Zoning Case No. 2014-50; and further to adopt Ordinance No. 2015-3-10.

Nothing further was discussed. Mayor LaRosiliere adjourned the meeting at 10:05 p.m.

Harry LaRosiliere, MAYOR

ATTEST

Lisa C. Henderson, City Secretary

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
March 23, 2015**

COUNCIL MEMBERS PRESENT

Lissa Smith, Mayor Pro Tem
Ben Harris, Deputy Mayor Pro Tem
Pat Miner
André Davidson
Patrick Gallagher
David Downs

COUNCIL MEMBERS PRESENT

Harry LaRosiliere, Mayor
Jim Duggan

STAFF PRESENT

Bruce Glasscock, City Manager
Frank Turner, Deputy City Manager
LaShon Ross, Deputy City Manager
Mark Israelson, Assistant City Manager
Paige Mims, City Attorney
Lisa C. Henderson, City Secretary

Mayor Pro Tem Smith called the meeting to order at 5:02 p.m., Monday, March 23, 2015, in Training Room A of the Municipal Center, 1520 K Avenue. A quorum was present. Council Member Gallagher arrived at 5:38 p.m. Mayor Pro Tem Smith then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated in order to consult with an attorney and receive Legal Advice, Section 551.071; to receive information regarding Economic Development, Section 551.087; to discuss Real Estate, Section 551.072; and Personnel, Section 551.074; for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Pro Tem Smith reconvened the meeting back into the Preliminary Open Meeting at 6:00 p.m. in the Senator Florence Shapiro Council Chambers.

Consideration and action resulting from Executive Session discussion-

- a) Personnel – Appointments

Board of Adjustment

Upon a motion made by Council Member Downs and seconded by Council Member Gallagher, the Council voted 6–0 to move Susan Plonka to a regular member and appoint Joseph “Ross” Montelbano as an alternate member.

Presentation of the 2014-15 Status Report and Three-year Financial Forecast

Director of Budget and Research Rhodes-Whitley presented the 2014-15 Status Report, Three-Year Financial Forecast and budget focus. She advised that the forecast includes a minimum of 30 days of working capital for FY 2015-16, FY 2016-17 and FY 2017-18. She stated she anticipates a five percent increase in assessed property values for 2016. Ms. Rhodes-Whitley spoke to the sales tax assumptions with estimated revenues of \$69,521,647 for FY 2015-16 and stated the first five months collections were up \$2.9 million from the previous year, liquor sales tax is estimated at \$1.3 million, and business to business sales tax revenue is exceeding retail sales tax revenue.

Ms. Rhodes-Whitley spoke to the budget expenditure assumptions for the three-year period. She stated the assumptions include no salary increases, attrition was included in all funds, health insurance costs remain constant, Economic Development Incentive Programs are projected at two cents, \$1 million in Library book funding, increased transfers to the Capital Reserve Fund, and \$38 million in new debt in FY 2014-15 and \$40 million in each year of the following years.

City Manager Glasscock advised due to the drought and water restrictions, the \$13 million reduction in water revenue would equate to a 30 percent rate increase and as the drought stages change, the maximum watering allowed will be twice a week. Ms. Rhodes-Whitley spoke to the Water and Sewer Fund, including one day of working capital and anticipating rate increases, with the current rate structure being re-evaluated during the budget process. She spoke to the Convention and Tourism Fund and the projected hotel/motel tax revenue.

Ms. Rhodes-Whitley stated that Sustainability & Environmental Services, Municipal Drainage, Recreation Revolving and Municipal Golf Course funds are financially within the financial policies as determined by the City Council and she reviewed the budget calendar.

US 75 Corridor Study Update

Stephen Endres with the Texas Department of Transportation stated the US 75 project is on hold to review additional options including reconfiguration of lanes. Brian Swindell from HDR discussed the study and feedback received from the cities involved with the project. He stated the goals include maximizing the “hybrid” approach, addressing the needs of the community, minimizing the amount of right of way required, maximizing use of the existing assets, and minimizing elevated roadways. Mr. Swindell provided information on the hybrid approach that consists of four smaller programs, street, transit, integrated corridor management, and sustainability.

Mr. Swindell provided various lane configurations at grade and with outside depressed grade. He detailed various intersection configurations, the amount of right of way required, and the cost and funding of the project. Mr. Swindell stated additional meetings are planned with other stakeholders and the project will be refined.

Council items for discussion/action on future agendas

No items were discussed.

Consent and Regular Agendas

No items were discussed.

Nothing further was discussed. Mayor Pro Tem Smith adjourned the meeting at 6:56 p.m.

Lissa Smith, MAYOR PRO TEM

ATTEST:

Lisa C. Henderson, City Secretary

**PLANO CITY COUNCIL
REGULAR SESSION
March 23, 2015**

COUNCIL MEMBERS PRESENT

Lissa Smith, Mayor Pro Tem
Ben Harris, Deputy Mayor Pro Tem
Pat Miner
André Davidson
Patrick Gallagher
David Downs

COUNCIL MEMBERS ABSENT

Harry LaRosiliere, Mayor
Jim Duggan

STAFF PRESENT

Bruce Glasscock, City Manager
Frank Turner, Deputy City Manager
LaShon Ross, Deputy City Manager
Mark Israelson, Assistant City Manager
Paige Mims, City Attorney
Lisa C. Henderson, City Secretary

Mayor Pro Tem Smith convened the Council into the Regular Session on Monday, March 23, 2015, at 7:02 p.m. in the Senator Florence Shapiro Council Chambers of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Executive Pastor Jack Warren from Chase Oaks Church led the invocation and Junior Girl Scout Troop 3482 from Davis Elementary led the Pledge of Allegiance and Texas Pledge.

Mayor Pro Tem Smith presented Certificates of Appreciation to Bank of America and Grace Center for their assistance with the Love Where You Live program and recognized the Plano Chamber of Commerce for receiving 5-Star Accreditation from the U.S. Chamber of Commerce. Mayor Pro Tem Smith administered an oath of office to incoming board member Roy Wilshire (Tax Increment Financing Reinvestment Zone No. 2 Board).

COMMENTS OF PUBLIC INTEREST

Nadeem Noorali spoke regarding filing a police complaint and police procedures. City Manager Glasscock stated under Texas State Law, the City of Plano is a “Civil Service City” and any complaint regarding the Police Department or a police officer must be submitted to the Police Chief to start the process.

CONSENT AGENDA

Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 6-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

Approval of Expenditures

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

RFP No. 2015-106-C for a nine (9) month contract for Stop Loss Insurance to be utilized by Human Resources to United Health Group Incorporated in a total estimated amount of \$1,464,982; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "A")

Bid No. 2015-111-B for the purchase of replacement chillers at the Municipal Center to Kahn Air Conditioning & Heating, a Texas Corporation dba Kahn Mechanical Contractors, in the amount of \$382,650; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "B")

Bid No. 2015-57-C for a one (1) year contract with three (3) City optional one (1) year renewals for Athletic Field Mowing and Landscape Maintenance for the Parks Department to Dyna-Mist Construction Company in the estimated amount of \$78,000 at Russell Creek and WCD Enterprises, LLC in the estimated amount of \$37,474 at Carpenter Park; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "C")

Bid No. 2015-52-C for a contract with the initial term to end on August 28, 2015 with three (3) City optional one (1) year renewals for Outdoor Litter Removal and Restroom Maintenance Group A for the Parks Department to Lawn Star Landscape, in the estimated amount of \$60,000 for the initial term and \$100,000 for subsequent renewal terms; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "D")

Bid No. 2015-28-C for a one (1) year contract with three (3) one (1) year City optional renewals for purchase of Urban Forest Management services for the Parks Department from Shawnee Mission Tree Service dba Arbor Masters Tree Service, Good Earth Corporation, Preservation...A Tree Service, Inc. dba Preservation Tree Services, Inc, Rios Tree Service Inc., The Paysage Group dba Smith Lawn and Tree, and Somerset Landscape LLC in the estimated annual amount of \$349,000; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "E")

Purchase from an Existing Contract

To approve the purchase of new furniture for the Oak Point Park Nature & Retreat Center from Facilitech dba Business Interiors, in the amount of \$47,556, Texas Furniture Source, Inc., in the amount of \$144,703, Wilson Office Interiors, LLC, in the amount of \$9,755, and Mity-Lite, Inc., in the amount of \$35,821, for a total amount of \$237,835, through an existing contract/agreement with TXMAS (Texas Multiple Award Schedule) and authorizing the City Manager to execute all necessary documents. (TXMAS 9-711020, 6-71111060, 3-7-11030, 3-7-1111020, 15-7101, 6-7110170, and 2-711090) (Consent Agenda Item "F")

To approve the purchase of twenty-eight (28) Stalker II Moving Radars from Applied Concepts, Inc. and twenty-eight (28) LTI 20-20 Ultralyte LR B Lasers from Laser Technology, Inc. for the Police Department in the total amount of \$135,520 through an existing HGAC contract and authorizing the City Manager to execute all necessary documents. (HGAC Contract No. EF04-13) (Consent Agenda Item “G”)

Approval of Contract Modification

To approve and authorize the First Amendment to the Private Network and Internet Access contract for the purchase of an additional premise node at the Oak Point Park Nature and Retreat Center in the estimated annual amount of \$57,057 from Verizon Business Network Services, Inc. This Amendment will provide voice and data services to this new facility. (Consent Agenda Item “H”)

Approval of Change Order

To Austin Filter Systems, Inc. increasing the contract by \$91,040, Oak Hollow & Brandon Court Project No. 6167, Change Order No. 2. Original Bid No. 2013-358-B. (Consent Agenda Item “I”)

Approval of Expenditure

To approve the purchase and installation of ATMS.now Central Management Software and Support for Engineering, in the amount of \$163,800 from Trafficware Group, Inc.; and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “J”)

Adoption of Resolutions

Resolution No. 2015-3-11(R): To approve the terms of a Real Estate Contract by and between Agnes M. Butler, an individual, and the City of Plano for the purchase of approximately 2.821 acres of land located at 3421 E. Parker Road, Plano, Collin County, Texas, as an addition to Oak Point Park and Nature Preserve; and authorizing the City Manager to execute such contract and providing an effective date. (Consent Agenda Item “K”)

Resolution No. 2015-3-12(R): To authorize the filing of application for federal funds in an amount not to exceed \$79,008 under the Edward Byrne Memorial Justice Assistance Grant (JAG) State Formula Program through the Office of the Governor of Texas, Criminal Justice Division; designating Chief of Police Gregory W. Rushin as authorized representative of the City of Plano for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date. (Consent Agenda Item “L”)

Adoption of Ordinances

Ordinance No. 2015-3-13: To amend Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing and Parking, Section 12-101, Subsection “15th Street” of the Code of Ordinances of the City of Plano, Texas to prohibit stopping, standing, or parking of motor vehicles on certain sections of 15th Street, and amending Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing and Parking, Section 12-104, of the Code of Ordinances of the City of Plano, Texas to designate additional four-hour parking on the south side of 15th Street; and providing a penalty clause, a repealer clause, a severability clause, a savings clause, a publication clause, and an effective date. (Consent Agenda Item “M”)

END OF CONSENT

Ordinance No. 2015-3-14 to provide certain Heritage Resources located in the City of Plano, Texas, partial exemption from the current year Ad Valorem taxation in the amount of \$36,892; providing a severability clause and an effective date. (Regular Item “1”)

Heritage Preservation Officer Mittal spoke to the Heritage Commission’s recommendation for ad valorem tax exemptions. He discussed the classification system used applies to property improvements, not land value and that the properties are surveyed to ensure preservation and maintenance. Mr. Mittal stated 69 of 71 properties were recommended for approval and no appeals were submitted. He stated the City, Plano Independent School, and Collin College district participate in the exemption program.

Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 6-0, to provide certain Heritage Resources located in the City of Plano, Texas, partial exemption from the current year Ad Valorem taxation in the amount of \$36,892; and further to adopt Ordinance No. 2015-3-14.

Public Hearing and adoption of Resolution No. 2015-3-15(R) to adopt the Consolidated Housing and Community Development Plan for 2015-2019 outlining the use of Community Development Block Grant funds and HOME Investment Partnership funds provided by the U.S. Department of Housing and Urban Development; authorizing its execution by the City Manager; and providing an effective date. (Regular Item “2”)

Community Services Manager Brown presented the five-year consolidated plan ending in 2020. She stated the plan creates the framework to determine programs for affordable housing and community development needs. Ms. Brown provided demographics on housing stock and cost burden and supply versus demand of affordable homes. She stated meetings were held to gather public input to prioritize projects and that increased affordable housing, special needs counseling and services, homeless prevention, homeless shelter, social service center, and job skills training were determined to be high priorities. Ms. Brown reported recommended goals and priorities for the plan include maintaining housing stock, increasing affordable housing, homelessness prevention, homeless shelter & providing services, and job training.

Council Member Downs asked for clarification of the program funding mechanism. Ms. Brown stated Federal grants fund the majority of the projects and City funded Buffington grants fund social service programs.

Public Hearing and adoption of Resolution No. 2015-3-15(R)(Cont'd.)

Mayor Pro Tem Smith opened the public hearing. No one appeared to speak. Mayor Pro Tem Smith closed the public hearing.

Upon a motion made by Council Member Downs and seconded by Deputy Mayor Pro Tem Harris, the Council voted 6-0, to adopt the Consolidated Housing and Community Development Plan for 2015-2019 outlining the use of Community Development Block Grant funds and HOME Investment Partnership funds provided by the U.S. Department of Housing and Urban Development; and further to adopt Resolution No. 2015-3-15(R).

Public Hearing and adoption of Ordinance No. 2015-3-16 as requested in Zoning Case 2014-44 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-65-Central Business-1 on 275.1± acres of land located at the northeast corner of the Dallas North Tollway and Tennyson Parkway, in the City of Plano, Collin County, Texas, currently zoned Planned Development-65-Central Business-1 with Specific Use Permit No. 265 for Day Care Center and Specific Use Permit No. 394 for Cemetery/Mausoleum; 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, a publication clause, and an effective date. Applicant: J. C. Penney Co., Inc. (Regular Item “3”)

Director of Planning Day spoke to the project amending Planned Development-65-Central Business-1 stating this property is part of Legacy West with the main focus on Tract D. She provided information regarding the surrounding zoning and a site plan of the proposed single-family detached housing development. Ms. Day stated Staff and the Planning and Zoning Commission recommend approval as follows:

(Proposed additions are indicated by underlined text; deletions are indicated by ~~striketrough~~ text.)

Restrictions:

General Conditions of the Planned Development District

1. The zoning exhibits shall be adopted as part of this ordinance.
2. The Planned Development shall be divided into four tracts:
 - a. Tract A, south of Legacy Dr., must be developed using the standards required by the planned development district.
 - b. Tract B, north of Legacy Dr., may be developed using either these requirements or the CB-1 regulations contained within the Zoning Ordinance. The initial development for Tract B will determine the standards to be used for the remainder of the property.
 - c. Tract C, west of the Dallas North Tollway, north of Legacy Dr., east of Communications Pkwy. and south of Headquarters Dr. must be developed using the standards required by the planned development district.

Public Hearing and adoption of Ordinance No. 2015-3-16(Cont'd.)

- d. Tract D, at the southwest corner of Headquarters Dr. and Communications Pkwy. must be developed using the standards required by the planned development district. Tract D may be developed in accordance with the uses permitted within the CB-1 zoning district, or as single-family residence attached.
3. Telecommunications Plan - A plan for providing telecommunications service within the district and wireless antenna sites serving the larger area shall be submitted within one year of the approval of this ordinance.
4. Street trees shall be provided at a rate of 1 4-inch caliper tree per 35 feet of street frontage per side. Exact spacing and location of street trees shall be determined at the time of site plan approval.
5. Lots must have frontage on a street. There is no required frontage distance for a lot although each lot must meet the design standards of the district.

Specific Provisions of the Planned Development

1. Building Design

- a. On the south side of Legacy Dr., buildings fronting on Bishop Rd. must be designed to accommodate ground floor retail uses from Legacy Dr. south to Martin Rd. On the north side of Legacy Dr., retail, office, and live/work space is allowed on the ground floor of all multifamily buildings but is not required. Ground floor activities of nonresidential buildings shall be oriented to the street and shall have access directly from the street. Ground floor is defined as that portion of a building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.
- b. Nonresidential buildings, except for parking garages, shall have a minimum of 40% of the ground floor facade comprised of window area. Facades facing the Dallas North Tollway frontage road and Legacy Dr. within 400 feet from the Dallas North Tollway frontage road are exempt from this requirement and shall have a minimum of 30% of the ground floor facade comprised of window area. No glass having an exterior visible reflectance of more than 30% shall be permitted as an exterior building material.
- c. Canopies, balconies, stoops, bay windows, awnings, and other building projections may encroach up to five feet into the public right-of-way.
- d. Buildings shall be constructed with 75% of each facade within six feet of the right-of-way for streets and mews, unless restricted by easements. Where easements are present, 75% of each facade must be built to the easement line. Exceptions to these setback requirements are:
- i. Within Tracts A and B, buildings with facades along the Dallas North Tollway frontage road shall have a 300-foot maximum setback.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

- ii. Within Tracts A and B, buildings with facades along Legacy Dr., within 400 feet from the Dallas North Tollway frontage road, shall have a 300-foot maximum setback.
 - iii. Within Tracts A and B, all developments having building facades along Legacy Dr., except for item ii. above, shall have a maximum setback of 30 feet or to the easement line if greater than 30 feet. The setback may be increased to a maximum of 100 feet if a drive aisle with double-loaded parking is installed along Legacy Dr. A public or private mews street may also be installed between Legacy Dr. and the buildings. In this case, 75% of the building facade shall be within 6 feet of the mews street right-of-way. The initial development along the south side of Legacy Dr., except within the area defined in item ii. above, shall determine which development standard is to be used.
 - iv. Within Tract C, buildings shall be constructed with 75% of each façade within 30 feet of the back of curb of the quasi-public street or within 100 feet of the back of curb of Headquarters Dr., Communications Pkwy., Legacy Dr. or the Dallas North Tollway.
 - v. Within Tract C, off-street surface parking is prohibited between the quasipublic street and the building facade.
 - vi. Within Tract C, if a public open space, patio dining, plaza, or other public amenity is provided between the building face and the street, then the amenity may be used to meet the maximum building setback. Surface parking lots cannot be used to meet the maximum building setback.
- e. Within Tracts A and B, building facades fronting Headquarters Dr. or Tennyson Pkwy. shall have a maximum setback of 30 feet or to the easement line if greater than 30 feet. The setback may be increased to a maximum of 100 feet if a drive aisle with double-loaded parking is installed along Headquarters Dr. or Tennyson Pkwy. If a mews street is used, the building facade shall have 75% of its face with 6 feet of the mews street right-of-way line.
- f. Within Tracts A and B, building facades fronting Parkwood Blvd. shall have a maximum setback of 30 feet or to the easement line if greater than 30 feet. The setback may be increased to a maximum of 100 feet if a drive aisle with double-loaded parking is installed along Parkwood Blvd. A public or private mews street may also be installed between the buildings and the right-of-way of Parkwood Blvd. If a mews street is used, the building facade shall have 75% of its face within six feet of the mews street right-of-way line. The minimum setback shall be six feet from the right-of-way of Parkwood Blvd.
- g. No building facade shall exceed a length of 400 feet without a break in the facade of a minimum depth of 5 feet for a minimum length of 10 feet.
- h. Tract C shall contain a quasi-public street connecting Legacy Dr. to Headquarters Blvd.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

i. Quasi-Public Street Definition: Quasi-public streets are privately owned and maintained drives open to public access. A quasi-public street easement shall be dedicated for all quasi-public streets, and a fire lane shall be located within all quasi-public street easements. On-street parking and sidewalks provided along quasi-public streets shall be located within the quasi-public street easement. Lots may derive required street frontage from quasi-public streets and may be platted to the centerline of quasi-public streets.

ii. On-street parking is permitted along the quasi-public street provided it is parallel or angled. Ninety-degree, head-in parking, is prohibited along the quasi-public street.

iii. Buildings fronting the quasi-public street shall be designed to accommodate ground floor retail and office uses. Live/work space is permitted on the ground floor of all multifamily buildings. Ground floor activities of nonresidential buildings shall be oriented to the street and shall have access directly from the street. Ground floor is defined as that portion of building from the street-level finish floor elevation and extending 12.5 feet above the street-level finish floor elevation.

iv. Public or private mews streets may be installed between the buildings, perpendicular to the quasi-public street and all other public streets. If a mews street is used, the building façade shall have 75% of its face within 7 feet of the mews street right-of-way line.

i. Refer to Design Guidelines after PD-65-CB-1 for additional stipulations.

2. Residential Development Standards

a. Standards relating to all residential development

i. Within Tracts A and B, no minimum open space shall be required per residential dwelling unit. However, 2 park or courtyard areas must be provided within the planned development district, one on each side of Legacy Dr. The park areas shall total 5 acres in size. These areas may be publicly or privately owned. Parks, courtyards, and streetscape areas shall be shown at the time of concept plan or site plan approval on the concept plan or site plan.

ii. No off-street loading docks shall be required for buildings containing residential uses. Off-street loading docks for nonresidential uses may not be located adjacent to or across a street or alley from buildings containing residential uses unless the loading dock is screened in accordance with the following:

- Solid metal gates
- Masonry screening walls (in accordance with Section 3.1000)
- Overhead doors
- Any combination of the above

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

b. Standards relating to multifamily residence development

- i. Multifamily development shall be exempt from the supplemental regulations of Subsection 3.104.
- ii. The minimum residential density for multifamily development shall be 40 dwelling units per acre. Mid-rise residential is excluded from this requirement.
- iii. Within Tract C, the maximum number of multifamily dwelling units shall be 800.
- iv. Within Tract C, the first floor of residential buildings shall not solely consist of structured parking.

c. Standards relating to single-family residence attached development

- i. Each dwelling unit shall be on an individually-platted lot. Lots shall front on a public street, private mews street, or slip road. Mews streets used for private lot frontage shall be named streets and shall not be gated.
- ii. Within Tract D, Garages for single-family residence attached uses shall not front on Headquarters Dr. or Communications Pkwy.
- iii. Minimum Lot Area: 700 square feet.
- iv. Maximum Density: 40 dwelling units per acre
- v. Minimum Lot Width: 20 feet
- vi. Minimum Lot Depth: 35 feet
- vii. Front yard setbacks shall apply as follows:
 - Minimum Setback from Mews Street or Slip Road: 12 feet from back of street curb to building
 - Maximum Setback from Mews Street or Slip Road: 18 feet from back of street curb to building
 - Minimum Setback from Public Street or Slip Road: 15 feet from back of street curb to building
 - Maximum Setback from Public Street or Slip Road: 21 feet from back of street curb to building
 - Minimum of 75% of the front facade of the building shall fall within the minimum and maximum setback
- viii. Minimum Side Yard
 - Interior Side Yard: None
 - Exterior Side Yard (Corner Lot): Shall be treated the same as front yards

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

ix. Minimum Rear Yard: None

x. Maximum Height: 3 story (50 feet)

xi. Minimum Floor Area per Dwelling Unit: 800 square feet

xii. Maximum Lot Coverage: 100%

xiii. Street trees shall be placed in planting beds or tree grates within 6 feet of the back of the street curb.

xiv. Sidewalks with a minimum unobstructed width of 6 feet shall be placed along street frontage within Tracts A and B. Sidewalks with a minimum unobstructed width of 7 feet shall be placed along street frontage within Tracts C and D. Sidewalks are in addition to and placed adjacent to street tree areas.

xv. Stoops and landscaped areas adjacent to the building may extend a maximum distance of six feet into the area between the front facade of the building and the back of the street curb.

xvi. Maximum Building Length: 200 feet

xvii. Buildings must be separated by a minimum distance of 10 feet.

xviii. Maximum Number of Units per Building: 10

xix. Rear entry drives are required. The distance from the garage to the travel lane of the alley shall be 10 or less feet in length or shall be 20 feet or greater in length. The distance from the garage to the mews street shall be in accordance with the attached mews street section.

d. Standards relating to single-family residence detached development shall be in accordance with the following:

i. Minimum Lot Area: 875 square feet

ii. Minimum Lot Width: 25 feet

iii. Front Yard Setbacks:

- Minimum Setback from a Public Street, Mews Street, Slip Road, or Access and Utility Easement: None, except the distance from any garage to the right-of-way or easement line shall be 3 feet or less, or 20 feet or greater in length.
- Maximum Setbacks:

1. From Communications Parkway and Headquarters Dr.: 20 feet. A maximum of 30% of the units may exceed this setback if those units average a setback of 30 feet.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

2. From all other Public Streets, Mews Streets, Slip Roads, or Access and Utility Easements: 20 feet from back of street curb or easement line to building.

iv. Minimum Side Yard Setback: None.

v. Maximum Height: 3 story; 50 feet. Outdoor living areas, patios, and/or decks are allowed on second and third stories of buildings as long as they are within the 50-foot maximum building height.

vi. Buildings must be separated by a minimum distance of 3 feet. A minimum 3-foot wide maintenance easement shall be placed between lots to allow for property owner maintenance. The easement may be split between lots as long as the minimum 3-foot distance is provided.

vii. An easement for the benefit of each lot is hereby reserved over, across, and upon each lot adjoining to such lot for roof overhangs not exceeding 2 feet in width and brick ledges which support exterior veneer walls and associated brick and veneers not exceeding six inches in width.

viii. Lots may take access from a Public Street, Mews Street, Slip Road, or Access and Utility Easement. Units may front on an access and utility easement. The minimum frontage required along a public street for each lot deriving frontage from an access and utility easement is 2 feet. The access and utility easement shall be a minimum of 24 foot wide, paved and maintained by the homeowners' association.

ix. Garages for single-family residence detached uses shall not front on Headquarters Dr. or Communications Pkwy.

x. Parking Requirements: 2.25 spaces per dwelling unit. Two off-street parking spaces shall be provided within attached garages, adjacent to each unit or within 100 feet of each unit if established with site plan approval. One-fourth visitor parking space shall be provided within 600 feet of each unit. The visitor parking requirement may be eliminated or reduced at the time of site plan or subdivision plat approval with a finding that there is adequate on-street parking for visitors.

xi. Any single-family residence detached subdivision developed under these standards shall provide usable open space which equals or exceeds 10% of the gross platted area, excluding rights-of-way for major thoroughfares Type E or larger or easements for drainage or floodways.

xii. A minimum 6-foot masonry screening wall, ornamental metal fence, irrigated living screen, or combination of the three will be provided along the site's western property boundary adjacent to Legacy West, Block E, Lot 2. If a living screen is installed, it shall be at least a 6-foot tall solid screen within two years of installation.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

xiii. The minimum spacing between adjacent streets on a roadway shall be 110 feet between the near curb of any adjacent street when either of the streets is a Type E or larger street.

3. Street, Sidewalk, and Streetscape Regulations

- a. Streets, private streets and drives, streetscape and visibility triangles shall be in accordance with the attached street and drive sections and intersection diagrams.
- b. Outdoor patio and sidewalk dining, as well as other public seating areas, are permitted. These areas shall not be included in parking calculations.
- c. Within Tracts C and D, trees, landscaping, outdoor dining areas, bicycle racks and street furniture may be placed within a sidewalk but may not reduce the 7 feet unobstructed width.

4. Parking Regulations

- a. On-street parking within 300 feet of a proposed use may be counted toward satisfying the parking requirement for such use. Assignment of on-street parking shall be at the time of approval of the site plan.

The required parking within the district shall be as follows:

- Multifamily - One space per bedroom (including efficiencies). Spaces for multifamily uses may be provided in a joint use parking structure and need not be within 100 feet of the units served.
 - Single-Family Attached - Each dwelling unit shall have a rear entry drive within a minimum of 2 parking spaces per garage. The elimination of the garage space, by enclosing the garage with a stationary wall, shall be prohibited.
 - Live/Work Space - 1 space per 800 square feet of area on the ground floor
 - Retail - 1 space per 500 square feet of floor area
 - Office - 1 space per 300 square feet of floor area
 - Hotel - 1 space per guest room and 1 space per 160 square feet of meeting area
 - All Other Nonresidential Uses - 1 space per 250 square feet of floor area
- b. Within Tract C, a maximum of 100 off-street parking spaces are permitted within a surface parking area within each lot. These areas shall contain a five-foot landscaped edge between the parking area and the street. Within this landscape edge, ten shrubs (five gallon minimum) shall be planted per 500 square feet.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

c. The initial developments in the district will provide parking as required above. Required parking may be shared among the following uses: multifamily, residential, office, retail, restaurant, health club, hotel, and theater, based on time-of-day parking demands for such uses. A parking study detailing parking needs and shared parking arrangements must be submitted at the time of site plan review and approval.

d. When a building is under single ownership, a maximum of 50% of the spaces provided in a parking structure may utilize small car parking requirements.

e. Structured parking shall be designed to minimize the ground level view of automobiles below their hood lines. Parking structure facades shall have strong horizontal architectural elements. Pedestrian entrances to parking garages shall be directly accessed by a sidewalk or mews or through an internal building vestibule.

5. Prohibited/Additional Allowed Uses

a. The following uses shall be prohibited:

- electrical substation
- railroad team track
- freight terminal or dock
- service yard for governmental agency
- shops, office, or storage area for public/private utility
- water treatment plant
- automobile parts sales (inside)
- automobile repair garage
- automobile storage
- car wash
- motorcycle sales/service
- tire dealer (no open storage)
- contract construction
- general commercial plant
- transfer storage and baggage terminal

b. The following additional uses shall be permitted:

- artisan's workshop
- bed & breakfast
- single-family residence attached

c. Within Tract C, the following additional uses shall be permitted:

- Multifamily and mid-rise residential

d. Within Tract D, the following additional uses shall be permitted:

- Single-family residence attached
- Single-family residence detached

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

6. Signage Regulations

In addition to signs permitted by Section 3.1600 of the Zoning Ordinance, the following additional signs and/or revised sign definitions and standards are permissible:

Freestanding Identification Signs - Freestanding identification signs may be installed at the following locations and shall comply with the Dallas North Tollway Overlay District signage requirements:

- The intersections of Type D and larger thoroughfares.
- The intersection of Bishop Rd. and Type D and larger thoroughfares.

Freestanding identification signs are exempt from the requirement that they be located at least 30 feet from a private property line.

Directional Signs

a. General

- A directional sign is any noncommercial sign, which directs the public to various locations, for instance, but not limited to, the retail, apartments, hotel, or parking areas.
- A directional sign may be a freestanding sign, a wall sign, a projecting sign, or mounted to a vertical support.
- These signs shall not contain advertising and shall be specifically directional in nature.

b. Sign Size - A directional sign mounted to a vertical support shall not exceed 15 square feet and the maximum sign width is 3 feet wide. The bottom of the sign shall not fall below 7 feet from the ground surface.

Banners – General

- Banners may be mounted to a vertical support or attached to a building or parking deck and may cross the street.
- Banners, which are mounted to a vertical support, may be integrated onto street and pedestrian light poles.
- Banners may display artwork or a message that pertains to the district or a special event.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

Portals – General

- A portal is an entry feature, which may be freestanding, span across an area, or attached to a building or structure.
- Portals may be located at the following locations:
 1. The intersections of Bishop Rd. and Type D and larger thoroughfares.
 2. The intersection of Henry Cook Blvd. and Parkwood Blvd.
- Portals which span across the public right-of-way may be erected subject to city approval.

Directory Map

a. General

- A directory map is a noncommercial map listing the occupants within a shopping center, retail district, office district, or commercial site.
- A directory map may be freestanding, mounted to a wall, mounted to a vertical support, incorporated into a kiosk, or anchored within the public right-of-way.
- A directory map is used to provide way finding information for pedestrians.

b. Sign Size

- A directory map, mounted to a vertical support, shall not exceed 40 square feet.

Architectural Roof Signs

a. General

- An architectural roof sign is a sign on top of a roof structure which may extend above the highest point of a roofline.
- Architectural roof signs are prohibited on building facades facing the Dallas North Tollway, Headquarters Dr., Parkwood Blvd., Tennyson Pkwy., and Legacy Dr.

b. Sign Size

- Architectural roof signs shall not exceed an overall height of 9 feet and shall not exceed a maximum square footage of 150 square feet.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

Sloping Roof Signs

a. General

- A sloping roof sign sits at the base of a sloping roof structure/awning element and does not extend above the roofline of the structure or element.
- Sloping roof signs are limited to the retail portions of Legacy Town Center and Tract C.

b. Sign Size

- Sloping roof sign height shall not exceed 1/3 of the height of the sloping roof seen in true elevation. (See attached zoning exhibit for sloping roof sign detail.)

A-frame Signs

a. General

- An a-frame sign is a self-supporting A-shaped sign with 2 visible sides that is located on or adjacent to a sidewalk.
- The sign shall be sufficiently weighted or anchored.
- A-frame signs may be located within the public right-of-way.

b. Sign Size

- The maximum square footage is 8 square feet per sign face and the maximum sign height is 4 feet high.

Projecting Signs

a. General

- Projecting signs must keep a minimum clearance of 8 feet above the sidewalk.
- Projecting signs may be located within the public right-of-way.

b. Sign Size

- The horizontal portion of any projecting sign shall not be more than 6 feet 6 inches in length measured from the building face.
- The projecting sign shall not exceed 60 square feet.

Murals – General

- Murals are noncommercial pictures, not advertising a product or service, which is sold on the premises, painted on, or attached to the exterior walls. The subject matter of a mural is expressed by means easily understood by a general audience.
- Murals shall be reviewed and approved at the discretion of the Building Official for compliance with the definition of a mural and for appropriate size and placement.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

Kiosks

a. General

- Freestanding kiosk structures may be anchored within the public right-of-way or erected on individual lots. If anchored in the public right-of-way, kiosks are limited to 15 feet in height, and all accessibility and visibility requirements must be met for public sidewalks and streets. A maximum of 4 freestanding kiosks may be installed in the public right-of-way, 2 in the portion of the planned development district south of Legacy Dr., and 2 in the portion north of Legacy Dr.
- Kiosks in the public right-of-way may display directory maps, artwork, or messages that pertain to the district or special events, but shall not be used for commercial advertising signs. Kiosks located on private property may display commercial advertising signs.

b. Sign Size

- Signage on all kiosks shall not exceed 40 square feet in the public right-of-way. Signage on kiosks located on private property may not exceed 60 square feet. For multiple-sided kiosks, the gross surface area of each side shall not exceed 2 times the allowable square footage divided by the number of sign faces.

Multipurpose Wall Signs

a. General

- A multipurpose wall sign is any sign mounted on the wall of a building which is used to identify shopping centers, retail districts, office districts, or commercial sites and may include a listing of occupants within the development being identified. The multipurpose wall sign may also be an electronic changeable wall sign as defined herein.
- Multipurpose wall signs are exempt from Subsections 3.1603 (1)(b) and (2)(f) of Section 3.1600.
- An electronic changeable wall sign is a type of multipurpose wall sign that displays static images that change message or copy by programmable electronic processes. Electronic changeable wall signs shall be allowed to change copy every 8 seconds.

c. Size and Location

- Multipurpose wall signs shall not be limited in height or width except that they shall be limited to 300 square feet in size.
- Multipurpose wall signs within Tract C shall be limited to 450 square feet in size.
- A maximum of 2 multipurpose signs shall be mounted to parking garages located adjacent to the Dallas North Tollway within Tract C.

Public Hearing and adoption of Ordinance No. 2015-3-16 (Cont'd.)

- A maximum of 2 multipurpose wall signs shall be mounted to the parking garage located at the southeast corner of the Dallas North Tollway frontage road and Legacy Dr. only. The signs shall be mounted on the north, west, or south facades, and only 1 sign shall be permitted on each facade.
- Multipurpose wall signs may only be used to advertise tenants, owners and uses and any of their products or services within PD- 65-CB-1.

Refer to Design Guidelines after PD-65-CB-1 for additional stipulations.

Trey Braswell, with Kimley-Horn and Associates representing the applicant, thanked the Council for its consideration. Mayor Pro Tem Smith opened the public hearing. No one appeared to speak. Mayor Pro Tem Smith closed the public hearing.

Upon a motion made by Council Member Miner and seconded by Deputy Mayor Pro Tem Harris, the Council voted 6-0, to amend Planned Development-65-Central Business-1 on 275.1± acres of land located at the northeast corner of the Dallas North Tollway and Tennyson Parkway, in the City of Plano, Collin County, Texas, currently zoned Planned Development-65-Central Business-1 with Specific Use Permit No. 265 for Day Care Center and Specific Use Permit No. 394 for Cemetery/Mausoleum, as requested in Zoning Case No. 2014-44; and further to adopt Ordinance No. 2015-3-16.

Public Hearing and adoption of Ordinance No. 2015-3-17 as requested in Zoning Case 2015-02 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 658 so as to allow the additional use of Single-Family Residence Attached on 5.4± acres of land located on the east side of Coit Road, 350± feet north of McDermott Road, in the City of Plano, Collin County, Texas, presently zoned Planned Development-434-Retail; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Sonoma Housing Advisors, LLC (Regular Item “4”)

Director of Planning Day spoke to the request, noting the uses of the adjacent properties and stated the request is to allow the use and determine stipulations. She provided information on the proposed site and a concept plan. She stated Staff and the Planning and Zoning Commission recommend approval with the following stipulations:

1. Residences must be at least 80 feet from the property line of Silver Fern Addition, Block 1, Lot 3.
2. A six-foot wrought-iron fence with irrigated living screen which will grow to form a six-foot tall solid screen within two years of installation is required adjacent to the property line of Silver Fern Addition, Block 1, Lot 3.

Public Hearing and adoption of Ordinance No. 2015-3-17(Cont'd.)

3. A six-foot masonry wall or wrought-iron fence with irrigated living screen which will grow to form a six-foot tall solid screen within two years of installation is required along the rear property line of all residential lots adjacent to Fowler Middle School, Block A, Lot 1.

Brad Williams, representing the applicant, stated the project consists of 40 living units, discussed features of the units and the smaller project serves a single family need in the City. Bill Fisher, Sonoma Housing Advisor representing the applicant, spoke to the project and the \$250,000 construction cost per unit.

Mayor Pro Tem Smith opened the public hearing. No one appeared to speak. Mayor Pro Tem Smith closed the public hearing.

Upon a motion made by Council Member Downs and seconded by Council Member Gallagher, the Council voted 5-1, with Deputy Mayor Pro Tem Harris voting in opposition, to grant Specific Use Permit No. 658 so as to allow the additional use of Single-Family Residence Attached on 5.4± acres of land located on the east side of Coit Road, 350± feet north of McDermott Road, in the City of Plano, Collin County, Texas, presently zoned Planned Development-434-Retail, as requested in Zoning Case No. 2015-02; and further to adopt Ordinance No. 2015-3-17.

Public Hearing and adoption of Resolution No. 2015-3-18(R) to support an application for a nine percent (9%) housing tax credit (HTC) financing to the Texas Department of Housing and Community Affairs (TDHCA) for the proposed affordable residential development project, located on the east side of Coit Road, 350± feet north of McDermott Road; and designating the City Manager to certify this resolution to TDHCA; and declaring an effective date. (Regular Item "5")

Community Services Manager Brown stated this is a companion item to the previous agenda item and approval of the resolution of support will help the City meet its goal in the Housing and Community Development plan. Jean Brown, Executive Director of the Plano Housing Corporation, the applicant, spoke to the request of support and the activities of the Plano Housing Corporation.

Mayor Pro Tem Smith opened the public hearing. Robert Litwins spoke in favor of the request for support. Mayor Pro Tem Smith closed the public hearing.

Upon a motion made by Deputy Mayor Pro Tem Harris and seconded by Council Member Miner, the Council voted 6-0, to support an application for a nine percent (9%) housing tax credit (HTC) financing to the Texas Department of Housing and Community Affairs (TDHCA) for the proposed affordable residential development project, located on the east side of Coit Road, 350± feet north of McDermott Road; and designating the City Manager to certify this resolution to TDHCA; and further to adopt Resolution No. 2015-3-18 (R).

Public Hearing and adoption of Resolution No. 2015-3-19(R) to support an application for a nine percent (9%) housing tax credit (HTC) financing to the Texas Department of Housing and Community Affairs (TDHCA) for the proposed affordable residential development project, located at Palomino Crossing, Block 1, Lot 4; and designating the City Manager to certify this resolution to TDHCA; and declaring an effective date. (Tabled at the February 23, 2015 Council meeting and removed for consideration by the City Council at the March 17, 2015 Council meeting.) (Regular Item “6”)

City Attorney Mims spoke to the project stating the request for reconsideration of the appeal of the zoning case will be brought back to the April 13th Council meeting and if approved the appeal will be reconsidered at the April 27th Council meeting. She advised typically the request for support is heard at the same meeting as the zoning case, however, due to deadlines for the application submittal, the request is being brought forth for consideration at this time. Community Services Manager Brown spoke to the request, providing an alternative language for a resolution of no objection. Kirk Williams, representing the applicant, spoke to the request for support and the deadline for submittal to the Texas Department of Housing and Community Affairs and this action does not change the zoning. Lisa Stephens, representing the applicant, spoke to the track record of the developer and programs and features of the housing project.

Mayor Pro Tem Smith opened the public hearing. Brian Kowalchuk, Bill Kula, Jennifer Guevin, and John Fuller spoke in opposition of the request. Susan Reukema, Ann Lott, Shamira Lawrence, Bernistine Williams, and Tiffany Woodson spoke in favor of the request. Mayor Pro Tem Smith closed the public hearing.

The applicants clarified the point systems for the applications. Council Member Downs stated not being in support of this request will eliminate the Council’s ability to use the option to reconsider the appeal. City Attorney Mims stated the process of the resolution is new and in the past a letter of support was not a discussion item. Deputy Mayor Pro Tem Harris stated the process should be approving the zoning and followed by the resolution of support. Council Member Davidson stated support of the request and Mayor Pro Tem Smith stated opposition.

Upon a motion made by Council Member Downs and seconded by Council Member Gallagher, the Council voted 4-2, with Mayor Pro Tem Smith and Deputy Mayor Pro Tem Harris voting in opposition, to support an application for a nine percent (9%) housing tax credit (HTC) financing to the Texas Department of Housing and Community Affairs (TDHCA) for the proposed affordable residential development project, located at Palomino Crossing, Block 1, Lot 4; and further to adopt Ordinance No. 2015-3-19(R).

Nothing further was discussed. Mayor Pro Tem Smith adjourned the meeting at 8:55 p.m.

Lissa Smith, Mayor Pro Tem

ATTEST

Lisa C. Henderson, 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:		4/13/15		
Department:		Engineering		
Department Head		Jack Carr		
Agenda Coordinator (include phone #): Michael Parrish x7554				
CAPTION				
Bid No. 2015-92-B for the purchase and installation of sewage ejectors for the Municipal Center to Hoffman Texas, Inc., dba Roto-Rooter Service & Plumbing, in the amount of \$53,338, and authorizing the City Manager 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:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		308,222	2,257,778	470,000
Encumbered/Expended Amount		-308,222	-1,290,507	0
This Item		0	-53,338	0
BALANCE		0	913,933	470,000
1,383,933				
FUND(S): CAPITAL RESERVE FUND				
<p>COMMENTS: Funding is available for this item in the 2014-15 Capital Reserve CIP. The replacement of sewage ejector pumps at Plano Municipal Center, in the amount of \$53,338 will leave a current year balance of \$913,933 available for future expenditures related to repairs, replacements and renovations at Plano Municipal Center.</p> <p>STRATEGIC PLAN GOAL: Replacing building equipment that has reached the end of its useful life relates to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
Per Recommendation Memo.				
List of Supporting Documents: Recommendation Memo, Bid Recap			Other Departments, Boards, Commissions or Agencies	



Memorandum

Date: March 6, 2015
To: Michael Parrish, Sr. Buyer
From: Richard Medlen, Facilities Maintenance Superintendent
Subject: Municipal Center – Replacement of the Sewage Ejector Pumps – Bid #2015-92-B

I have reviewed the bids received for the Municipal Center Replacement of the Sewage Ejector Pumps. I recommend award to the apparent lowest, responsive, responsible, bid submitted by Hoffman Texas, Inc., dba Roto Rooter Service & Plumbing, in the amount of \$53,337.60. Additional bids were submitted by 3D Mechanical Service Company Inc., for \$59,438.01, Infinity Contractors International, Ltd., for \$59,692, and EEC Enviro Service Co., LLC, for \$79,976.83. A bid was also received from Classic Plumbing for \$55,662; however, their bid is non-responsive due to their failure to submit the required bid bond.

The Sewage Ejector Pumps planned for replacement are 23 years old and are at the end of their life expectancy and have deteriorated such that replacement is required.

The funding for the project is in the Capital Reserve Account #54424.

Please contact me if you have any questions.

Thanks

/liw

Xc: Jim Razinha
Richard Sievert
Matt Yager
Todd Luxem

CITY OF PLANO

BID NO. 2015-92-B REPLACEMENT OF MUNICIPAL CENTER SEWAGE EJECTORS BID RECAP

Bid Opening Date/Time: February 3, 2015 @ 3:00 PM

Number of Vendors Notified: 2039

Vendors Submitting "No Bids": 0

Number of Non-Responsive Bids: 1

Number of Responsive Bids Submitted: 4

Hoffman Texas, Inc., dba	
Roto-Rooter Service & Plumbing	\$53,337.60
3D Mechanical Service Company, Inc.	\$59,438.01
Infinity Contractors International, Ltd.	\$59,692.00
EEC Enviro Service Co., LLC	\$79,976.83

Recommended Vendor:

Hoffman Texas, Inc., dba	
Roto-Rooter Service & Plumbing	\$53,337.60

Michael Parrish

March 26, 2015

Michael Parrish, Senior Buyer

Date



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:		4/13/15		
Department:		Engineering		
Department Head		Jack Carr		
Agenda Coordinator (include phone #): Michael Parrish x7554				
CAPTION				
Bid No. 2015-142-B for Centralized Waste Collection Station, to Mart, Inc., in the amount of \$575,000, and authorizing the City Manager 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:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget		0	575,000	0
Encumbered/Expended Amount		0	0	0
This Item		0	-575,000	0
BALANCE		0	0	0
FUND(S): SUSTAINABILITY & ENVIRONMENTAL SERVICES FUND, TIF II FUND				
<p>COMMENTS: Funding for this item is available in the 2014-15 Sustainability & Environmental Services Fund Budget and TIF II Project and Finance Plan. Construction of the Centralized Waste Collection Station, in the amount of \$575,000, will leave a \$0 balance for this project.</p> <p>STRATEGIC PLAN GOAL: Constructing a centralized waste collection station for Downtown Plano merchants relates to the City's goal of Exciting Urban Centers - Destination for Residents and Guests.</p>				
SUMMARY OF ITEM				
Per Recommendation Memo.				
List of Supporting Documents: Recommendation Memo, Bid Recap			Other Departments, Boards, Commissions or Agencies	



Memorandum

TO: Michael Parrish, Sr. Buyer

FROM: Jim Razinha, Facilities Manager

DATE: March 30, 2015

SUBJECT: **Centralized Waste Collection Station – Bid #2015-142-B**

I have reviewed the bid submitted for the Centralized Waste Collection Station and recommend award of the bid submitted by Mart, Inc., for the base bid of \$575,000 only.

No additional bids were received.

The funding for the project is in CIP Account #5447119004.

The building construction is necessary to enhance the north downtown Plano business neighborhood by providing an enclosure for waste collection compactors being purchased separately, which will eliminate separate containers throughout the area.

Please contact me if you have any questions.

CITY OF PLANO

BID NO. 2015-142-B CENTRALIZED WASTE COLLECTION STATION BID RECAP

Bid Opening Date/Time: February 13, 2015 @ 1:00 PM

Number of Vendors Notified: 5376

Vendors Submitting "No Bids": 0

Number of Non-Responsive Bids: 0

Number of Responsive Bids Submitted: 1

Mart, Inc. \$575,000

Recommended Vendor:

Mart, Inc. \$575,000

Michael Parrish

March 26, 2015

Michael Parrish, Senior Buyer

Date



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:		4/13/15		
Department:		Engineering		
Department Head:		Jack Carr		
Agenda Coordinator (include phone #): Kathleen Schonne (7198)				Project No. 6245
CAPTION				
CSP 2015-58-B for the construction of Fire Station 2 and 6, PD 802 Renovations to Thos. S. Byrne, Ltd., in the amount of \$5,400,000; and authorizing the City Manager or his authorized designee to execute all documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2014-2015	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	262,098	6,237,902	0	6,500,000
Encumbered/Expended Amount	-262,098	-458,876	0	-720,974
This Item	0	-5,400,000	0	-5,400,000
BALANCE	0	379,026	0	379,026
FUND(S): FIRE & PUBLIC SAFETY FACILITIES CIP				
<p>COMMENTS: Funding is available in the 2014-15 Fire & Public Safety Facilities CIP. Renovations at 2, 6 and Police 802 Substation, in the amount of \$5,400,000, will leave a current year balance of \$379,026 available for future expenditures of this renovation project or other Fire Stations and Public Safety Facilities within Plano.</p> <p>STRATEGIC PLAN GOAL: Renovating Fire Stations and Police Substations to improve public safety facilities for Plano Fire and Police personnel and Plano citizens relates to the City's goals of Safe Large City and Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>Staff recommends the Competitive Sealed Proposal of Thos. S. Byrne, Ltd., in the amount of \$5,400,000, be accepted as the best value conditioned on the timely execution of necessary contract documents for the construction of Fire Station 2 and 6, PD 802 Renovations.</p> <ul style="list-style-type: none"> • Fire Station 2 (2630 East 15th St.): https://www.google.com/maps/place/2630+W+15th+St,+Plano,+TX+75075/@33.019236,-96.7460397,17z/data=!4m7!1m4!3m3!1s0x864c189cc3006057:0x798ba8d9e41595f8!2s2630+W+15th+St,+Plano,+TX+75075!3b1!3m1!1s0x864c189cc3006057:0x798ba8d9e41595f8 • Fire Station 6 (900 Seabrook Dr.): https://www.google.com/maps/place/900+Seabrook+Dr,+Plano,+TX+75023/@33.065558,-96.710201,17z/data=!3m1!4b1!4m2!3m1!1s0x864c183243ea483b:0x9e78ab9572b3d5d4 • PD 802 (5602 Democracy Dr.): https://www.google.com/maps/place/5602+Democracy+Dr,+Plano,+TX+75024/@33.0685638,-96.8159685,17z/data=!3m1!4b1!4m2!3m1!1s0x864c234bb5a2d8e1:0xb48bc6ed226117be 				
List of Supporting Documents: Recommendation memo dated 2/24/15, CSP Tabulation, Location Map			Other Departments, Boards, Commissions or Agencies N/A	



Memorandum

Date: 24 February 2015
To: Michael Parrish
From: Jim Razinha, Facilities Manager
Subject: **Fire Station 2 & 6, PD 802 Renovations, Project No. 6245
CSP Number 2015-58-B**

Recommendation: Per the weighted scoring of the proposals received and evaluated for the subject Competitive Sealed Proposal as summarized below, I recommend award to Thos. S. Byrne, Ltd. in the amount of \$5,400,000 and 304 days total construction time from Notice to Proceed as being the best value to the City of Plano.

Explanation:

Five proposals were submitted, with price weighted at 40% of the overall score. A Technical Evaluation Team ranked only the technical aspects of the proposals.

Award recommendation is based on the following evaluation criteria:

Price:	40%
General construction experience & past performance on similar projects	12%
Similar experience renovating operating facilities	21%
Staff experience	9%
Quality Control and Warranty Program	6%
<u>Time to construct the project</u>	<u>12%</u>
	100%

Thos. S. Byrne, Ltd. ranked the highest overall of the five proposers evaluated. Byrne's proposed price was the second lowest. The Technical Evaluation Team scored Byrne as exceeding the needs identified in the solicitation. The time of construction proposed by Byrne was the shortest realistic time, as determined by the Technical Evaluation Team and the Consultant. As the Technical Evaluation Team felt that Byrne presented the best value for the project, Purchasing requested a Best and Final Offer from Byrne. Byrne reduced its original price proposal by \$34,000.

SDB, Inc. ranked second in the overall ranking, with a technical score reflecting similar project experience on operating facilities, staff experience and quality control programs exceeding the needs identified in the solicitation, but general construction experience and past performance not meeting all needs. SDB's price was \$443,540 more than Byrne's original price of \$5,434,000, and the construction time proposed by Byrne was 7% longer (23 days) longer than Byrne's proposed time.

Three other firms proposed on the project: Schmoldt Construction, Inc., Cooper General Contractors and UCS Group, LLC. Of these, UCS Group proposed a time of construction significantly less than any other proposer (by 106 days), which the Technical Evaluation Team considered to be unrealistic, but as UCS only met some of the needs of the solicitation and their weighted technical score excluding time of construction was last, the Team did not seek clarification of the time proposed. Schmoldt Construction proposed the lowest price, but were third in the overall ranking.

Thos. S. Byrne's experience, time of construction and price reflect the best value to the City of Plano.

**CITY OF PLANO
CSP TABULATION
2015-58-B
CSP FOR FIRE STATION 2 & 6, PD 802 RENOVATIONS**

PROPOSER:	BID BOND	ADD ACK	BASE PROPOSAL AMOUNT
Cooper General Contractors	YES	YES	\$5,723,328
Schmoltd Construction, Inc.	YES	YES	\$5,270,000
SDB, Inc.	YES	YES	\$5,877,540
Thos S. Byrne, Ltd.	YES	YES	\$5,400,000
UCS Group, LLC	YES	YES	\$5,497,351

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

Michael Parrish

March 5, 2015

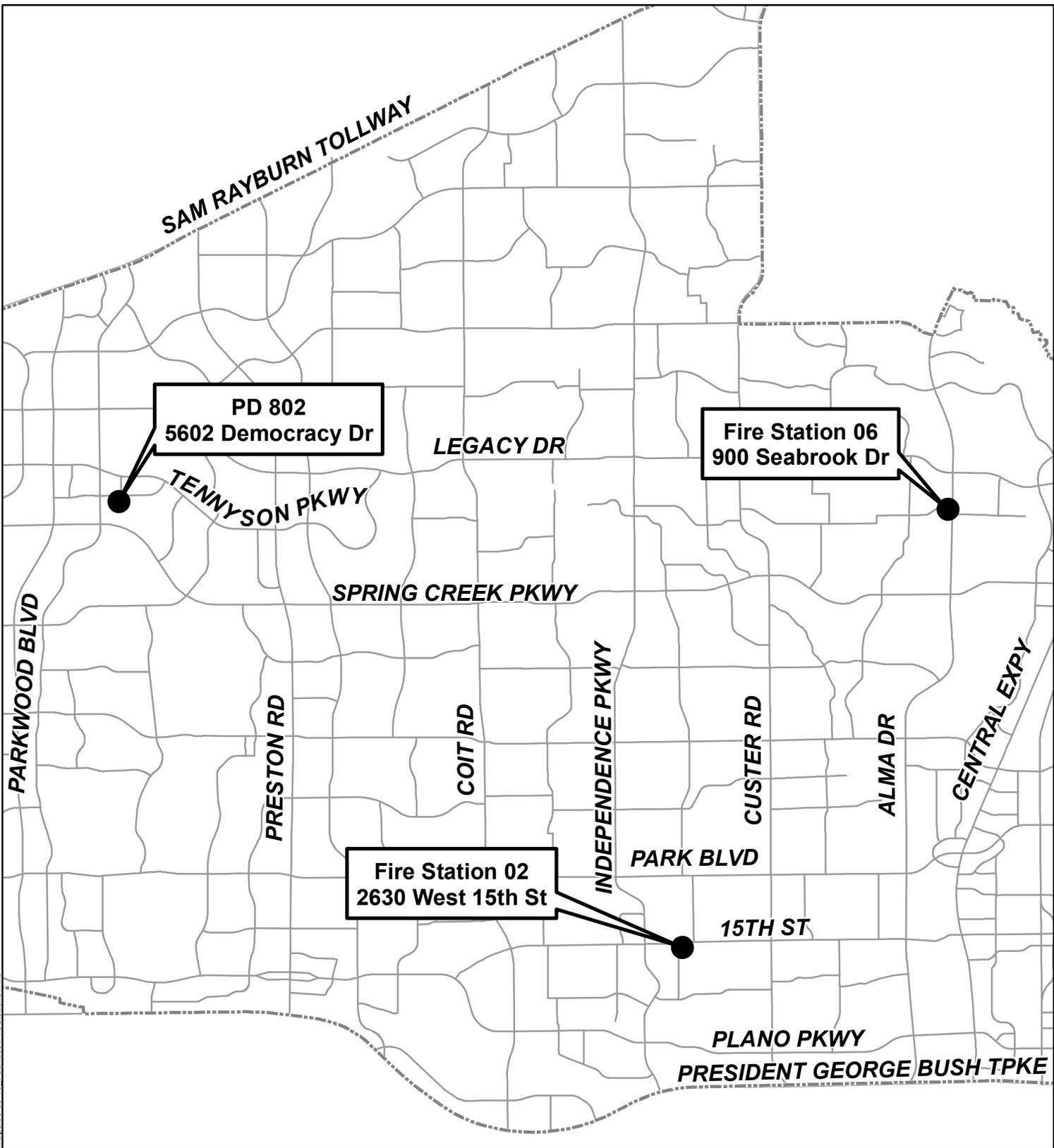
Michael Parrish, Senior Buyer

Date

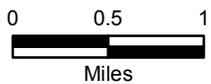
“CSP TABULATION STATEMENT”

ALL PROPOSALS SUBMITTED FOR THE DESIGNATED PROJECT ARE REFLECTED ON THIS CSP TAB SHEET. **HOWEVER, THE LISTING OF A PROPOSAL ON THIS SHEET SHOULD NOT BE CONSTRUED AS A COMMENT ON THE RESPONSIVENESS OF SUCH PROPOSAL OR AS ANY INDICATION THAT THE CITY ACCEPTS SUCH PROPOSAL AS RESPONSIVE.** THE CITY WILL MAKE A DETERMINATION AS TO THE RESPONSIVENESS OF PROPOSALS 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 PROPOSER UPON AWARD OF THE CONTRACT AND, ACCORDING TO LAW, ALL PROPOSALS RECEIVED WILL BE AVAILABLE FOR INSPECTION AT THAT TIME.

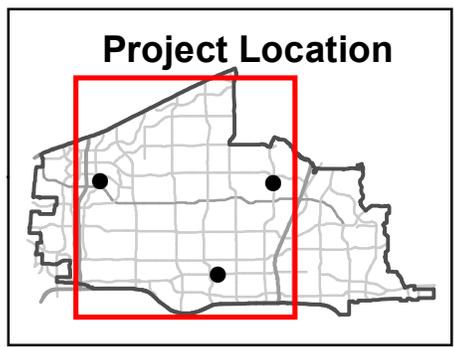
PURCHASING DIVISION
CITY OF PLANO TEXAS



s:\air\3\9\2015 C:\Analyst\Projects\Engineering\Council\Agenda\Locator\Maps\03-05-15_Facilities\FireStations.mxd



**Plano Fire Station 02 & 06, PD 802
Renovations
Project No. 6245**



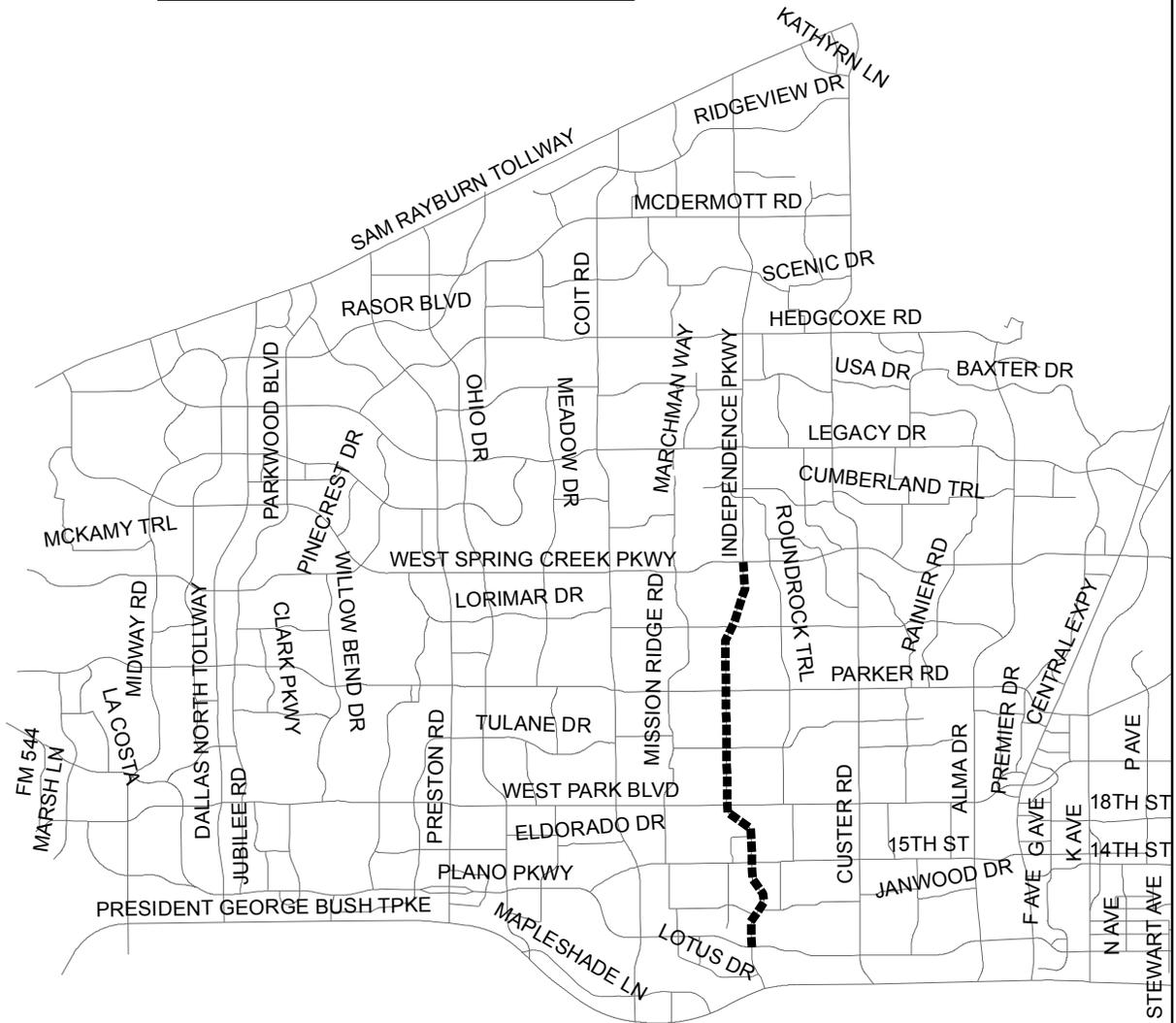
March, 2015
City of Plano GIS Division



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:		04-13-2015		
Department:		Public Works/David Falls		
Department Head		Gerald P. Cosgrove		
Agenda Coordinator (include phone #): Shawn Breen (972.769.4193)				
CAPTION				
Bid No. 2015-179-B, for the Independence Parkway Paving Repairs Project No. 6359 for Public Works to Jim Bowman Construction Company, L.P. in the amount of \$4,236,710 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:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		2,337,504	8,807,496	5,250,000
Encumbered/Expended Amount		-2,337,504	-4,480,343	0
This Item		0	-4,236,710	0
BALANCE		0	90,443	5,250,000
FUND(S): CAPITAL RESERVE FUND				
<p>COMMENTS: Funding for this item is available in the 2014-15 CIP and planned in future years. The Independence Parkway Paving Repairs project, in the amount of \$4,236,710, will leave a current year balance of \$90,443 available for other arterial repair expenditures.</p> <p>STRATEGIC PLAN GOAL: Repairing concrete pavement on Plano's arterial streets relates to the City's goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>Public Works recommends the bid for the Independence Parkway Paving Repairs Contract to Jim Bowman Construction Company, L.P., in the amount of \$4,236,710.00, be accepted as the lowest responsible bid for the project conditioned upon timely execution of all necessary documents.</p> <p>This project involves the repair of 49,000 SY of concrete pavement repair on Independence Parkway between Plano Parkway and Spring Creek Parkway; and the application of an ultra-thin asphalt overlay on Independence Parkway, between 15th Street and Parker Road, in the City of Plano.</p> <p>Engineer's estimate for this project is \$4,500,000.00.</p> <p>https://www.google.com/mapmaker?ll=33.035003,-96.751614&spn=0.088361,0.181789&t=m&z=13&vpsrc=6&q=Independence+Pkwy,+Texas&utm_medium=website&utm_campaign=relatedproducts_maps&utm_source=mapseditbutton_normal</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map; Bid Recap				

LOCATION MAP



CITY OF PLANO

BID NO. 2015-179-B Independence Parkway Paving Repairs Project No. 6359 Bid Recap

Bid opening Date/Time: March 13, 2015 @ 1:30PM

Number of Vendors Notified: 2,150

Vendors Submitting "No Bids": 0

Bids Evaluated Non-Responsive to Specification: 0

Number of Bids Submitted: 4

<u>Vendor Name</u>	<u>Total Bid</u>	<u>Alternate Bid</u>
Jim Bowman Construction Company, L.P.	\$4,236,710.00	\$4,726,710.00
McMahon Contracting L.P.	\$4,977,933.45	\$5,376,793.45
Ken Do Contracting L.P.	\$5,419,751.00	\$5,645,151.00
Ragle, Inc. dba Ragle Construction, Inc.	\$5,793,460.00	\$6,111,960.00

Recommended Vendor(s):

Jim Bowman Construction Company, L.P. \$4,236,710.00

Nancy Corwin

March 13, 2015

Nancy Corwin, Buyer

Date



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:		4/13/15			
Department:		Parks and Recreation			
Department Head		Amy Fortenberry			
Agenda Coordinator (include phone #): Leslie Hooker ext. 7204					
CAPTION					
Bid No. 2015-115-C for a one (1) year contract with three (3) City optional renewals for Athletic Field Mowing and Landscape Maintenance for the Parks Department to Lawn Star Landscape in the estimated annual amount of \$54,892, and authorizing the City Manager to execute all necessary documents.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2014-15; 2015-16; 2016-17; 2017-18	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	708,555	164,676	873,231
Encumbered/Expended Amount		0	-77,502	0	-77,502
This Item		0	-54,892	-164,676	-219,568
BALANCE		0	576,161	0	576,161
FUND(S): GENERAL FUND					
<p>COMMENTS: This item approves price quotes for annual athletic field mowing and landscape maintenance. The estimated expenditure for athletic field mowing and landscape maintenance to be purchased from this contract for the remainder of FY 2014-15 is \$54,892. Future expenditures will be made by Sports Turf Maintenance within the annual approved budget appropriations, at an estimated annual expenditure of \$54,892 for fiscal years 2015-16, \$54,892 for 2016-17, and \$54,892 for 2017-18.</p> <p>STRATEGIC PLAN GOAL: Contracts for annual athletic field mowing and landscape maintenance relates to the strategic goal of Financially Strong City with Service Excellence.</p>					
SUMMARY OF ITEM					
Staff recommends approval of a one (1) year contract with three (3) City optional renewals for purchase of Athletic Field Mowing and Landscape Maintenance from Lawn Star Landscape in the estimated annual amount of \$54,892.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		



CITY OF PLANO COUNCIL AGENDA ITEM

Award Memo Bid Recap	



Memorandum

Date: March 9, 2015
To: Diane Palmer-Boeck, Chief Purchasing Officer
From: Kevin Murray, Park Superintendent
Subject: Award Recommendation for 2015-115-C Athletic Field Mowing and Landscape Maintenance

Lawn Star Landscape is recommended for award of bid 2015-115-C – Athletic Field Mowing and Landscape Maintenance for Heritage Yards Park, Schell Park, Horseshoe Park, McCreary Sports Fields, Cheyenne Park, Old Shepard's Park, and Youth Ball Park in the estimated amount of \$54,892.20. The department believes that Lawn Star Landscape is fully capable of meeting the requirements of this contract as specified in the bid documentation.

The recommendation of award to this vendor is based upon the following:

- lowest responsive bid for group resulting in savings for the City of Plano
- history of maintaining highly visible, high profile, sites with similar scope and size
- equipment list dedicated to the contract sufficient to meet demanding deadlines in the care of high use parks and athletic fields

The contract award is an estimated annual amount of \$54,892.20. The total amount related to the funding of this contract is within the estimated expenditure.

If the contract should be denied, the turf athletic surfaces would seriously decline becoming unsafe and unplayable. As athletic field playing surfaces deteriorate, the result will be the cancellation of games with all the athletic field playing surfaces becoming a liability, whether it is being used for a game, practice, or casual use.

CC: Amy Fortenberry
Jim Fox
Ed Voss
Jeff Slate

CITY OF PLANO
BID NO. 2015-115-C
Athletic Field Mowing and Landscape Maintenance
BID RECAP

Bid opening Date/Time: February 26, 2015 @ 10:00 am

Number of Vendors Notified: 3352

Vendors Submitting "No Bids": 0

Bids Evaluated Non-Responsive to Specifications: 0

Number of Bids Submitted Responsive to Bid: 12

Lawn Star Landscape	\$54,892.20
LawnPros, Inc	\$69,574.67
Good Earth Corporation	\$71,596.80
Lillard Lawn Commercial Maintenance	\$77,100.00
Weldon's Lawn and Tree	\$80,127.90
Four Seasons Lawnsapes	\$81,960.00
SLM Landscaping & Maintenance Inc	\$84,450.00
O'Donnell's Landscape Services, Inc.	\$84,990.00
Dyna-Mist Construction Company	\$86,430.00
VMC Landscape Services	\$98,100.00
Carruthers Landscape Management, Inc	\$108,000.00
Mg Lawn and Landscape LLC	\$194,250.00
<u>Recommended Vendor:</u> Lawn Star Landscape	\$54,892.20

Leslie Hooker

January 21, 2015

Leslie Hooker
Buyer I

Date



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:		April 13, 2015			
Department:		Parks and Recreation			
Department Head		Amy Fortenberry			
Agenda Coordinator (include phone #): Leslie Hooker ext 7204					
CAPTION					
Bid No. 2015-78-C for a one (1) year contract with three (3) City optional one (1) year renewals for Median and Right-of-Way Landscape Maintenance for the Parks Department to Carruthers Landscape Management, Inc. in the estimated annual amount of \$140,000, which includes the bid price plus optional contract services for unforeseen/unplanned projects and services, and authorizing the City Manager to execute all necessary documents.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2014-15; 2015-16; 2016-17; 2017-18; 2018-19	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	1,259,398	500,000	1,759,398
Encumbered/Expended Amount		0	-804,514	0	-804,514
This Item		0	-60,000	-500,000	-560,000
BALANCE		0	394,884	0	394,884
FUND(S): GENERAL FUND					
<p>COMMENTS: This item approves price quotes for annual median and right-of-way mowing and landscape maintenance. The estimated expenditure for median and right-of-way mowing and landscape maintenance to be purchased from this contract for the remainder of FY 2014-15 is \$60,000. Future expenditures will be made by Park Field Services within the annual approved budget appropriations, at an estimated annual expenditure of \$140,000 for fiscal years 2015-16, \$140,000 for 2016-17, \$140,000 for 2017-18 and \$80,000 for 2018-19.</p> <p>STRATEGIC PLAN GOAL: Contracts for median and right-of-way mowing and landscape maintenance relates to the strategic goal of Financially Strong City with Service Excellence.</p>					
SUMMARY OF ITEM					
Staff recommends approval of a one (1) year contract with three (3) City optional renewals for purchase of Median and Right-of-Way Landscape Maintenance for the Parks Department to Carruthers Landscape Management, Inc. in the estimated amount of \$140,000, which includes the bid price plus optional contract services for unforeseen/unplanned projects and services.					



CITY OF PLANO COUNCIL AGENDA ITEM

List of Supporting Documents: Award Memo Bid Recap	Other Departments, Boards, Commissions or Agencies



Memorandum

Date: Wednesday, March 18, 2015

To: Diane Palmer-Boeck, Chief Purchasing Officer

From: Matthew Simmons, Field Services Supervisor

Subject: Award Recommendation: 2015-78-C Median and Right-of-Way Landscape Maintenance

Carruthers Landscape Management, Inc. is recommended for award of bid 2015-78-C in the estimated amount of \$110,000 with a total annual estimated contract amount of \$140,000 (which includes the bid price plus optional contract services for unforeseen/unplanned projects and services). This contract is for median and right of way mowing, tree pruning and staking, litter collection, and shrub trimming at various locations throughout the city along multiple major and minor arterial roads including Spring Creek and Preston. Total costs for the initial one year term and three annual city optional renewals will be \$560,000.

The recommendation of award to each vendor is based upon the following:

- lowest responsive bid for group resulting in savings for the City of Plano
- history of maintaining large, highly visible, high profile commercial and governmental properties with relevant scope and size
- equipment list dedicated to the contract sufficient to meet demanding deadlines in the care of medians and rights-of-way along high traffic arterial thoroughfares

In addition to mowing and general landscape maintenance, the Parks and Recreation Department plans to use the services of Carruthers Landscape Management, Inc. for unplanned and unforeseen projects that may include planting bed renovation and recovery, irrigation repairs, and drought mitigation projects on an annual basis utilizing optional unit pricing provided in bid 2015-78-C.

If the contract is not awarded, numerous medians and rights of way will become non-compliant with Plano municipal codes and ordinances for weeds, rubbish, and traffic visibility. In addition, unforeseen repairs and landscape recovery projects may be delayed, and insufficient drought mitigation may result in further losses of plant material in medians and rights of way resulting in higher long term costs.

cc:

Amy Fortenberry, Director of Parks and Recreation
Jim Fox, Park Services Manager
Doug Green, Parks Superintendent

CITY OF PLANO
BID NO. 2015-78-C
Median and Right-of-Way Landscape Maintenance
BID RECAP

Bid opening Date/Time: March 16, 2015 @ 10:00 am

Number of Vendors Notified: 3351

Vendors Submitting "No Bids": 0

Bids Evaluated Non-Responsive to Specifications: 0

Number of Bids Submitted Responsive to Bid: 7

Carruthers Landscape Management, Inc.	\$110,000.00
SLM Landscaping & Maintenance Inc	\$116,831.80
DD Mowing	\$144,310.00
Lillard Lawn Commercial Maintenance	\$154,024.00
Good Earth Corporation	\$180,873.58
LawnPros	\$183,862.84
Dyna-Mist	\$346,254.00

Recommended Vendors:

Carruthers Landscape Management, Inc.	\$110,000.00
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Leslie Hooker

Leslie Hooker
Buyer I

March 16, 2015

Date



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:		4/13/15		
Department:		Parks and Recreation		
Department Head		Amy Fortenberry		
Agenda Coordinator (include phone #): Susan Berger (7255)				
CAPTION				
Bid No. 2015-158-B for Bluebonnet Trail Signal and Crossing at Preston Road to Jim Bowman Construction Co., L.P. in the amount of \$210,208 and authorizing the City Manager or his 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:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		1,572,714	3,104,286	0
Encumbered/Expended Amount		-1,572,714	-1,747,666	0
This Item		0	-210,208	0
BALANCE		0	1,146,412	0
FUND(S): PARK IMPROVEMENTS CIP				
<p>COMMENTS: Funding is available for this item in the 2014-15 Park Improvements CIP. The installation of a trail signal and pavement markings for a pedestrian crossing at Bluebonnet Trail and Preston, in the amount of \$210,208, will leave a current year balance of \$1,146,412 available for future expenditures on trail connection projects in the City of Plano.</p> <p>STRATEGIC PLAN GOAL: Installing a signal and pavement markings at the point where Bluebonnet Trail crosses Preston Road relates to the City's Goals of Safe Large City and Great Neighborhoods - 1st Choice to Live.</p>				
SUMMARY OF ITEM				
<p>Staff recommends that the bid received from Jim Bowman Construction Co., L.P. in the amount of \$210,207.50 be accepted as the lowest responsible bid conditioned upon the timely execution of any necessary documents. The bid exceeds the consultant's estimate of \$195,000 but is within the available project funding. Staff and the consultant do not believe that rebidding the project would result in significantly lower bids.</p> <p>The bid includes the installation of a fully signalized intersection and concrete and pavement marking improvements for a pedestrian crossing. The project has been approved by TXDOT and a permit to construct the facilities has been issued.</p>				



CITY OF PLANO COUNCIL AGENDA ITEM

Project Location Map:

<http://goo.gl/sf4kA2>

List of Supporting Documents:

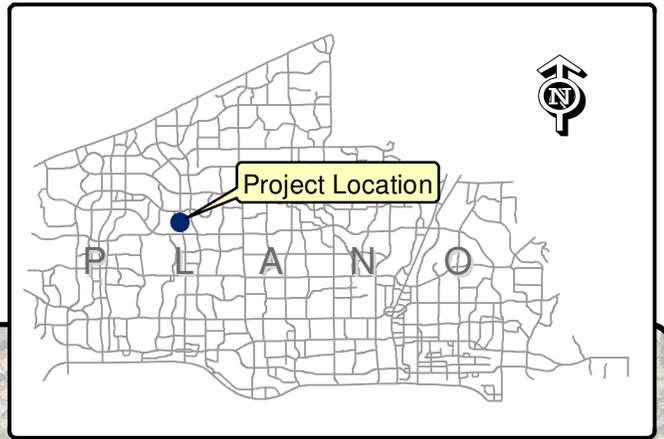
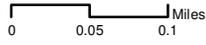
Location Map

Bid Recap

Other Departments, Boards, Commissions or Agencies

Location Map

Bluebonnet Trail at Preston Road



CITY OF PLANO

BID NO. 2015-158-B

Bluebonnet Trail Signal and Crossing at Preston Road Project Number 6321
BID RECAP

Bid opening Date/Time: March 6, 2015 @ 10:00 am

Number of Vendors Notified: 10,046

Vendors Submitting "No Bids": 0

Bids Evaluated Non-Responsive to Specifications: 0

Number of Bids Submitted Responsive to Bid: 1

Jim Bowman Construction Co., L.P.

\$210,207.50

Recommended Vendors:

Jim Bowman Construction Co., L.P.

\$210,207.50

Leslie Hooker

March 6, 2015

Leslie Hooker
Buyer I

Date



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:		April 13, 2015		
Department:		Parks and Recreation		
Department Head		Amy Fortenberry		
Agenda Coordinator (include phone #): Nik Winter x7569				
CAPTION				
RFP 2015-083-B for Design, Fabrication, and Installation of Exhibits at Oak Point Park Nature and Retreat Center for Parks and Recreation to Réalisations Inc. Montréal in the amount of \$249,750, and authorizing the City Manager 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:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		1,057,296	3,156,704	0
Encumbered/Expended Amount		-1,057,296	-1,173,149	0
This Item		0	-249,750	0
BALANCE		0	1,733,805	0
FUND(S): PARK IMPROVEMENTS CIP				
<p>COMMENTS: Funding for this item is available in the 2014-15 Park Improvement CIP. The production and installation of exhibits at the Oak Point Park Nature and Retreat Center, in the amount of \$249,750, will leave a current year balance of \$1,733,805 available for future expenditures related to the development of Oak Point Park and Nature Preserve.</p> <p>STRATEGIC PLAN GOAL: Obtaining and displaying exhibits to inform and educate visitors about the natural setting and activities available at Oak Point Park and Nature Preserve relates to the City's goals of Great Neighborhoods - 1st Choice to Live and Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
Per recommendation memo				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Recommendation memo, Proposal recap				



Memorandum

Date: April 1, 2015

To: Diane Palmer-Boeck, Chief Purchasing Officer

From: Amy Fortenberry, Director of Parks and Recreation

Subject: Recommendation to Award Solicitation# 2015-083-B, Design, Fabrication, and Installation of Exhibits at Oak Point Park Nature and Retreat Center

During design of the newly constructed Nature and Retreat Center at Oak Point Park, it was deemed necessary that the facility include an iconic exhibit that showcases the property's history, flora and fauna, natural features and activities, so that more residents will be drawn to experience all that the park has to offer.

With the help of Purchasing, the developed concept for the exhibits was sent out as a Request for Proposal. The evaluation committee included members from the Parks and Recreation, Engineering, and Technology Services departments.

Five offerors submitted proposals. The committee agreed that the proposal from Réalisations Inc. Montréal best meets the objectives given for the visitor experience. In addition to being within budget for this project, selection was based on the quality of the proposed solution and the production schedule. The Parks and Recreation Department recommends award of Solicitation #2015-083-B, Design, Fabrication, and Installation of Exhibits at Oak Point Park Nature and Retreat Center to Réalisations Inc. Montréal for \$249,750.

The space in the entry/lobby has been designed to accommodate this exhibit. If the contract is not approved, the story of the park will not be told and the lobby space poorly utilized. Outdoor education is a core service for this facility and the exhibit contributes to that service for casual park visitors and those that want to delve into the details of their surroundings. The displays include content under the headings of: history, hydrology/geology, plants, animals, four seasons, and stewardship. The exhibit will complement the design of the facility and enhance the park experience for our guests.

CITY OF PLANO

RFP NO. 2015-083-B

**Design, Fabrication, and Installation of Exhibits at
Oak Point Park Nature and Retreat Center**

RECAP

Opening Date/Time: January 5, 2015, 3 PM

Number of Vendors Notified: 3672

Vendors Submitting "No Bids": 0

Number of Proposals Submitted Non-Responsive: 0

Number of Proposals Submitted: 6

Creative Eye Q	\$239,297.80
Building Four Fabrication	\$242,050.00
Réalisations Inc. Montréal	\$249,750.00
Wilderness Graphics (alternative offer)	\$250,000.00
Mad Systems	\$293,861.00
Wilderness Graphics	\$317,150.00

Recommended Vendor:

Réalisations Inc. Montréal	\$ 249,750.00
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Nik Winter
Specification Analyst

February 27, 2015



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:		4/13/15		
Department:		Engineering		
Department Head:		Jack Carr		
Agenda Coordinator (include phone #):		Kathleen Schonne (7198)		Project No. 5971.1
CAPTION				
To approve the purchase of cable installation for Oak Point Park Nature and Retreat Center in the amount of \$77,268 from ABLe Communications, Inc., through an existing contract and authorizing the City Manager to execute all necessary documents. (Contract No. 2011-195-C)				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	101,000	0	101,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-77,268	0	-77,268
BALANCE	0	23,732	0	23,732
FUND(S): GENERAL FUND				
COMMENTS: Funding for this item is included in the 2014-15 Facilities Maintenance budget within the General Fund. Cable installation at Oak Point Park Nature and Retreat Center, in the amount of \$77,268, will leave a current year balance of \$23,732 available for future expenditures related to technology at the new facility. STRATEGIC PLAN GOAL: Obtaining professional installation services to install cabling in the Oak Point Park Nature and Retreat Center relates to the City's goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
To approve the purchase of cable installation from ABLe Communications, Inc., in the amount of \$77,268.00 utilizing existing Contract No. 2011-195-C Voice and Data Wiring Services, ABLe Communications, Inc., is the contracted cable vendor for the City. (City of Plano Internal Contract No. 2015-170-B) https://www.google.com/maps/dir/33.0207622,-96.6987239/5901+Los+Rios+Bld+Plano,+TX+75074/@33.0611188,-96.6741085,17z/data=!4m8!4m7!1m0!1m5!1m1!1s0x864c19f27bf674b1:0xc1c3ece5e3f6d905!2m2!1d-96.6741085!2d33.0611188				
List of Supporting Documents: Recommendation Memo dated 3/30/15 Location Map			Other Departments, Boards, Commissions or Agencies N/A	



Memorandum

TO: Diane Palmer-Boeck, Chief Purchasing Officer

FROM: Jim Razinha, Facilities Manager

DATE: March 30, 2015

SUBJECT: **Recommendation of Award – ABLe Communications**

In conjunction with the construction of the Oak Point Park Nature and Retreat Center, in addition to fire alarms, access control, HVAC control, office and retreat equipment, Technology Services will be installing network equipment necessary to the operation of the facility. ABLe Communications, Inc., is the contracted cable vendor for the City of Plano. ABLe Communications, Inc., reviewed our current configuration of the new equipment and furnishings being installed and provided a solution acceptable to TS. The total for all labor and materials is \$77,268.

Funding is available through the CIP #22340.

If this purchase is not approved, the Nature and Retreat Center will have no connectivity to the City internet/intranet, and no ability to provide support to Retreat customers.

Oak Point Park Nature and Retreat Center



Project Location





**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:		4/13/15		
Department:		Public Works		
Department Head		Gerald Cosgrove		
Agenda Coordinator (include phone #): Lincoln Thompson ext. 7376				
CAPTION				
To approve the purchase of one (1) Kenworth T800 Truck/Tractor for Fleet Services to be utilized by Compost Operations & Marketing in the amount of \$139,374 from MHC Kenworth through an existing TASB/BuyBoard contract and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 430-13)				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	140,000	0	140,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-139,374	0	-139,374
BALANCE	0	626	0	626
FUND(S): EQUIPMENT REPLACEMENT FUND, SUSTAINABILITY & ENVIRONMENTAL SERVICES FUND				
COMMENTS: Funds are available in the FY 2014-15 Adopted Budget to purchase one (1) Kenworth T800 Truck/Tractor for the replacement of unit #05800 in Cost Center #714/Compost Operations & Marketing. The remaining balance will be used for other Compost Operations & Marketing purchases. STRATEGIC PLAN GOAL: Providing one (1) Kenworth T800 Truck/Tractor for Fleet Services relates to the City's Goal of a Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
The City is authorized to purchase from a cooperative purchasing program with another local government or a local cooperative organization pursuant to Chapter 271 Subchapter F of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items. (TASB/BuyBoard Contract No. 430-13)				
List of Supporting Documents: Recommendation Memo			Other Departments, Boards, Commissions or Agencies NA	



Memorandum

Date: March 24, 2015
To: Bruce D. Glasscock, City Manager
From: Reid Choate, Fleet Manager
Subject: Compost Truck/Tractor Purchase Recommendation

It is the recommendation of Fleet Services to purchase one (1) Kenworth T800 Truck/Tractor from MHC Kenworth through TASB/BuyBoard contract # 430-13 in the amount of \$139,373.80.

Fleet Services received quotes from three vendors and the lowest quote received was from MHC Kenworth through the TASB/BuyBoard contract.

This purchase is for the replacement of unit 05800 in Cost Center 714/Compost Operations & Marketing for unforeseen damage due to a major accident. Due to the accident this unit is a total loss and Fleet Services recommends replacement. If the unit is not replaced the department will be limited in its ability to perform daily operations.

Feel free to contact me if you have any questions at extension 4182.



**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:		4/13/15			
Department:		Public Works			
Department Head		Gerald Cosgrove			
Agenda Coordinator (include phone #): Lincoln Thompson ext. 7376					
CAPTION					
To approve the purchase of one (1) Freightliner M2106 Grapple Truck for Fleet Services to be utilized by the Environmental Waste Services Division in the amount of \$142,385 from Freightliner of Austin through an existing TASB/BuyBoard contract and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 430-13)					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	140,000	0	140,000
Encumbered/Expended Amount		0	0	0	0
This Item		0	-142,385	0	-142,385
BALANCE		0	-2,385	0	-2,385
FUND(s): EQUIPMENT REPLACEMENT FUND					
<p>COMMENTS: Funds are available in the FY 2014-15 Adopted Budget to purchase one (1) Freightliner M2106 Grapple Truck for the scheduled replacement of unit #05805 in Cost Center #751/Special Waste. The additional funds of \$2,385 needed for this purchase are available from savings in other Equipment Replacement Fund purchases.</p> <p>STRATEGIC PLAN GOAL: Providing one (1) Freightliner M2106 Grapple Truck for Fleet Services relates to the City's Goal of a Financially Strong City with Service Excellence.</p>					
SUMMARY OF ITEM					
The City is authorized to purchase from a cooperative purchasing program with another local government or a local cooperative organization pursuant to Chapter 271 Subchapter F of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items. (TASB/BuyBoard Contract No. 430-13)					
List of Supporting Documents: Recommendation Memo			Other Departments, Boards, Commissions or Agencies NA		



Memorandum

Date: March 17, 2015
To: Bruce D. Glasscock, City Manager
From: Reid Choate, Fleet Manager
Subject: Grapple Truck Purchase Recommendation

It is the recommendation of Fleet Services to purchase one (1) Freightliner M2106 Grapple Truck from Freightliner of Austin through the TASB/BuyBoard contract #430-13 in the amount of \$142,385.00.

In order to garner competition, Purchasing Division reviewed pricing through two cooperative purchasing contracts, and found the best value for this item was through the TASB/BuyBoard contract.

This unit is for the scheduled replacement of unit 05805 in Cost Center 751/Special Waste from the FY14-15 Equipment Replacement Fund.

Due to the age and hours, Fleet Services recommends this unit be replaced. If not replaced, we could see a higher cost in vehicle maintenance and increased downtime that could limit the Department in their capacity to provide Services to our citizens.

Feel free to contact me if you have any questions at extension 4182.



**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:		4/13/15		
Department:		Public Works		
Department Head		Gerald Cosgrove		
Agenda Coordinator (include phone #): Lincoln Thompson ext. 7376				
CAPTION				
To approve the purchase of one (1) Crane Carrier Refuse Truck Chassis in the amount of \$167,763 from Bond Equipment Company, Inc. and one (1) DaDee Scorpion Automated Single Arm Body in the amount of \$112,045 from DaDee Manufacturing for a total amount of \$279,808 for Fleet Services to be utilized by the Environmental Waste Services Division through existing TASB/BuyBoard contracts and authorizing the City Manager to execute all necessary documents. (TASB/BuyBoard Contract No. 425-13 and 430-13)				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	295,000	0	295,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-279,808	0	-279,808
BALANCE	0	15,192	0	15,192
FUND(S): SUSTAINABILITY & ENVIRONMENTAL SERVICES FUND				
COMMENTS: Funds are available in the FY 2014-15 Adopted Budget to purchase one (1) Crane Carrier Refuse Truck Chassis and one (1) DaDee Scorpion Automated Single Arm Body as a new addition to the fleet. The remaining balance will be used for other Sustainability and Environmental Services purchases. STRATEGIC PLAN GOAL: Providing one (1) Crane Carrier Refuse Truck Chassis and one (1) DaDee Scorpion Automated Single Arm Body for Fleet Services relates to the City's Goal of a Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
The City is authorized to purchase from a cooperative purchasing program with another local government or a local cooperative organization pursuant to Chapter 271 Subchapter F of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items. (TASB/BuyBoard Contract No. 425-13 and 430-13)				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Recommendation Memo		NA		



Memorandum

Date: March 17, 2015
To: Bruce D. Glasscock, City Manager
From: Reid Choate, Fleet Manager
Subject: Refuse Truck Purchase Recommendation

It is the recommendation of Fleet Services to purchase one (1) Crane Carrier Refuse Truck Chassis from Bond Equipment Company, Inc. through the TASB/BuyBoard contract #430-13 in the amount of \$167,763.00 and one (1) DaDee Scorpion Automated Single Arm Body from DaDee Manufacturing through the TASB/BuyBoard contract #425-13 in the amount of \$112,045.00.

This unit is for a new addition to the fleet, approved in the FY14-15 Capital Outlay Budget for Cost Center 748 – Environmental Waste Services (EWS).

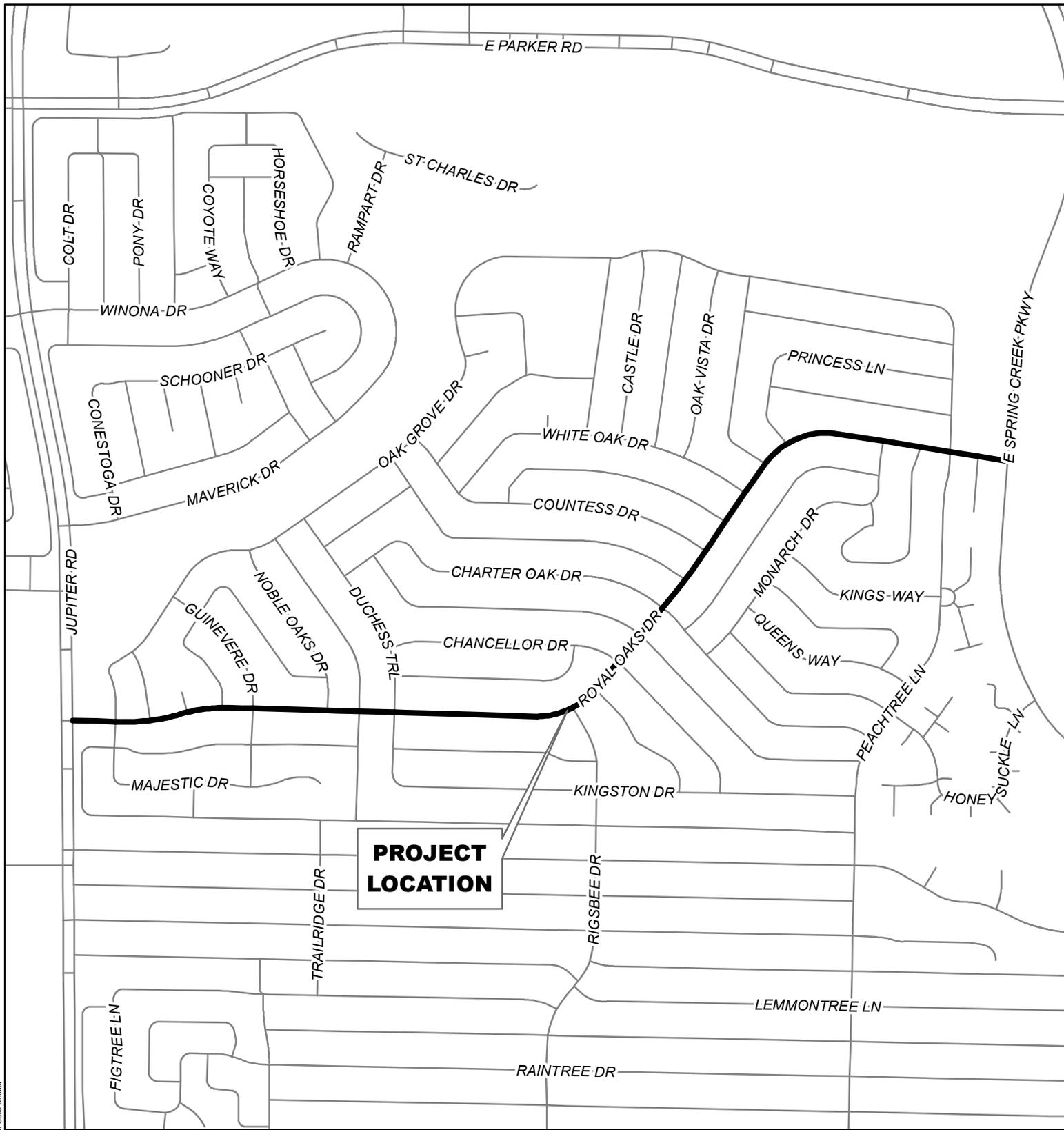
This unit is being added to the fleet in order to complete automated weekly trash and bi-weekly recycling collection services. The increased workload is based on recent and future residential growth of our 72,000+ single family homes within Plano. In addition, if this unit is not purchased there will be a direct increase in the vehicle repair and maintenance costs due to shortage of collection vehicles and using “back-up” vehicles as “frontline” units, increase in related overtime expenditures and a decrease in our level of customer service satisfaction rating.

Feel free to contact me if you have any questions at extension 4182.

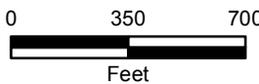


**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		04/13/15		
Department:		Engineering		
Department Head:		Jack Carr, P.E.		
Agenda Coordinator (include phone #): Kathleen Schonne (7198)				Project No. 6156
CAPTION				
To approve a Professional Construction Materials Testing Agreement by and between the City of Plano and GME Consulting Services, Inc., in the amount of \$74,146, for Royal Oaks Drive – Jupiter Road to Spring Creek Parkway - Paving and Water Improvements; and authorizing the City Manager 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: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	50,420	1,839,580	0	1,890,000
Encumbered/Expended Amount	-50,420	-46,295	0	-96,715
This Item	0	-74,146	0	-74,146
BALANCE	0	1,719,139	0	1,719,139
FUND(S): STREET IMPROVEMENTS CIP				
<p>COMMENTS: Funding for this item is available in the 2014-15 Street Improvements CIP. Professional construction materials testing services, in the amount of \$74,146, will leave a current year balance of \$1,719,139 available for further expenditures on the Royal Oaks Drive project.</p> <p>STRATEGIC PLAN GOAL: Obtaining professional services to test the materials used for capital improvements projects relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
This agreement is for Professional construction materials testing services for Royal Oaks Drive -Jupiter Road to Spring Creek Parkway - Paving and Water Improvements to include testing of materials used in the construction of the project.				
The contract fee is for \$74,145.50 and testing services are described as follows:				
Services include testing of construction materials for this project using standard tests as required for concrete paving, lime stabilized subgrade and utility trench compaction.				
https://maps.google.com/maps?q=royal+oaks+drive+plano+tx&hnear=Royal+Oaks+Dr,+Plano,+Texas+75074&t=m&z=16				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map, Agreement			N/A	

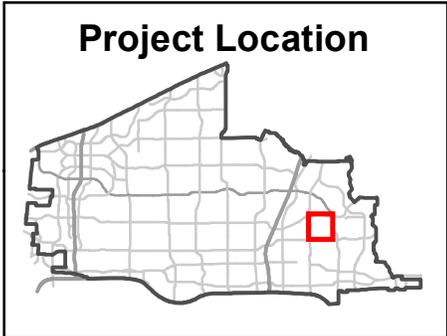


**PROJECT
LOCATION**



**Royal Oaks Drive - Jupiter Road
to Spring Creek Parkway
Paving and Water Improvements
Project Number 6156**

City of Plano GIS Division
April, 2015



geogebra.ct:Projects\Engineering\Location\Map\04-03-2015_Royal Oaks Dr\Royal Oaks Dr.mxd

**ROYAL OAKS DRIVE – JUPITER ROAD TO SPRING CREEK PARKWAY – PAVING
AND WATER IMPROVEMENTS**

PROJECT NO. 6156

CONSTRUCTION MATERIALS TESTING 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 **GME CONSULTING SERVICES, INC.**, a **TEXAS** Corporation, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to perform material testing engineering services in connection with the **ROYAL OAKS DRIVE – JUPITER ROAD TO SPRING CREEK PARKWAY – PAVING AND WATER IMPROVEMENTS** project, located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

The City hereby agrees to use 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 be able to 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 receipt of this executed 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 will be compensated for all services provided under 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 on each project, 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

THE ENGINEER 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 THE ENGINEER'S, OR ITS OFFICER'S, AGENT'S, EMPLOYEE'S, CONSULTANT'S, REPRESENTATIVE'S OR ANY OTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL'S, NEGLIGENCE, INTENTIONALLY TORTIOUS CONDUCT,

INFRINGEMENT UPON INTELLECTUAL PROPERTY RIGHTS, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE CITY AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ENGINEERS. 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.

ENGINEER 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 ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER 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 ENGINEER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED 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 THE 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

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.

XI. Prohibited Interest

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.

XII. 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.

XIII. Mailing of Notices

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

City of Plano
Engineering Department, Suite 250
Attn: James E. Caswell, P.E.
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:

GME Consulting Services, Inc.
Attn: Mark Kawalek, P.E., Principal
2626 Manana Drive, Suite 109
Dallas, TX 75220

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.

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. 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 or Denton County, Texas. The parties further agree that 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.

G. Authority to Sign:

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

SIGNED on the date indicated below.

GME CONSULTANTING SERVICES, INC.
A Texas Corporation

DATE: 3-31-15

BY: 
Marcia S. Kawalek
CHIEF EXECUTIVE OFFICER

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Bruce D. Glasscock
CITY MANAGER

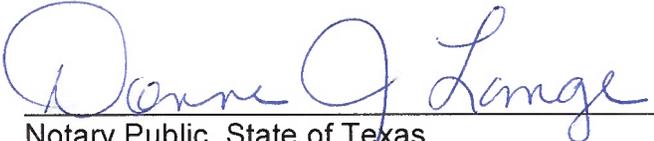
APPROVED AS TO FORM:

Paige Mims
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 31st day of March, 2015, by **MARCIA S. KAWALEK, CHIEF EXECUTIVE OFFICER** of **GME CONSULTING 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 _____, 2015 by **BRUCE D. GLASSCOCK, 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

CONSTRUCTION MATERIALS TESTING SERVICES AGREEMENT PROJECT NO. 6156

PROJECT DESCRIPTION:

This contract is for material testing services for **ROYAL OAKS DRIVE – JUPITER ROAD TO SPRING CREEK PARKWAY – PAVING AND WATER IMPROVEMENTS.**

BASIC SERVICES:

A. General

1. Work included for each material test shall include:
 - Staff time for collecting sample(s) in the field or performing tests in the field.
 - Staff time for performing lab tests.
 - Equipment (Lab or field) time and vehicle time necessary for performing tests. This includes rental fees if necessary.
 - Completing test report forms including clearly indicating the following information:
 - a) Date issued
 - b) Project title and number
 - c) Testing laboratory name, address and telephone number
 - d) Name and signature of laboratory inspector
 - e) Date and time of sampling or inspection
 - f) Record of temperature and weather conditions
 - g) Date of test
 - h) Identification of product and specification section
 - i) Location of sample of test in the Project
 - j) Type of inspection of test
 - k) Results of tests and certification of compliance with Contract Documents
 - l) Professional review and interpretation of test results and reports
 - Contacting all required project recipients within 24 hours of any failing test.
 - Transmitting reports as an attachment to an e-mail sent to all required project recipients.

2. The subject line for E-mails of testing reports shall be as follows:
 - Test Report(s) – TEST REPORT NOS. (CITY PROJ. NO.)

Examples: Test Report – 7 (Proj. 5996)
Test Reports – 9, 10, 11 & 12 (Proj. 6283.1)

3. Additional material tests that may be required for a specific project and are not listed in this annual contract will be added to the annual contract as needed.

B. Miscellaneous

1. Staff attendance at project pre-construction meetings
2. Staff attendance at project meetings when requested by the City
3. General material testing consultation when requested by the City
4. Trip charges to perform on-site material tests or observations - this includes round trip vehicle charges and technician time.
5. Cancelled test or inspection with less than 2 hours' notice
6. Provide the overtime multiplier to be used for material testing staff hourly rates when work is performed outside of normal business hours

C. Soil Testing

1. Sample soil material encountered on the project that will be used as sub-grade, embankment or backfill. Perform moisture density tests (ASTM D-698) and develop the moisture density relation curve for the type of soil sampled. Determine the plastic limit, liquid limit and plasticity index (ASTM D-4318) for the sample.
2. Sample lime stabilized soil material on the project that will be used as sub-grade. Perform moisture density tests (ASTM D-698) and develop the moisture density relation curve for the lime stabilized soil sampled.
3. When requested by the City, sample soil materials encountered on the project and perform a particle-size analysis (ASTM D-422).
4. Perform boring to check depth of compacted lime stabilized subgrade.
5. Perform in-place field density tests in accordance with ASTM D-2167 or ASTM D-2922 and the frequency shown below.
 - Utility Trench – one field density every 300 linear feet per 8" loose lift
 - Fill Area – one field density every 5000 square feet per 8" loose lift
 - Pavement Sub-grade – one field density every 450 square yards
 - Sidewalk – one field density every 400 linear feet

D. Flexible Base

1. Sample flexible base material for the project and perform a particle-size analysis (ASTM D-422) on the flexible base sample.
2. Sample flexible base material on the project that will be used as sub-grade and perform moisture density tests (ASTM D-1557) and develop the moisture density relation curve for the flexible base material sampled.

3. Perform in-place field density tests in accordance with ASTM D-2167 or ASTM D-2922 with a frequency of one field density every 450 sq. yards.
4. Perform boring to determine the depth of compacted flexible base.

E. Portland Cement Concrete

1. Review concrete mix design(s) furnished by the contractor relative to City of Plano and project specifications and perform a statistical analysis on each design submitted.
2. Review ready mix delivery tickets and confirm the pertinent project and specification information. Sample concrete and determine slump (ASTM C-143), air content (ASTM C-173 or C-231), and concrete temperature and mold a set of four (4) compressive test cylinders for every 150 cubic yards or at least once a day, unless otherwise authorized by the City of Plano. Test compressive test cylinders according to ASTM C-39 as follows:
 - Two cylinders at 7 days
 - Two cylinders at 28 days
3. Performing duties described in E.2 above with different sample ages (normally shorter) than the 7-days and 28-days listed above.
4. Sample and mold an additional two test cylinders when performing the testing in E.2 and E.3 above if requested by the City for additional testing. Test compressive test cylinders in accordance with ASTM C-39 at the requested age.
5. Compressive test cylinder pickup and delivery to the laboratory for up to six test cylinders.
6. Two-inch diameter boring of concrete and checking for thickness up to 10" thick. Includes patching of concrete pavement bore holes.
7. Four-inch diameter boring of concrete and testing for strength (ASTM C-42) and thickness up to 10" thick. Includes sawing, capping and the patching of concrete pavement bore holes.
8. Concrete coring (two-inch and four-inch) per inch greater than 10 inches.

F. Hot Mix Asphalt Concrete (HMAC)

1. Sample the HMAC paving mix on a periodic basis (approximately one sample for every 75 tons of asphalt). Perform extraction, stability (Tex-208-F) and lab molded density (Tex-207-F and Tex-227-F) tests on samples.
2. Two-inch boring of HMAC pavement and checking for thickness. Includes patching of HMAC pavement bore holes.
3. Six-inch boring of HMAC pavement for in-place density (ASTM D-1188) and thickness. Includes patching of HMAC pavement bore holes.

G. Bridges and Brick Walls

1. Inspection of piers during drilling, including checking size, alignment, soil conditions and depth.
2. Inspection of pier reinforcing steel and concrete during fabrication and placement.
3. Mortar: For every 3,000 sq. ft. of beam or wall cast one set of six 2" cubes from mortar being placed. The test age for the cube testing will be determined by the design Engineer. Mold, cure and test cubes in accordance with ASTM C109 to ensure compliance with the project specifications.

H. Gabion Testing

Soil testing and concrete testing will be done as specified above and as modified by the following:

1. Wall Backfill – One field density per item C.5 above for each 8" lift.
2. Concrete Tieback Beams – Test concrete per item E.3 above for every 50 cubic yards or at least once a day, unless otherwise authorized by the City of Plano. Test dates for the cylinders will be established by the design engineer.
3. Tieback Anchor Inspection and Testing
 - a. Inspection of tiebacks during drilling, including checking size, alignment, sub-surface strata conditions and depths.
 - b. Inspect tieback anchor tendons while being installed to ensure compliance with project specifications, check for damage or deformation, and check corrosion protection for damage.
 - c. Performance Test – The first three (3) and every tenth anchor thereafter shall be performance tested by the contractor and visually inspected by the testing engineer. The actual measuring period will be ten (10) minutes. Monitor any movement or elongation of the anchors, as they are loaded to performance capacity. The testing engineer will visually observe the process and review the results.
 - d. Proof Test – All anchors that are not performance tested will be proof tested. This test is similar to the performance test except that the measuring period is for five (5) minutes. The contractor will do the testing and the testing engineer will observe the process and review the results.
 - e. The testing engineer shall prepare one (1) set of six (6) grout cubes for each day of tieback inspection and test (ASTM C109) to ensure compliance with job specifications. The test age for the cube testing will be determined by the design Engineer.

I. Compost

1. Review compost supplier's quality control (QC) documentation meeting TxDOT Specification Item 161, Compost requirements when submitted.
2. Obtain samples of compost placed on the project and conduct lab testing to determine sieve analysis (TMECC 02.02-B), pH (TMECC 04.11-A), and organic matter content (TMECC 05.07-A) per the requirements in TxDOT Specification 161, Compost. Test representative samples for every 2,000 square yards of compost placed on the project site.

J. Water Tank Painting

1. Perform on-site inspection to confirm surface preparation prior to the application of surface coating. Inspection to include checking the surface profile and providing the documented results in the test report for each inspection. The inspector shall have a minimum of a Level 1 Coating Inspector certification from the National Association of Corrosion Engineers (NACE),
2. Perform on-site inspection to verify atmospheric conditions using an electronic hygrometer to determine dry bulb air temperature, wet bulb air temperature, relative humidity, dew point and a surface contact thermometer to determine the surface temperature to be painted prior to the application of surface coatings. The inspector shall have a minimum of a NACE Level 1 Coating Inspector certification.
3. Perform on-site inspection to observe the paint mixing, paint application process and to document the mil readings of applied surface coatings using a dry film thickness gauge (magnetic) to ensure compliance with the project specifications. The finished surface shall also be tested with a low voltage Holiday detector to locate any surface pitting or voids. The inspector shall have a minimum of a NACE Level 1 Coating Inspector certification.
4. Perform on-site inspection of existing or newly installed structural steel to evaluate existing condition or confirm new installations are in conformance with the project specifications.
5. Perform on-site inspections of the welding processes and final welds performed on the tank to confirm conformance with the project specifications and design.

EXHIBIT "B"

SCHEDULE OF WORK

**CONSTRUCTION MATERIALS TESTING SERVICES AGREEMENT
ROYAL OAKS DRIVE – JUPITER ROAD TO SPRING CREEK PARKWAY – PAVING
AND WATER IMPROVEMENTS**

PROJECT NO. 6156

Construction materials testing for this project will begin at the commencement of construction and end with the completion of construction by the selected contractor. The City of Plano shall use Exhibit A to develop a specific scope of services required for each project. Proper notice for the scheduling of a testing technician shall be arranged throughout duration of the contract.

COST ESTIMATE & FEE SCHEDULE
GME Consulting Services, Inc.
Construction Testing Budget Estimate
City of Plano - Royal Oaks Drive
Jupiter Road to Spring Creek Parkway - Proj. 6156
Proposal No. P15.05.0014
5-Mar-10

	Unit	Unit Price	Quantity	Subtotal
Task 1. Site Earthwork Testing				
A. Proofrolling Inspection				
Assumptions: None required as the site grades will be relatively unchanged				
1. Senior Engineering Technician	hr	\$ 44.00	0	\$ -
B. Pavement Subgrade Testing				
Given: Area of lime stabilization = 22,465 SY				
Segments will extend between intersections				
Assumptions: Est. 14 segments 35 trips at 4 hours per trip				
1. Senior Engineering Technician	hr	\$ 44.00	140	\$ 6,160.00
2. Nuclear Gauge Rental	day	\$ 70.00	35	\$ 2,450.00
C. Utility Backfill Testing				
Given: Water - 5,829 lf; 6" and 8" dia; avg depth 4 ft				
Storm - 360 lf (21"-24")				
avg depth 3 ft				
Sanitary - 30 lf of 8" sanitary line				
3 months utility installation				
Assumptions: 35 trips; 4hrs per trip				
1. Senior Engineering Technician	hr	\$ 44.00	150	\$ 6,600.00
2. Nuclear Gauge Rental	day	\$ 70.00	40	\$ 2,800.00
D. Laboratory Testing				
1. Standard Proctors (ASTM D-698)	ea	\$ 125.00	7	\$ 875.00
2. Atterberg Limits (ASTM D 4318)	ea	\$ 50.00	12	\$ 600.00
3. Lime Treated Proctors	ea	\$ 125.00	6	\$ 750.00
E. Trip Charges for Earthwork				
1. Trip Charge	ea	\$ 55.00	84	\$ 4,620.00
Subtotal Task 1				\$ 24,855.00

Task 2. Concrete Testing

Given: 4,581 cy 8" street pavement; avg 200-300 cy/pour
152 lf of street headers; 10 pours
11 cy of 10" Class K High Early (1 pour)
11 cy of 6" driveways; 5 pours
63 cy of 6" alley paving; 6 pours
402 cy of 4" sidewalk; > 10 pours
20 misc. pours (ramps, inlets, etc.)

Assumptions: Street pours avg 250 cy/pour @ 7 hrs/pour
Street headers avg 15 cy/pour @ 4 hrs/pour
Driveway pours avg <5 cy/pour @ 4 hrs/pour
Sidewalk pours avg 40 cy/pour @ 6 hrs/pour
Miscellaneous pours avg <20cy/pour @ 4 hrs

A. Mix Design Review						
Assumptions: 6 mix design reviews						
1. Mix Design Review	hr	\$ 275.00	10	\$	2,750.00	
B. Street Pours						
Given: 15-23 pours						
Assumptions: 20 pours @ 7 hrs/ea; 3 sets of 4 cyls/pour						
1. Senior Engineering Technician	hr	\$ 44.00	140	\$	6,160.00	
2. Concrete Cylinder Tests	ea	\$ 14.00	240	\$	3,360.00	
C. Street Header Pours						
Given: 10 pours						
Assumptions: 10 pours @ 4 hrs/ea; 1 set of 4 cyls/pour						
1. Senior Engineering Technician	hr	\$ 44.00	40	\$	1,760.00	
2. Concrete Cylinder Tests	ea	\$ 14.00	40	\$	560.00	
D. Driveway Pours						
Given: 11 cy; 5 pours						
Assumptions: 5 pours @ 4 hrs/pour; 1 set of 4 cyls/pour						
1. Senior Engineering Technician	hr	\$ 44.00	20	\$	880.00	
2. Concrete Cylinder Tests	ea	\$ 14.00	20	\$	280.00	
E. Sidewalk Pours						
Given: 402 cy sidewalk; >10 pours						
Assumptions: 15 pours @ 6 hrs/pour; 1 set of 4 cyls/pour						
1. Senior Engineering Technician	hr	\$ 44.00	90	\$	3,960.00	
2. Concrete Cylinder Tests	ea	\$ 14.00	60	\$	840.00	
F. Miscellaneous Pours						
Given: 20 miscellaneous pours; < 20cy/pour						
Assumptions: 20 pours; 4 hrs/pour						
1. Senior Engineering Technician	hr	\$ 44.00	80	\$	3,520.00	
2. Concrete Cylinder Tests	ea	\$ 14.00	80	\$	1,120.00	
G. Cylinder Pickup						
Given: 70 pours						
Assumptions: 70 trips for cylinder pickup; 2 hrs/trip						
1. Senior Engineering Technician	hr	\$ 44.00	140	\$	6,160.00	
G. Trip Charges for Concrete						
1. Trip Charge	ea	\$ 55.00	140	\$	7,700.00	
					Subtotal Task 2	\$ 39,050.00
Task 3. Project Management						
Given: 2 hours per month for 10 months						
Assumptions: None						
1. Senior Engineer	hr	\$ 175.00	20	\$	3,500.00	
					Subtotal Task 3	\$ 3,500.00
Total Tasks 1-3				Total		\$ 67,405.00
					Budget Contingency for Overtime Charges - 10% of Total	\$ 6,740.50
					Grand Total with 10% OT Contingency	\$ 74,145.50

SUMMARY FEE SCHEDULE FOR CONSTRUCTION MATERIALS TESTING AND ENGINEERING SERVICES

PROJECT: City of Plano- Royal Oaks Drive - Proj. 6156				
GME Proposal No.: P15.05.0014				
2015 UNIT FEE SCHEDULE - CONSTRUCTION MATERIALS TESTING SERVICES				
TASK 1: Professional / Technical Services				
		<u>UNIT</u>		<u>TASK</u>
	<u>UNIT</u>	<u>PRICE</u>	<u>QTY</u>	<u>SUBTOTAL</u>
A. Principal Engineer	hr	\$190.00	0	\$0.00
B. Senior Engineer	hr	\$175.00	0	\$0.00
C. Project Engineer/ Scientist	hr	\$120.00	0	\$0.00
D. Staff Engineer/ Scientist	hr	\$95.00	0	\$0.00
E. Laboratory Supervisor	hr	\$75.00	0	\$0.00
F. Welding Inspector	hr	\$75.00	0	\$0.00
G. Senior Technician, Regular Time	hr	\$44.00	0	\$0.00
H. Senior Technician, Overtime (1)	hr	\$61.60	0	\$0.00
I. Drafter	hr	\$49.00	0	\$0.00
J. Clerical	hr	\$33.00	0	\$0.00
K. Subconsultant Services	c+	1.10		
SUBTOTAL FOR PROFESSIONAL/TECHNICAL SERVICES				OPEN
TASK 2: LABORATORY SERVICES				
A. Soil Testing Services				
1. Standard Proctor (ASTM D698)	ea	\$125.00	0	\$0.00
2. Modified Proctor (ASTM D1557)	ea	\$125.00	0	\$0.00
3. Atterberg Limits	ea	\$50.00	0	\$0.00
4. Moisture Content	ea	\$5.00	0	\$0.00
5. Free Swell	ea	\$70.00	0	\$0.00
6. Sieve Analysis	ea	\$35.00	0	\$0.00
B. Concrete & Aggregate Testing Services				
1. Cylinders, Compressive Strength	ea	\$14.00	0	\$0.00
2. Beams, Flexural Strength	ea	\$16.00	0	\$0.00
3. Cubes, Compressive Strength	ea	\$14.00	0	\$0.00
4. Grout Prisms, Compressive Strength	ea	\$14.00	0	\$0.00
5. Sieve Analysis	ea	\$35.00	0	\$0.00
6. Mix Design Review	ea	\$275.00	0	\$0.00
SUBTOTAL FOR LABORATORY TESTING				OPEN
TASK 3. Equipment Rental & Miscellaneous				
1. Nuclear Density Gauge	day	\$70.00	0	\$0.00
2. Nuclear Density Gauge	1/2 day	\$35.00	0	\$0.00
3. Mileage	mi	\$0.55	0	\$0.00
4. Trip Charge	ea	\$55.00	0	\$0.00
5. Drill Rig Mobilization	ea	\$400.00	0	\$0.00
6. Shelby Tube Sampling	lf	\$13.00	0	\$0.00
SUBTOTAL FOR EQUIPMENT RENTAL				OPEN
(1) Overtime rate are applicable to hours worked before the hours of 7:00 am and after 5:00 pm on weekdays.				
Overtime rates will also apply to Saturdays, Sundays, & holidays.				

EXHIBIT "D"

ENGINEERING

**ROYAL OAKS DRIVE – JUPITER ROAD TO SPRING CREEK PARKWAY – PAVING
AND WATER IMPROVEMENTS**

PROJECT NO. 6156

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."
- 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 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 \$2,000,000

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 \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____ BI & PD each occurrence

EXHIBIT "E"

ROYAL OAKS DRIVE – JUPITER RD. TO SPRING CREEK PKWY.–PAVING AND WATER IMPROVEMENTS
PROJECT NO. 6156

AFFIDAVIT OF NO PROHIBITED INTEREST AND COMPLIANCE WITH CITY OF PLANO'S EQUAL RIGHTS ORDINANCE

A. No Prohibited Interest

I, the undersigned, declare that I am authorized to make this statement on behalf of **GME CONSULTING SERVICES, INC.**, a Corporation organized under the laws of the State of Texas, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of **GME CONSULTING SERVICES, INC.**, is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

“No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council.”

B. Equal Rights Compliance

1. Section 2-11(F) of the City Code of Ordinances reads as follows:

“It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;
- (j) for an employer, a labor organization or a joint labor-management committee, to discriminate

- against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;
- (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
 - (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
 - (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

2. I am aware that my company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies, as indicated below. Further, I understand that if Section 2-11(F) applies, I am entitled to apply to the City Manager for a waiver from signing this section of the affidavit based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, I affirm that my company, its directors, officers and employees agree to comply with Section 2-11(F); or my company is excluded from this Ordinance based on the following: **[PLEASE CHECK BELOW, IF APPLICABLE]**

_____ A religious organization.

_____ A political organization.

_____ An educational institution.

_____ A branch or division of the United States government or any of its departments or agencies.

_____ A branch or division of the State of Texas or any of its departments, agencies or political subdivisions.

_____ A private club that is restricted to members of the club and guests and not open to the general public.

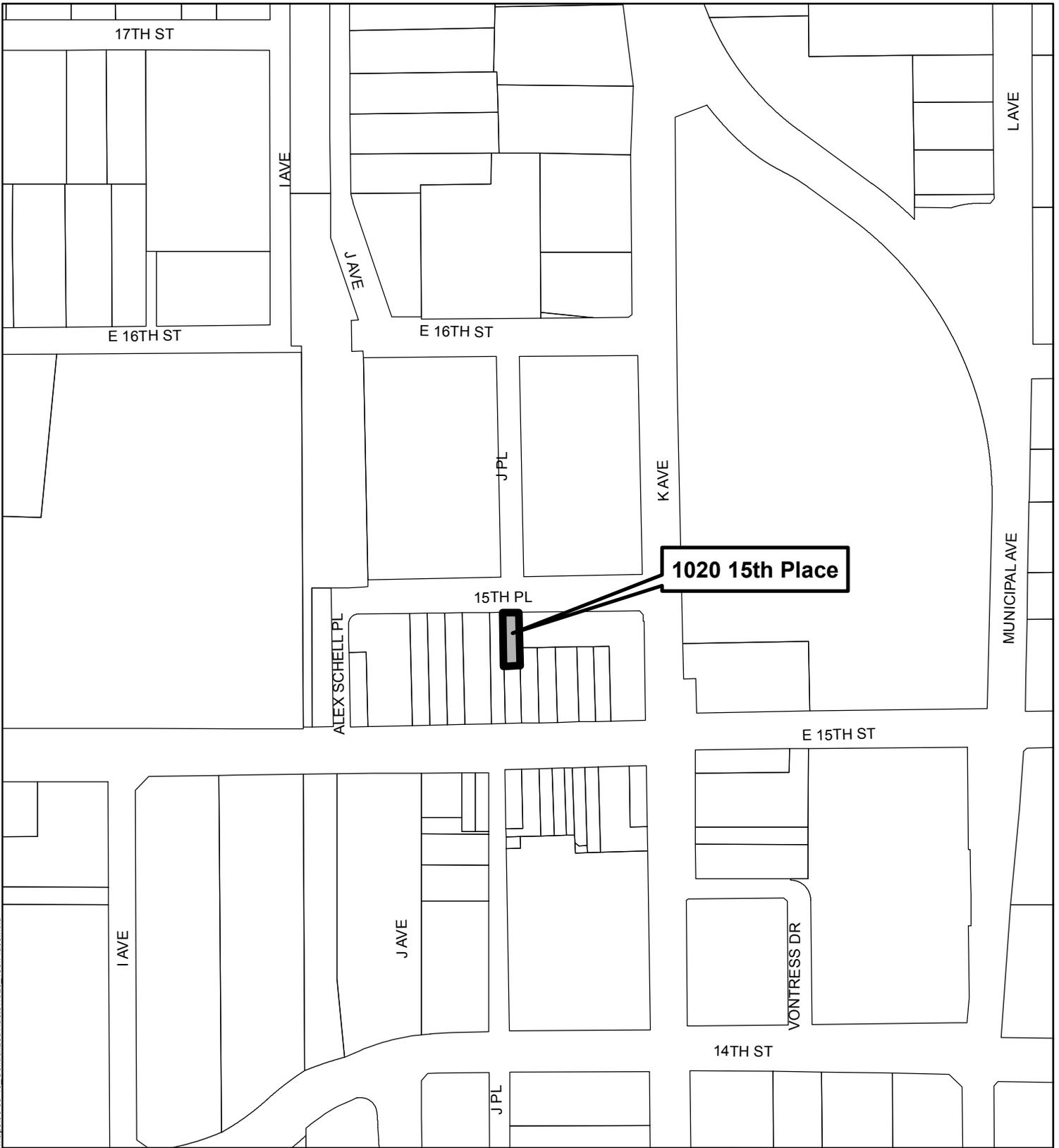
_____ Is not an “employer” under Section 2-11(F) because it has not had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

[THIS SPACE INTENTIONALLY LEFT BLANK]

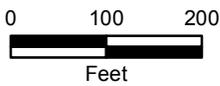


CITY OF PLANO COUNCIL AGENDA ITEM

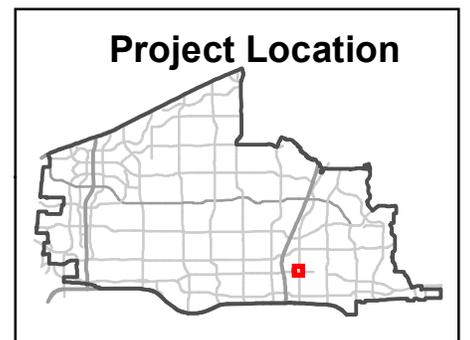
CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		4/13/15		
Department:		Engineering		
Department Head:		Jack Carr		
Agenda Coordinator (include phone #):			Kathleen Schonke (7198)	
			Project No. 6415	
CAPTION				
<p>To approve the terms and conditions of a Discretionary Service Agreement by and between the City of Plano and Oncor Electric Delivery Company, in the amount of \$76,502, providing for the relocation of an existing pad mounted transformer at 15th Place; and authorizing the City Manager or his authorized designee to execute all necessary documents.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	844,021	0	844,021
Encumbered/Expended Amount	0	0	0	0
This Item	0	-76,502	0	-76,502
BALANCE	0	767,519	0	767,519
FUND(S): TIF II FUND				
<p>COMMENTS: Funding for this item is available from the Project and Finance Plan for Tax Increment Financing District Number Two. The relocation of a transformer as part of the Centralized Waste Collection Station project, in the amount of \$76,502, will leave a balance of \$767,519 available for further demolition and hazard abatement projects in the TIF II district.</p> <p>STRATEGIC PLAN GOAL: Relocating utility infrastructure to provide downtown Plano merchants with access to a centralized waste collection station relates to the City's goal of Exciting Urban Centers – Destination for Residents and Guests.</p>				
SUMMARY OF ITEM				
<p>The relocation of the transformer at 15th Place is necessary as the current location directly impacts the construction and operation of the new compactor.</p> <p>https://www.google.com/maps/@33.0201999,-96.6998415,20z</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map, Discretionary Service Agreement			N/A	



stair:3/9/2015 C:\Analyst\Projects\Engineering\Council\Agenda\Locator\Maps\03-05-15_CentralizedWaste\1020_15thPlace.mxd



Centralized Waste Collection Station Project No. 6415



March, 2015
City of Plano GIS Division

**Tariff for Retail Delivery Service
Oncor Electric Delivery Company LLC**

6.3 Agreements and Forms

Applicable: Entire Certified Service Area

Effective Date: September 21, 2009

Page 1 of 2

6.3.5 Discretionary Service Agreement

WR # 3234427

Transaction ID: _____

This Discretionary Service Agreement ("Agreement") is made and entered into this 24th day of February, 2015, by Oncor Electric Delivery Company LLC ("Oncor Electric Delivery Company" or "Company"), a Delaware limited liability company and distribution utility, and City of Plano ("Customer"), a municipality, each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties". In consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. **Discretionary Services to be Provided** -- Company agrees to provide, and Customer agrees to pay for, the following discretionary services in accordance with this Agreement.

DD2- Delivery System Facilities Relocation/Removal Charge

Customer charge in the amount of \$76,502.40 is for the relocation of existing pad mount transformer on 15th Place at J Place to clear area for proposed trash compactor site. Work is to be done on WR 3234427.

2. **Nature of Service and Company's Retail Delivery Service Tariff** -- Any discretionary services covered by this Agreement will be provided by Company, and accepted by Customer, in accordance with applicable Public Utility Commission of Texas ("PUCT") Substantive Rules and Company's Tariff for Retail Delivery Service (including the Service Regulations contained therein), as it may from time to time be fixed and approved by the PUCT ("Company's Retail Delivery Tariff"). During the term of this Agreement, Company is entitled to discontinue service, interrupt service, or refuse service initiation requests under this Agreement in accordance with applicable PUCT Substantive Rules and Company's Retail Delivery Tariff. Company's Retail Delivery Tariff is part of this Agreement to the same extent as if fully set out herein. Unless otherwise expressly stated in this Agreement, the terms used herein have the meanings ascribed thereto in Company's Retail Delivery Tariff.

3. **Discretionary Service Charges** -- Charges for any discretionary services covered by this Agreement are determined in accordance with Company's Retail Delivery Tariff. Company and Customer agree to comply with PUCT or court orders concerning discretionary service charges.

4. **Term and Termination** -- This Agreement becomes effective upon acceptance by Customer and continues in effect until completion of construction by company. Termination of this Agreement does not relieve Company or Customer of any obligation accrued or accruing prior to termination.

5. **No Other Obligations** -- This Agreement does not obligate Company to provide, or entitle Customer to receive, any service not expressly provided for herein. Customer is responsible for making the arrangements necessary for it to receive any further services that it may desire from Company or any third party.

6. **Governing Law and Regulatory Authority** -- This Agreement was executed in the State of Texas and must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to all valid, applicable federal, state, and local laws, ordinances, and rules and regulations of duly constituted regulatory authorities having jurisdiction.

7. **Amendment** -- This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties. But changes to applicable PUCT Substantive Rules and Company's Retail Delivery Tariff are applicable to this Agreement upon their effective date and do not require an amendment of this Agreement.

8. **Entirety of Agreement and Prior Agreements Superseded** -- This Agreement, including all attached Exhibits, which are expressly made a part hereof for all purposes, constitutes the entire agreement and understanding between the Parties with regard to the service(s) expressly provided for in this Agreement. The Parties are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. This Agreement replaces all prior agreements and undertakings, oral or written, between the Parties with regard to the subject matter hereof, including without limitation _____, and all such agreements and undertakings are agreed by the Parties to no longer be of any force or effect. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement.

9. **Notices** -- Notices given under this Agreement are deemed to have been duly delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, to:

- (a) If to Company:
Oncor Electric Delivery Company, L.L.C.
7309 Frankford Rd.
Dallas, Texas 75252



**Tariff for Retail Delivery Service
Oncor Electric Delivery Company LLC**

6.3 Agreements and Forms

Applicable: Entire Certified Service Area

Effective Date: September 21, 2009

Page 2 of 2

(b) If to Customer:
City of Plano
1520 Avenue K
Plano, Texas 75074

The above-listed names, titles, and addresses of either Party may be changed by written notification to the other.

10. **Invoicing and Payment** – Invoices for any discretionary services covered by this Agreement will be mailed by Company to the following address (or such other address directed in writing by Customer), unless Customer is capable of receiving electronic invoicing from Company, in which case Company is entitled to transmit electronic invoices to Customer.

City of Plano
1520 Avenue K
Plano, Texas 75074

If Company transmits electronic invoices to Customer, Customer must make payment to Company by electronic funds transfer. Electronic invoicing and payment by electronic funds transfer will be conducted in accordance with Company's standard procedures. Company must receive payment by the due date specified on the invoice. If payment is not received by the Company by the due date shown on the invoice, a late fee will be calculated and added to the unpaid balance until the entire invoice is paid. The late fee will be 5% of the unpaid balance per invoice period.

11. **No Waiver** -- The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered to waive the obligations, rights, or duties imposed upon the Parties.

12. **Taxes** -- All present or future federal, state, municipal, or other lawful taxes (other than federal income taxes) applicable by reason of any service performed by Company, or any compensation paid to Company, hereunder must be paid by Customer.

13. **Headings** -- The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are to be afforded no significance in the interpretation or construction of this Agreement.

14. **Multiple Counterparts** -- This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

15. **Other Terms and Conditions** –

(i) Customer has disclosed to Company all underground facilities owned by Customer or any other party that is not a public utility or governmental entity, that are located within real property owned by Customer. In the event that Customer has failed to do so, or in the event of the existence of such facilities of which Customer has no knowledge, Company, its agents and contractors, shall have no liability, of any nature whatsoever, to Customer, or Customer's agents or assignees, for any actual or consequential damages resulting from damage to such undisclosed or unknown facilities.

(ii) City of Plano agrees that payment shall be made within 30 days of the date the project is completed or the date the invoice is received, whichever is later.

(iii) The Discretionary Service Charges provided in this agreement are for Oncor Electric Delivery facilities only and do not include any charges related to the relocation of any facilities owned by a franchised utility, governmental entity, or licensed service provider (Joint User). The customer must contact all Joint Users and make arrangements to have their facilities transferred or relocated. Oncor Electric Delivery cannot complete the relocation/removal of facilities outlined in this agreement until Joint User(s) remove their facilities attached to Oncor Electric Delivery Poles.

(iv)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized representatives.

Oncor Electric Delivery Company LLC

City of Plano
Customer / Entity

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date





**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:	04/13/15
Department:	Engineering
Department Head:	Jack Carr, P.E.
Agenda Coordinator (include phone #): Kathleen Schonne 7198 Project No. 6528	

CAPTION

To approve a Professional Services Agreement by and between the City of Plano and Brown & Gay Engineers, Inc., in the amount of \$199,998, for the Dallas North Estates Project No. 6528; and authorizing the City Manager to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	220,000	1,783,000	2,003,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-199,998	0	-199,998
BALANCE	0	20,002	1,783,000	1,803,002

FUND(S): STREET IMPROVEMENTS CIP

COMMENTS: Funding for this item is available in the 2014-15 Street Improvements CIP. Professional engineering services for the Dallas North Estates project, in the amount of \$199,998, will leave a current year balance of \$20,002 available for future expenditures on this project or other street improvements projects in the City of Plano.

STRATEGIC PLAN GOAL: Obtaining professional engineering services for CIP projects relates to the City's Goal of Financially Strong City with Service Excellence.

SUMMARY OF ITEM

This project includes preliminary and final design and construction related professional engineering services for the replacement of waterlines and street paving in Dallas North Estates. The following streets are included:

Amherst Drive – Fernwood Drive to Brentwood Drive – waterline (2210 LF) and street paving (2190 LF) replacement

Brentwood Drive – 15th Street to Janwood Drive – waterline (1400 LF) and street paving (1380 LF) replacement

Crestridge Drive – Amherst Drive to Janwood Drive – waterline (1300 LF) and street paving (1280 LF) replacement

Drexel Drive – Amherst Drive to Janwood Drive – Street paving replacement only (1370 LF)(The waterline was replaced in 2006)

Total LF Waterline= 4,910 Total LF Paving= 6,220

The contract fee is for \$199,998.00



**CITY OF PLANO
COUNCIL AGENDA ITEM**

<https://maps.google.com/maps?q=westwood+drive,+plano,+tx+&hl=en&sll=33.061262,-96.736625&sspn=0.226446,0.363579&hnear=Westwood+Dr,+Plano,+Texas+75075&t=h&z=16>

List of Supporting Documents:
Location Map;
Professional Services Agreement

Other Departments, Boards, Commissions or Agencies

N/A



Dallas North Estates Project No. 6528



DALLAS NORTH ESTATES

PROJECT NO. 6528

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 **BROWN & GAY ENGINEERS, INC.**, a **TEXAS** Corporation, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **DALLAS NORTH ESTATES** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

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

II. Scope of Services

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

III. Schedule of Work

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

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

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

THE ENGINEER 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, TO THE EXTENT CAUSED BY THE ENGINEER'S, OR ITS OFFICER'S AGENT'S, EMPLOYEE'S, CONSULTANT'S, REPRESENTATIVE'S OR ANY OTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL'S, NEGLIGENCE, INTENTIONALLY TORTIOUS CONDUCT, INFRINGEMENT UPON INTELLECTUAL PROPERTY RIGHTS, OR FAILURE TO PAY A SUBCONTRACTOR

OR SUPPLIER. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE CITY AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ENGINEERS. 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.

ENGINEER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST CLAIMS COVERED BY THE PARAGRAPH ABOVE. 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 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 THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ENGINEER SHALL BE LIABLE FOR COSTS INCURRED BY THE CITY PROPORTIONATE TO THE ADJUDICATED SHARE OF RESPONSIBILITY ASSIGNED TO THE ENGINEER.

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Engineer's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of

reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

XIV. Complete Contract

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

XV. Mailing of Notices

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

City of Plano
Engineering Department, Suite 250
Attn: Tim Bennett, P.E.
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:

Brown & Gay Engineers, Inc.
Attn: Carl Krogness, Vice President
500 West 7th Street, Suite 1800
Fort Worth, TX 76102

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

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract Interpretation:

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

C. Venue/Governing Law:

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

D. Successors and Assigns:

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

E. Severability:

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

F. Effective Date:

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

G. Authority to Sign:

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

SIGNED on the date indicated below.

BROWN & GAY ENGINEERS, INC.
A Texas Corporation

DATE: March 24, 2015

BY: *Wm. D. Dillon, P.E.*
William D. Dillon, PE
EXECUTIVE VICE PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Bruce D. Glasscock
CITY MANAGER

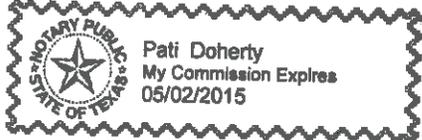
APPROVED AS TO FORM:

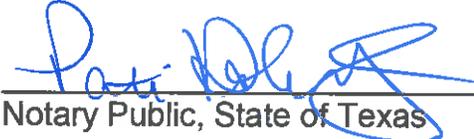
Paige Mims
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the 24th day of March , 2015, by **WILLIAM D. DILLON, PE, EXECUTIVE VICE PRESIDENT**, of **BROWN & GAY ENGINEERS, 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 _____, 2015, by **BRUCE D. GLASSCOCK, 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

DALLAS NORTH ESTATES 2016 PROJECT NO. 6528

PROJECT DESCRIPTION:

This project includes preliminary and final design and construction related professional engineering services for the replacement of waterlines and street paving in Dallas North Estates. The following streets are included:

Amherst Drive – Fernwood Drive to Brentwood Drive – waterline (2210 LF) and street paving (2190 LF) replacement

Brentwood Drive – 15th Street to Janwood Drive – waterline (1400 LF) and street paving (1380 LF) replacement

Crestridge Drive – Amherst Drive to Janwood Drive – waterline (1300 LF) and street paving (1280 LF) replacement

Drexel Drive – Amherst Drive to Janwood Drive – Street paving replacement only (1370 LF)(The waterline was replaced in 2006)

Total LF Waterline= 4,910

Total LF Paving= 6,220

All new water lines shall be 8" diameter. Additional fire hydrants shall be installed if existing fire hydrants are more than 500' apart. The typical water line location is 3' off existing curb face. The new water line replacement will generally be at the curb face. Existing water meters, which fall in the sidewalk, need to be relocated out of the sidewalk with the project.

All Street paving shall be 6" 3600 p.s.i. with a 6" Lime Stabilized Subgrade. Proposed sections include the following:

- Amherst Drive between Fernwood and Brentwood, 50' ROW, 26' f-f
- Brentwood Drive between 15th Street and Janwood, 50' ROW, 26' f-f
- Crestridge Drive between 15th Street and Janwood, 50' ROW, 26' f-f
- Drexel Drive between Amherst and Janwood, 50' ROW, 26' f-f

Replace all existing sidewalks including barrier free ramps. Replace all driveways that connect to street paving.

BASIC SERVICES:

A. Design Standards

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

Geodetic Monumentation Manual

Manual for Right-of-Way Management

Storm Drainage Design Manual

Stream Bank Stabilization Manual

Erosion & Sediment Control Manual

Thorough Fare Standards Rules & Regulations

Manual for the Design of Water & Sanitary Sewer Lines

Standard Construction Details

Barrier Free Ramp Details

NCTCOG Standard Specifications for Public Works Construction

Special Provisions to Standard Specifications for Public Works Construction

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

B. Research and Data Collection

1. Meet with City of Plano engineering staff and obtain design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, contour maps, geotechnical data, and other information available for the project area and to discuss communication procedures, project scheduling, and project personnel.
2. Meet with the City of Plano project manager and conduct an on-site review and walk through.
3. Request and research for plans on existing power, telephone, gas, cable or other utilities in the project area to show on the plans.

C. Design Survey

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, fence lines, trees 4-inches in diameter and larger, edges of pavements and all other visible surface features to the project control baseline. Locate existing franchise utilities through dig-test, survey identification and plan research and reference by utility name (i.e. Oncor Elec., Verizon Telephone, Atmos Gas, Time Warner Cable, Etc.). Tie all existing franchise utility handholes and ground boxes. Indicate the name labeled on same.
4. Vertical topographic information tying pavement, drives, walks, mailboxes, walls, manhole tops, storm drain inlet tops, signs, and other improvements as needed within the project areas for the design.
5. Provide cross-sections at the approximate centerline of each driveway and at the approximate center of each lot on Brentwood Drive, Crestridge Drive and Drexel Drive. Provide cross-sections at each driveway and lead walk on Amherst Drive. The cross-sections will include the existing top of curb or gutter, both edges of the existing sidewalks, an elevation at the approximate location of the front property line (11.5' from back of curb) and one shot 10' inside the property.
6. Identify the street address of all adjacent properties to the proposed construction and show on drawings.

D. Preliminary Design

1. Prepare preliminary construction plans (Sheet size 22" x 34"). Prepare the following sheets at the engineering scale indicated:
 - Cover sheet.
 - Project layout control sheets. Scale 1"= 100'.
 - General Notes
 - Quantity sheet (by individual location and sheet by sheet).
 - Typical sections and detail sheets.
 - Plan sheets for water improvements (scale 1"=20' horizontal and 1"=5' vertical). No profiles required except for points where the proposed water line is anticipated to conflict with other underground utility lines. Sheets should show: all existing utilities; property addresses, property owners, with individual lot property lines; easements; public ROW lines; horizontal alignment of existing and proposed City pipelines; plan view of existing and proposed waterlines; sidewalks, driveways, barrier free ramps.

- Paving plan and profile sheets (scale 1"=20' horizontal and 1"=5' vertical). Show the existing curb profile. Sheets should show: all existing utilities; property addresses, property owners, with individual lot property lines; easements; public ROW lines; horizontal alignment of existing and proposed City pipelines; plan view of existing and proposed waterlines; sidewalks, driveways, barrier free ramps. Provide a proposed top of curb grade based on grades set using the crosssections.
 - Paving crosssection sheets. Show the crosssections described above 1"=10' horizontal 1"=2' vertical. Show paving stations for each crosssection at an accuracy of +/-1'. Proposed grades will provide for a minimum longitudinal slope of driveways and leadwalks of .5%, 1% desirable. Cross slope for the sidewalk section on the driveway is 2%. Maximum driveway slope is 10%, 6% desirable. Minimum slope on front yard grading is 1%
 - SWPPP sheets meeting EPA and City of Plano requirements. If area disturbed (including storage or access areas) includes more than 1 acre, the City of Plano SWPPP "WORD" file plan sheet shall be included in the plans. City standard details for erosion control devices shall also be included where applicable.
 - Construction phasing and traffic control sheets. 1"=40'
A generic traffic control plan can be used for the minor residential streets
2. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities.
 3. Prepare outline of any special technical specifications needed for the project (if any).
 4. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
 5. Submit five (5) sets of preliminary plans, and one (1) set of outline of special technical specifications and preliminary statement of probable construction cost to the City for review.
 - Engineering
 - Public Works
 - Inspectors
 - Transportation
 - Other (file copy)
 6. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.
 7. Distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.

E. Final Design

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize special technical specifications and special conditions (if any).
5. Prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit five (5) sets of pre-final plans, and one (1) set of special technical specifications, a list of bid item descriptions, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans.
9. After the plans, bid item descriptions and bid schedule are approved, the City will produce the bid document. The consultant will make bound copies of the bid document to distribute to bidders.
10. Submit three sets of final black line prints, three bound copies of the bid documents and one unbound original bid document set to the City of Plano.
11. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities.
12. Submit signed, sealed plans to a Registered Accessibility Specialist (RAS). Pay associated review and inspection fees to RAS. Ensure project is submitted to TDLR in accordance with current law.

F. Bid Phase Services

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

11. Furnish eleven (11) half size and six (6) full size sets of final construction plans and seven (7) sets of the contract documents manual to the City for construction.

G. Construction Administration

1. No site visits, other than a final walk through, are anticipated for this project.
2. Provide written responses to requests for information or clarifications.
3. Prepare plan and quantity revisions as required for change orders. The City of Plano will prepare the actual change order and get it executed by the contractor.
4. Assist the City staff in conducting the final inspection.
5. Recommend final acceptance of work when acceptable.
6. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor. Submit one blackline set to the City and a two (2) CD-ROM disks containing scanned images of the 22" x 34" final "as constructed" blackline drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

H. Construction Control Survey –

Set vertical and horizontal control for construction at 500' intervals.

SPECIAL SERVICES:

A. Right-of-Way and Easement Surveying –

No easements are anticipated for this project.

B. Other Direct Expenses –

Printing, Mileage, & Courier

EXHIBIT "B"
SCHEDULE OF WORK

Activity	Duration (working/calendar days)
Notice to Proceed	0
Preliminary Design	90
City First Review	15-20
Final Design & Preparation of Special Conditions and Technical Specifications	40
City Second Review	15-20
Revise Final Plans & Specifications	20
City Final Review	5
Assemble Bid Documents	5
Advertise for Bids	12
Receive Bids	0
Research Bidder(s) and Prepare Recommendation	4
Prepare City Council Agenda	20
Council Award	0
Prepare & Execute Contract	30
Schedule Preconstruction Meeting	7
Notice to Proceed	10
Construction	200

A working day is defined as Monday through Friday, excluding City of Plano Holidays.

EXHIBIT "C"

COMPENSATION AND METHOD OF PAYMENT

**DALLAS NORTH ESTATES
PROJECT NUMBER 6528**

**WORK STAGE SUBMITTAL
OR COMPLETION**

TOTAL

BASIC SERVICES

1. Research and Data Collection	\$ 2,910
2. Design Survey	36,000
3. Preliminary Design	79,315
4. Final Design	54,195
5. Bid Phase	10,785
6. Construction Administration	10,860
7. Construction Control Survey	3,000
Total Basic Fee	\$ 197,065

SPECIAL SERVICES

8. Right-of-way and Easement Surveying	0
9. Other Direct Expenses	2,933
Total Special Services	\$ 2,933
Total Fee	\$ 199,998

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."
- 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 \$2,000,000

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 \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$ _____ BI & PD each occurrence

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST AND COMPLIANCE WITH CITY OF PLANO'S EQUAL RIGHTS ORDINANCE

A. No Prohibited Interest

I, the undersigned, declare that I am authorized to make this statement on behalf of **Brown and Gay**, a Corporation organized under the laws of the State of Texas, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of **Brown and Gay**, is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

B. Equal Rights Compliance

1. Section 2-11(F) of the City Code of Ordinances reads as follows:

"It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;
- (j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or

- employment in, any program established to provide apprenticeship or other training;
- (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
- (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
- (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

2. I am aware that my company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies, as indicated below. Further, I understand that if Section 2-11(F) applies, I am entitled to apply to the City Manager for a waiver from signing this section of the affidavit based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, I affirm that my company, its directors, officers and employees agree to comply with Section 2-11(F); or my company is excluded from this Ordinance based on the following: **[PLEASE CHECK BELOW, IF APPLICABLE]**

_____ A religious organization.

_____ A political organization.

_____ An educational institution.

_____ A branch or division of the United States government or any of its departments or agencies.

_____ A branch or division of the State of Texas or any of its departments, agencies or political subdivisions.

_____ A private club that is restricted to members of the club and guests and not open to the general public.

_____ Is not an “employer” under Section 2-11(F) because it has not had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

[THIS SPACE INTENTIONALLY LEFT BLANK]



**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:	04/13/15
Department:	Engineering
Department Head:	Jack Carr, P.E.
Agenda Coordinator (include phone #): Kathleen Schonne(7198) Project No. 5925	

CAPTION

To Lone Star Civil Construction, Inc., for the Preston Road Corridor Project, increasing the contract by \$157,826, Change Order No. 1, original Bid No. 2013-92-B, and authorizing the City Manager to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	2,023,502	2,998,498	0	5,022,000
Encumbered/Expended Amount	-2,023,502	-2,751,141	0	-4,774,643
This Item	0	-157,826	0	-157,826
BALANCE	0	89,531	0	89,531

FUND(S): STREET IMPROVEMENTS CIP

COMMENTS: Funding is available in the 2014-15 Street Improvements CIP for this item. This Change Order No. 1, in the amount of \$157,826, will leave a current year balance of \$89,531 available for future expenditures on the Preston Road Corridor Improvements project or other street improvements projects.

STRATEGIC PLAN GOAL: Modifying an existing contract to address project needs relates to the City's Goal of a Financially Strong City with Service Excellence.

SUMMARY OF ITEM

This Change Order No. 1, in the amount of \$157,825.91, is for the below listed items:

1. Installing 72" RCP and 72" headwall at Hedgcoxe instead of the 66" RCP and headwall that was incorrectly shown on the plans.
2. Add an item for sealing the pavement beneath new pavement markings as required by TxDOT.
3. Install an additional water service on Parker Rd
4. Pump out waterline construction trench flooded by City valve crew
5. Install temporary traffic control for southbound Preston at Headquarters
6. Maintain temporary traffic control for southbound Preston at Headquarters from September 1, 2014 through March 1, 2015.
7. Extend the length of the box culvert at the Spring Creek Parkway intersection in order to avoid 3 existing gas lines. Dowel into the face of the culvert headwall instead of removing the headwall in order to keep the existing guardrail in service during construction of the box.
8. Add additional street paving to the outside lanes of southbound Preston, north of Headquarters in order to extend the length of the dedicated right turn lane.
9. Add additional working days to the contract for the above listed items and time lost due to franchise



CITY OF PLANO COUNCIL AGENDA ITEM

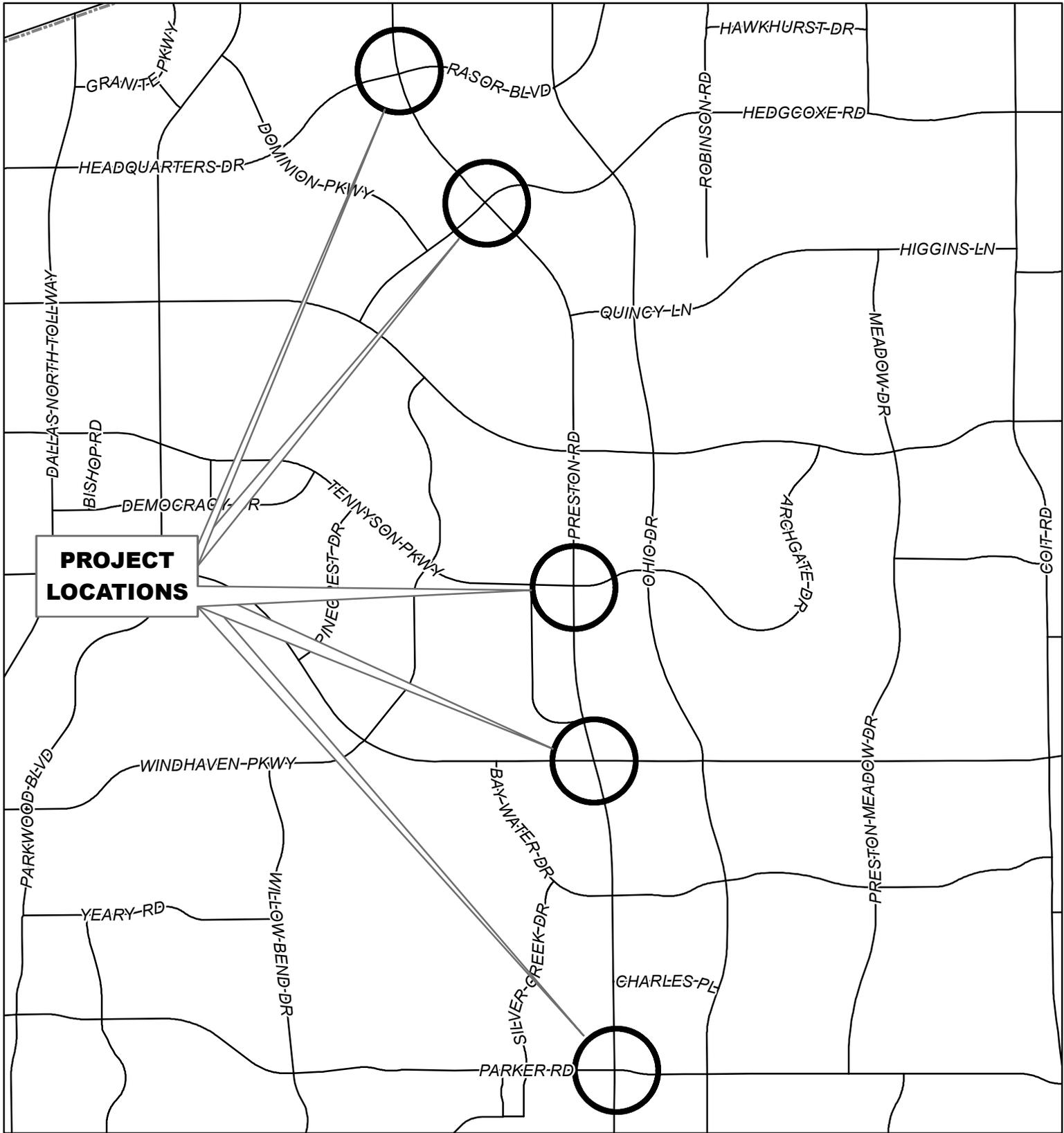
utility conflicts, measured from the beginning of the project through February 28, 2015.
10. Add 5 months of traffic handling and barricading due to time lost to franchise utility delays.

Staff recommends approval of this Change Order No. 1. The contract total will be \$4,601,360.11, which includes this change order amount, and adds 3.55% to the cost of the contract. The original contract amount is \$4,443,534.20.

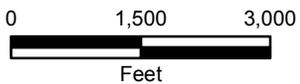
<https://maps.google.com/maps?q=Preston+Road+and+Plano+parkway&hnear=Preston+Rd+%26+W+Plano+Pkwy,+Plano,+Texas&t=h&z=16>

List of Supporting Documents:
Location Map; Change Order No. 1

Other Departments, Boards, Commissions or Agencies
N/A

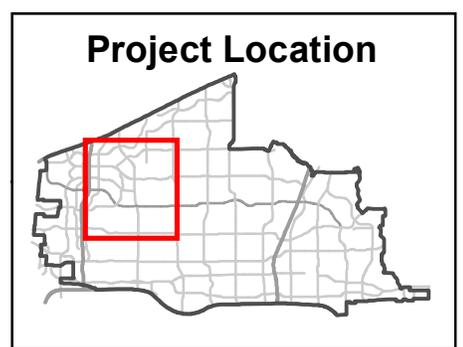


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City of Plano GIS Division
April, 2015

Project Number 5925 Preston Road Corridor



CHANGE ORDER NO.1

**PRESTON ROAD CORRIDOR
PROJECT NO. 5925
PURCHASE ORDER NO. 104455
CIP NO. 37774
BID NO. 2013-92-B**

A. INTENT OF CHANGE ORDER

The intent of this change order is to modify the provisions of the contract entered into by the **CITY OF PLANO, TEXAS**, and **LONE STAR CIVIL CONSTRUCTION, INC** for the **PRESTON ROAD CORRIDOR PROJECT**, dated **August 12, 2013**.

B. DESCRIPTION OF CHANGE

The change order is for :

1. Installing 72" RCP and 72" headwall at Hedgcoxe instead of the 66" RCP and headwall that was incorrectly shown on the plans.
2. Add an item for sealing the pavement beneath new pavement markings as required by TxDot.
3. Install an additional water service on Parker Rd
4. Pump out waterline construction trench flooded by City valve crew
5. Install temporary traffic control for southbound Preston at Headquarters
6. Maintain temporary traffic control for southbound Preston at Headquarters from September 1st 2014 through March 1st 2015.
7. Extend the length of the box culvert at the Spring Creek Parkway intersection in order to avoid 3 existing gas lines. Dowel into the face of the culvert headwall instead of removing the headwall in order to keep the existing guardrail in service during construction of the box.
8. Add additional street paving to the outside lanes of south bound Preston, north of Headquarters in order to extend the length of the dedicated right turn lane.
9. Add additional working days to the contract for the above listed items and time lost due to franchise utility conflicts, measured from the beginning of the project through February 2015
10. Add 5 months of Traffic Handling and Barricading due to time lost to franchise utility delays.

C. EFFECT OF CHANGE

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

464-2015	RC PIPE (CL III) (72 IN)	0	12	LF	\$677.57	12	\$8,130.84
466-2134	HEADWALL (CH-PW-0) (DIA=66 IN)	1	0	EA	\$5,848.35	-1	-\$5,848.35
466-2135	HEADWALL (CH-PW-0) (DIA=72 IN)	0	1	EA	\$11,556.13	1	\$11,556.13
496-2005	REMOVE STR (WINGWALL)	1	0.5	EA	\$424.67	-1	-\$212.34
496-2008	REMOVE STR (BOX CULVERT)	9	1	LF	\$205.13	-8	-\$1,641.04
502-2001	BARRICADES SIGNS AND TRAFFIC HANDLING	14	20	MO	\$4,560.00	6	\$27,360.00
540-2001	MTL W-BEAM GD FEN (TIM POST)	175	358	LF	\$23.03	183	\$4,214.49
544-2011	MTL BEAM GD FEN STRANS (THRIE-BEAM)	4	2	EA	\$1,581.25	-2	-\$3,162.50
644-2001	INS SM RD SN SUP & AM TY 10BWG (1) SA (P)	4	7	EA	\$416.12	3	\$1,248.36
662-2001	WK ZN PAV MRK NON-REMOVE (W) 4" (BRK)	440	620	LF	\$0.72	180	\$129.60
662-2002	WK ZN PAV MRK NON-REMOVE (W) 4" (DOT)	227	728	LF	\$0.72	501	\$360.72
662-2004	WK ZN PAV MRK NON-REMOVE (W) 4" (SLD)	445	825	LF	\$0.72	380	\$273.60
662-2012	WK ZN PAV MRK NON-REMOVE (W) 8" (SLD)	1259	1927	LF	\$1.78	668	\$1,189.04
662-2032	WK ZN PAV MRK NON-REMOVE (Y) 4" (SLD)	740	908	LF	\$0.75	168	\$126.00
666-2003	REFL PAV MRK TY I (W) 4" (BRK) (100 MIL)	440	620	LF	\$0.83	180	\$149.40
666-2006	REFL PAV MRK TY I (W) 4" (DOT) (100 MIL)	277	728	LF	\$1.11	451	\$500.61
666-2012	REFL PAV MRK TY I (W) 4" (SLD) (100 MIL)	445	825	LF	\$0.83	380	\$315.40
666-2036	REFL PAV MRK TY I (W) 8" (SLD) (100 MIL)	1259	1927	LF	\$1.55	668	\$1,035.40
666-2111	REFL PAV MRK TY I (Y) 4" (SLD) (100 MIL)	740	908	LF	\$1.00	168	\$168.00
666-2189	Pavement Sealer 4"	0	16123	LF	\$0.22	16123	\$3,595.43
666-2191	Pavement Sealer 8"	0	8508	LF	\$0.33	8508	\$2,799.13
666-2195	Pavement Sealer 24"	0	3794	LF	\$1.30	3794	\$4,947.38
666-2219	Pavement Sealer (ARROW)	0	92	EA	\$29.60	92	\$2,722.74
666-2220	Pavement Sealer (WORD)	0	61	EA	\$33.01	61	\$2,013.49
666-2257	Pavement Sealer YLD TRI)	0	8	EA	\$21.66	8	\$173.25
672-2012	REFL PAV MRKER TY I-C	66	98	LF	\$3.88	32	\$124.16
672-2017	REFL PAV MRKER TY II-C-R	26	28	LF	\$3.88	2	\$7.76
677-2001	ELIM PAV MRK & MRKS (4")	1872	2082	LF	\$1.11	210	\$233.10
678-2001	PAV SURF PREP FOR MRKS (4")	1902	3081	LF	\$0.33	1179	\$389.07
678-2003	PAV SURF PREP FOR MRKS (8")	1259	1927	LF	\$0.61	668	\$407.48
COP 0018	CONNECT TO EXISTING WATER SERVICE	1	2	EA	\$277.21	1	\$277.21
COP 0020	PUMP OUT UTILITY TRENCH	0	1	LS	\$3,000.00	1	\$3,000.00
DC1	INSTALL TRAFFIC CONTROL HEADQUARTERS	0	1	LS	\$7,700.00	1	\$7,700.00
DC1	MAINTAIN TRAFFIC CONTROL HEADQUARTERS	0	180	days	\$50.00	180	\$9,000.00
	REMOVE BOX CULVERT HEADWALL TO TOP OF CULVERT	0	1	LS	\$13,000.00	1	\$13,000.00

TOTAL COST DIFFERENTIAL: \$157,825.91

Original Contract Amount	\$ 4,443,534.20
Contract Amount (Including Previous Change Orders)	\$ 4,443,534.20
Amount, Change Order No.1	\$ 157,825.91
Revised Contract Amount	\$ 4,601,360.11
Total Percent Increase Including Previous Change Orders	3.55%

D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order and franchise utility delays thru February 28th 2015, will add 136 days to this project:

Original Contract Time	345 working days
Amount (Including Previous Change Orders)	345 working days
Amount, Change Order No. 1	136 working days
Revised Contract Time	481 working days
Total Percent Increase Including Previous Change Orders	39.42%

E. AGREEMENT

In the event of any conflict or inconsistency between the provisions set forth in this Change Order No. 1 and the contract, this Change Order No. 1 shall govern and control. For and in consideration of the covenants, duties and obligations herein contained, the parties do mutually agree that except as provided above, all other terms and conditions of the Contract shall remain unchanged and in full force and effect.

By the signatures below, duly authorized agents of the **CITY OF PLANO, TEXAS**, and **LONE STAR CIVIL CONSTRUCTION, INC**, do hereby agree to append this Change Order No. 1 to the original contract between themselves, dated **August 12, 2013**.

F. AUTHORITY TO SIGN

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

OWNER: CITY OF PLANO

CONTRACTOR: FELIX ASSOCIATES OF FLORIDA, INC., d/b/a LONE STAR CIVIL CONSTRUCTION, INC., a FLORIDA Corporation licensed to do business in the State of Texas

By: _____
(signature)

Print
Name: Bruce Glasscock

Print
Title: City Manager

Date: _____

By: _____
(signature)

Print
Name: Bradley Missler

Print
Title: Vice President

Date: 3-6-15

APPROVED AS TO FORM:

By: _____
Paige Mims, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DENTON §

This instrument was acknowledged before me on the 6 day of March, 2015, by **BRADLEY MISSLER, VICE PRESIDENT**, of **FELIX ASSOCIATES OF FLORIDA, INC., d/b/a LONE STAR CIVIL CONSTRUCTION, INC.**, a **FLORIDA** Corporation licensed to do business in the State of Texas, 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 _____, 2015, by **BRUCE GLASSCOCK, CITY MANAGER**, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

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:		4/13/2015		
Department:		Public Works/David Falls		
Department Head		Gerald Cosgrove		
Agenda Coordinator (include phone #):		Shawn Breen (972.769.4193)		
CAPTION				
To Lone Star Civil Construction, Inc., increasing the contract by \$105,313 for the Residential Concrete Pavement Rehab, Zone M5, Project No. 6424, Change Order No.1, Bid No. 2014-221-B; and authorizing the City Manager 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:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		4,043,513	13,901,487	6,300,000
Encumbered/Expended Amount		-4,043,513	-8,489,378	0
This Item		0	-105,313	0
BALANCE		0	5,306,796	6,300,000
FUND(S): CAPITAL RESERVE FUND				
<p>COMMENTS: Funding is available in the 2014-15 Capital Reserve CIP for this item. The first change order to this project, in the amount of \$105,313, will leave a current year balance of \$5,306,796 for future expenditures related to residential street, alley and sidewalk rehabilitation.</p> <p>STRATEGIC PLAN GOAL: Adjusting existing contracts to reflect increased raw material prices relates to the City's goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>This change order is for increased price of raw materials due to the delay of the project start time.</p> <p>Public Works recommends approval of Change Order No. 1. The total Contract will be \$2,849,756.68 which is a 3.84% increase of the original contract amount of \$2,744,444.00 https://www.google.com/mapsmaker?ll=33.047666,-96.705265&spn=0.022087,0.045447&t=m&z=15&vpsrc=6&q=W+Parker+Rd+%26+Alma+Dr,+Plano,+TX&utm_medium=website&utm_campaign=relatedproducts_maps&utm_source=mapseditbutton_normal</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map; Change Order No. 1				

CHANGE ORDER NO.1

**RESIDENTIAL CONCRETE PAVEMENT REHAB, ZONE M5
PROJECT NO.6424
PURCHASE ORDER NO.105105
CIP NO.51118/51128
BID NO.2014-221-B**

A. INTENT OF CHANGE ORDER

The intent of this change order is to modify the provisions of the contract entered into by the **City of Plano, Texas**, and **Lone Star Civil Construction, Inc.** for the **Residential Concrete Pavement Rehab, Zone M5 Project**, dated October 13, 2014.

B. DESCRIPTION OF CHANGE

The change order is for the price change due to the increase price of raw materials and delay of the project start time.

C. EFFECT OF CHANGE

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

ITEM NO.	ITEM DESCRIPTION	ORIGINAL QUANTITY	REVISED QUANTITY	UNIT	UNIT PRICE	AMOUNT OF CHANGE
105	6" CONC PAVE 4200 PSI	25091	0	SY	\$39.00	-\$978,549.00
110	R/R 6" CONC DRIVE	1727	0	SY	\$62.00	-\$107,074.00
111	6" R/R CONC ALLEY	18050	0	SY	\$44.00	-\$794,200.00
112	6" MONO CURB	18018	0	LF	\$1.00	-\$18,018.00
121	INLET TOP	5	0	EA	\$2,000.00	-\$10,000.00
122	INLET THROAT	5	0	EA	\$700.00	-\$3,500.00
123	INLET BOX	5	0	EA	\$4,000.00	-\$20,000.00
134	R/R EXIST CONC SW	26,544	0	SF	\$6.00	-\$159,264.00
136	TYPE A	66	0	EA	\$900.00	-\$59,400.00
137	TYPE B	8	0	EA	\$900.00	-\$7,200.00
139	TYPE D	90	0	EA	\$350.00	-\$31,500.00
105A	6" CONC PAVE 4200 PSI	0	25,091	SY	\$41.11	\$1,031,491.01
110A	R/R 6" CONC DRIVE	0	1,727	SY	\$64.11	\$110,717.97
111A	6" R/R CONC ALLEY	0	18,050	SY	\$46.11	\$832,285.50
112A	6" MONO CURB	0	18,018	LF	\$1.12	\$20,180.16
121A	INLET TOP	0	5	EA	\$2,023.00	\$10,115.00
122A	INLET THROAT	0	5	EA	\$723.00	\$3,615.00
123A	INLET BOX	0	5	EA	\$4,046.00	\$20,230.00
134A	R/R EXIST CONC SW	0	26,544	SF	\$6.16	\$163,511.04
136A	TYPE A	0	66	EA	\$923.00	\$60,918.00
137A	TYPE B	0	8	EA	\$923.00	\$7,384.00
139A	TYPE D	0	90	EA	\$373.00	\$33,570.00
	TOTAL:					\$105,312.68

Original Contract Amount	\$	<u>2,744,444.00</u>
Contract Amount (Including Previous Change Orders)	\$	<u>2,744,444.00</u>
Amount, Change Order No. 1	\$	<u>105,312.68</u>
Revised Contract Amount	\$	<u><u>2,849,756.68</u></u>
Total Percent Increase Including Previous Change Orders		<u>3.84%</u>

D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order will add 0 day(s) to this project:

Original Contract Time	<u>160 working days</u>
Amount (Including Previous Change Orders)	<u>160 working days</u>
Amount, Change Order No. 1	<u>0 working days</u>
Revised Contract Time	<u>160 working days</u>
Total Percent Increase Including Previous Change Orders	<u>0.00%</u>

E. AGREEMENT

In the event of any conflict or inconsistency between the provisions set forth in this Change Order No. 1 and the contract, this Change Order No. 1 shall govern and control. For and in consideration of the covenants, duties and obligations herein contained, the parties do mutually agree that except as provided above, all other terms and conditions of the Contract shall remain unchanged and in full force and effect.

By the signatures below, duly authorized agents of the City of Plano, and Lone Star Civil Construction, Inc., do hereby agree to append this Change Order No. 1 to the original contract between themselves, dated October 13, 2014.

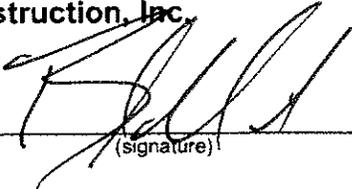
F. AUTHORITY TO SIGN

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

OWNER: City of Plano

**CONTRACTOR: Lone Star Civil
Construction, Inc.**

By: _____
(signature)

By:  _____
(signature)

Print
Name: Bruce D. Glasscock

Print
Name: Bradley Missler

Print
Title: City Manager

Print
Title: Vice President

Date: _____

Date: 3-30-15

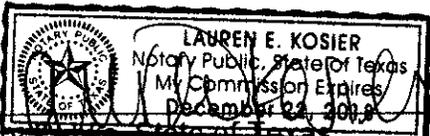
APPROVED AS TO FORM:

By: _____
Paige Mims, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DENTON §

This instrument was acknowledged before me on the 30th day of MARCH, 2015, by **Bradley Missler, Vice President of Lone Star Civil Construction, Inc.**, a Florida corporation licensed to do business in the State of Texas, 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 _____, 2015, by **Bruce D. Glasscock, City Manager of the City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

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:		04/13/2015		
Department:		Public Works/Environmental Waste		
Department Head		Gerald P. Cosgrove		
Agenda Coordinator (include phone #): Nancy Corwin (972.941.7137)				
CAPTION				
To approve an expenditure for a compactor system in the amount of \$62,676 from Industrial Disposal Supply Company, LTD dba IDS for Public Works, Environmental Waste Division, and authorizing the City Manager to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget		0	345,000	0
Encumbered/Expended Amount		0	0	0
This Item		0	-62,676	0
BALANCE		0	282,324	0
FUND(s): SUSTAINABILITY & ENVIRONMENTAL SERVICES FUND				
COMMENTS: Funding in the amount of \$345,000 is included in the FY 2014-15 approved budget for this project. The remaining balance will be used for other costs associated with this project.				
STRATEGIC PLAN GOAL: Purchasing a solid waste compact system for shared use relates to the strategic goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
Staff recommends the purchase of a compactor system in the amount of \$62,676 from Industrial Disposal Supply Company, LTD dba IDS for Public Works, Environmental Waste Division. The City is authorized to purchase using an exemption from the competitive bidding requirement described in section 252.022(a)(2) of the Local Government Code, as noted in the AG Opinion No. JC-0281.				
List of Supporting Documents: Recommendation Memo			Other Departments, Boards, Commissions or Agencies	

Date: February 26, 2014

To: Diane Palmer-Boeck, Chief Purchasing Officer

From: Robert Smouse, Environmental Waste Services (“EWS”) Manager

Subject: Recommendation for Northside Shared Compactor System Purchase

This memo is to recommend the purchase of a customized shared compactor system to be installed inside the Downtown Plano – Centralized Waste Collection Station enclosure which will be located at 1021 15th Place. EWS recommends purchasing the Industrial Disposal Supply System (“IDS System”) from Industrial Disposal Supply Company (“IDS”) in the amount of \$62,676. The IDS System was selected over two (2) other options provided by one (1) other vendor. The IDS System meets the final specifications including, but not limited to: price, service call response time, loading height, loading distance, and overall capacity. Two (2) additional vendors provided quotes for options that did not meet the final specifications and one (1) other vendor did not respond. EWS recommends awarding this purchase without going through the competitive bidding process, as this purchase is exempt from the competitive bidding requirement described in section 252.022(a)(2) of the Local Government Code, as noted in the AG Opinion No. JC-0281.

This purchase for a customized shared compactor system meets the intent to “*preserve or protect the public health or safety*” for the following reasons:

- creates a customized central location for the existing trash/recycling containers (and bags on assigned collection days) from the current twenty-one (21) separate businesses along the north side of the 1000 block of East 15th Street;
- removes individual trash/recycling containers currently placed at the rear of each business along the 1000 block of 15th Place;
- reduces the amount and frequency of spillage and spoiled liquids along the public right-of-way associated with the current containers and collection method;
- encloses and secures all trash/recycling materials inside the self-contained compactors, inside the future enclosure, until the material is hauled to the appropriate sites;
- consolidates the source of trash/recycling materials into enclosed containers to prevent attracting various vectors and rodents;
- removes the exposure of the trash/recycling containers to pedestrians traveling along the adjoining public right-of-way; and
- the IDS System includes materials and services.

Without awarding this purchase, it would jeopardize the construction of the Downtown Plano – Centralized Waste Collection Station enclosure with contracted timeline, increase installation and/or service issues associated with different equipment and vendor, and endanger quoted pricing through releasing pricing summary and completing a formal competitive bid.

Please let me know if you have any questions regarding this purchase.

cc: Gerald Cosgrove, Director of Public Works
Brandi Youngkin, Assistant City Attorney III



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:		04/13/15		
Department:		Public Works		
Department Head		Gerald P. Cosgrove		
Agenda Coordinator (include phone #): Shawn Breen (972.769.4193)				
CAPTION				
To approve the purchase and installation of Generator Controls at the Shiloh Pump Station in the amount of \$252,125 from Legacy Contracting, L.P. dba Control Specialist Services, L.P., 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:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		380,713	1,098,000	450,000
Encumbered/Expended Amount		-380,713	-600,419	0
This Item		0	-252,125	0
BALANCE		0	245,456	450,000
FUND(S): CAPITAL RESERVE FUND				
COMMENTS: Funding for this item is available in the 2014-15 Capital Reserve CIP. The purchase and installation of generator controls at Shiloh Pump Station, in the amount of \$252,125, will leave a current year balance of \$245,456 available for future rehabilitation work at Plano pump stations.				
STRATEGIC PLAN GOAL: Replacing generator controls to ensure an adequate water supply in the event of a power failure relates to the City's goals of Safe Large City and Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
The Public Works Department recommends the approval of the expenditure for the purchase and installation of generator controls by Legacy Contracting, L.P., dba Control Specialist Services, L.P., in the amount of \$252,124.96.				
The Engineer's estimate for this expenditure was \$240,000.00.				
https://maps.google.com/maps?ll=33.014878,-96.668846&spn=0.00168,0.00316&t=m&z=19				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Recommendation Memo; Location Map			N/A	



Memorandum

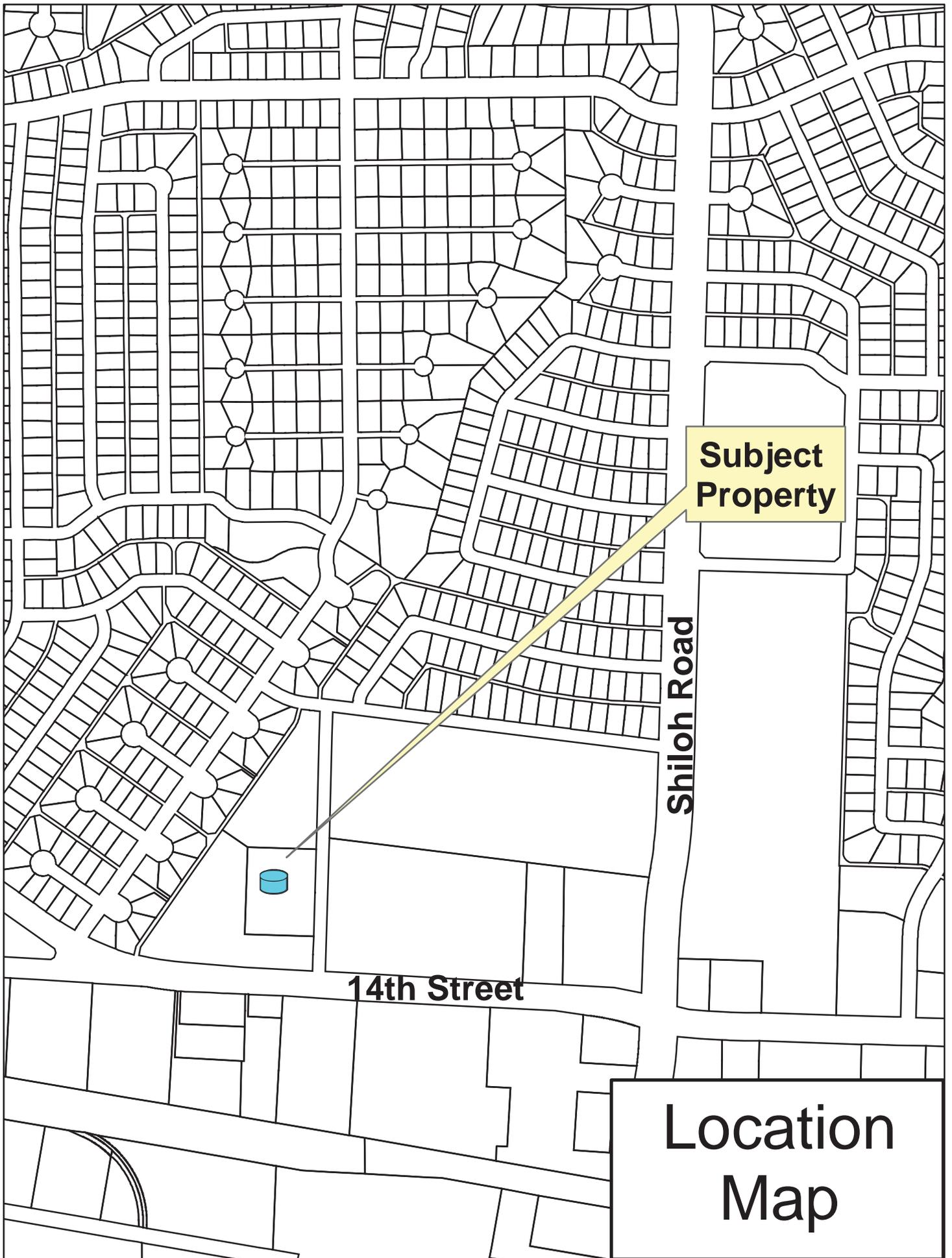
Date: March 30, 2015
To: Diane Palmer-Boeck, Chief Purchasing Officer
From: Gerald P. Cosgrove, P.E., Director of Public Works
Subject: **Generator Controls at the Shiloh Pump Station**

The program in the switchgear at Shiloh Pump Station has failed (according to Caterpillar, the original manufacturer) due to age. No parts are available to repair it and it must be replaced. Currently, the generator will not start automatically during power failure nor will it shut down once power is restored. During power failure, Pumping Facilities staff has to travel to the pump station to start and stop the generator. Even then, it is very limited as to what the operator can monitor. Currently, when electrical failures happen, the response time can be anywhere from 30 minutes to 1 1/2 hours. Depending on tank levels and water demand, that time frame is not acceptable. Once the program completely fails, it is unsure if we will even be able to start the generator.

This purchase is exempt from the bidding requirements because of Local Government Code, Section. 252.022. General Exemptions. (a) This chapter does not apply to an expenditure for:

- (2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- (3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

The Public Works Department recommends the approval of the expenditure by Legacy Contracting, L.P., dba Control Specialist Services, L.P., in the amount of \$252,124.96.



**Subject
Property**

Shiloh Road

14th Street

**Location
Map**



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:		04/13/15			
Department:		Economic Development			
Department Head		Sally Bane			
Agenda Coordinator (include phone #): Toshia Kimball x 7479					
CAPTION					
A Resolution of the City of Plano, Texas, approving the terms and conditions of a First Amendment to the Economic Development Incentive Agreement by and between the City of Plano, Texas and Mustang Technology Group, L.P., a Texas Limited Partnership; authorizing its execution by the City Manager or his designee; and providing an effective date.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2014-15 through 2019-20	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	34,864,220	0	34,864,220
Encumbered/Expended Amount		0	-5,312,355	-15,250,200	-20,562,555
This Item		0	-43,200	0	-43,200
BALANCE		0	29,508,665	-15,250,200	14,258,465
FUND(S): ECONOMIC DEVELOPMENT INCENTIVE FUND					
COMMENTS: Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.					
SUMMARY OF ITEM					
A request from Mustang Technology Group, L.P., a Texas Limited Partnership, for a First Amendment to the Economic Development Incentive Agreement dated December 28, 2011 to provide for additional incentives to facilitate expansion.					
http://goo.gl/maps/UaYgw					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution First Amendment to the Economic Development Incentive Agreement					

A Resolution of the City of Plano, Texas, approving the terms and conditions of a First Amendment to the Economic Development Incentive Agreement by and between the City of Plano, Texas and Mustang Technology Group, L.P., a Texas Limited Partnership; authorizing its execution by the City Manager or his designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed First Amendment to the Economic Development Incentive Agreement by and between the City of Plano, Texas ("City") and Mustang Technology Group, L.P., a Texas Limited Partnership ("Company"), a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "First Amendment"); and

WHEREAS, City and Company entered into an Economic Development Incentive Agreement on December 28, 2011; and

WHEREAS, the Company has complied with the terms of the initial Economic Development Incentive Agreement and now desires to expand its business in the City by occupying additional office space and transferring or creating additional Job Equivalents; and the parties desire to amend said Economic Development Incentive Agreement to provide additional incentives to facilitate the expansion; and

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

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

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

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

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

DULY PASSED AND APPROVED this the 13th day of April, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

<p>THE STATE OF TEXAS § § § § COUNTY OF COLLIN §</p>	<p><u>First Amendment to the Economic Development Incentive Agreement by and between City of Plano, Texas and Mustang Technology Group, L.P., a Texas Limited Partnership</u></p>
--	--

This First Amendment to the Economic Development Incentive Agreement (hereinafter "First Amendment") is made and entered into by and between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation (hereinafter "City"), and **MUSTANG TECHNOLOGY GROUP, L.P.**, a Texas Limited Partnership (hereinafter "Company"), acting by and through their respective authorized officers and representatives.

W I T N E S S E T H:

WHEREAS, City and Company entered into an Economic Development Incentive Agreement on December 28, 2011 (hereinafter "Agreement") to promote economic development, stimulate commercial activity and enhance the tax base of the City; and

WHEREAS, Company plans to add \$1,100,000 Real Property improvements, \$500,000 of Business Personalty Property, occupy an additional 28,000 square feet at the Real Property and transfer or create 96 additional Job Equivalents at the Real Property by August 1, 2015; and

WHEREAS, City and Company desire to amend said Agreement to provide an additional grant to help Company in the above-referenced expansion.

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

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

I.

Beginning on the effective date of execution of this First Amendment and continuing through the remaining term of the Agreement, Article II of the Agreement is amended to read in its entirety as follows:

"The term of this Agreement shall begin on the Effective Date and continue until July 31, 2020, unless sooner terminated as provided herein."

II.

Beginning on the effective date of execution of this First Amendment and continuing through the remaining term of the Agreement, Article III of the Agreement is amended to read in its entirety as follows:

"In consideration for the grant of public funds as set forth in Article IV, Section 4.01 below, the Company agrees to perform the following:

(a) On or before March 31, 2012 occupy at least 56,000 square feet of commercial space on the Real Property and maintain occupancy throughout the term of the Agreement; and

(b) By March 31, 2012, retain, create or transfer at least 89 Job Equivalents to the Real Property by March 31, 2012 and maintain those Job Equivalents on the Real Property throughout the Agreement; and

(c) On or before August 1, 2015, occupy an additional minimum of 28,000 square feet for a total of 84,000 square feet of commercial space on the Real Property throughout the term of the Agreement; and

(d) By August 1, 2015, and subject to maintaining the required number of Job Equivalents pursuant to Article III, Section (b) herein, Company may create or transfer a minimum of 96 additional Job Equivalents above the baseline of 89, for a combined minimum of 185 Job Equivalents, and maintain those Job Equivalents on the Real Property throughout the Agreement; and

(e) Use reasonable efforts to place all Company-managed hotel room nights, related to the Company's business activities, at facilities located in the City of Plano."

III.

Beginning on the effective date of execution of this First Amendment and continuing through the remaining term of the Agreement, Article IV, Section 4.01 of the Agreement is amended to read in its entirety as follows:

"4.01 **Grant.** The City agrees to provide the Company a cash grant of up to One Hundred Twenty-Three Thousand Three Hundred Dollars (\$123,300). This grant amount includes Eighty Thousand One Hundred Dollars (\$80,100), of which the Company has already received pursuant to the Economic Development Agreement entered into on December 28, 2011, and an additional grant payment of Forty-Three Thousand Two Hundred Dollars (\$43,200), as long as Company meets each of the obligations set out in Article III above and complies with the certification schedule and requirements set out in Section 4.02 below."

IV.

Beginning on the effective date of execution of this First Amendment and continuing through the remaining term of the Agreement, Article IV, Section 4.02 of the Agreement is amended to read in its entirety as follows:

"4.02 **Grant Payment Requirements and Schedule.** Except as otherwise indicated, the Company shall be entitled to the grant award in accordance with the following requirements and schedule:

(a) By March 31, 2012 occupy not less than 56,000 square feet of commercial space and retain, transfer, or create at least 89 Job Equivalents at the Real Property to be eligible to receive a payment of Forty Thousand Fifty Dollars (\$40,050). The payment will not be pro-rated. **Company must submit the Initial Certification form attached hereto as Exhibit "A" verifying compliance with the obligations set forth in this provision not later than June 30, 2012. A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the entire grant.**

City will make the payment within thirty (30) days of receipt of the initial certification unless the City reasonably objects to the certification.

(b) Beginning January 2013, Company must submit an annual certification on the form attached hereto as Exhibit "B" not later than January 31 of each year for the duration of this agreement verifying compliance with Article III above. The certification must be based upon the number of Job Equivalents for which the Company has received a grant. A failure to file the annual certification by the January 31 deadline during the remaining years of the Agreement shall result in a default and a right to a full refund of all grant amounts previously paid as set out in 4.03.

(c) City will make a second payment to Company of Forty Thousand Fifty Dollars (\$40,050) within (30) days of receipt of the January 2014 annual certification verifying compliance with Article III above unless the City reasonably objects to the certification but in no event will the City make the second payment before January 31, 2014. The payment will not be pro-rated. **A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the remaining grant and a refund of any monies owed pursuant to Section 4.03 herein shall be due and payable.**

(d) By August 1, 2015, and subject to Company maintaining the minimum number of Job Equivalents required pursuant to Section 4.02(a) herein, Company may transfer or create 96 additional Job Equivalents, above the baseline of 89 Job Equivalents, at the Real Property to be eligible to receive a third grant payment of Forty-Three Thousand Two Hundred Dollars (\$43,200). The payment will not be pro-rated. **Company must submit the Certification for Third Grant form attached hereto as Exhibit "C" verifying compliance with the obligations set forth in this provision not earlier than February 1, 2016 and not**

later than May 1, 2016 for the third (3rd) grant payment. A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the remaining grant.

City will make the payment within thirty (30) days of receipt of the Certification for Third Grant unless the City reasonably objects to the certification.

(e) All certifications must be verified by the Company's chief executive or financial officer."

V.

Beginning on the effective date of execution of this First Amendment and continuing through the remaining term of the Agreement, Article IV, Section 4.03, Paragraph (a) of the Agreement is amended to read in its entirety as follows:

"(a) If following the receipt of a grant payment, the Company fails to meet the required number of Job Equivalents for which it has received payment for more than 180 consecutive days at any time during the term of this Agreement and the loss is not the result of an Event of Force Majeure, the Company shall refund to the City an amount equal to the following:

i. Four Hundred Fifty Dollars (\$450) for each lost Job Equivalent that occurs after receipt of the first installment of the grant payment pursuant to 4.02(a) but before the receipt of the second installment of the grant payment pursuant to 4.02(c); and

ii. Nine Hundred Dollars (\$900) for each lost Job Equivalent for the first 89 Job Equivalents that occurs after receipt of the grant amount of Eighty Thousand One Hundred Dollars (\$80,100). (Company previously received payment of Eighty Thousand One Hundred Dollars (\$80,100) pursuant to Section 4.02 (a) and (c) above.)

For the purposes of determining whether the City is due a refund under this section, the Company shall certify to the City as set out in Section 4.02 above the actual number of Job Equivalents at the Real Property for the compliance period using the form attached as Exhibit "B". All refunds under this Agreement shall be due within thirty (30) days of written demand for payment. A failure to make the refund payment within thirty (30) days shall constitute an event of default. If a refund is due for one or more Job Equivalent(s), Company is not entitled to any future payment for that lost Job Equivalent(s) notwithstanding that it subsequently complies with the Job Equivalent requirements of this Agreement.

iii. For the 90th-185th Job Equivalents, Four Hundred Fifty Dollars (\$450) for each lost Job Equivalent.

For the purposes of determining whether the City is due a refund under this section, the Company shall certify to the City as set out in Section 4.02 above the actual number of Job Equivalents at the Real Property for the compliance period using the form

attached as Exhibit "B". All refunds under this Agreement shall be due within thirty (30) days of written demand for payment. A failure to make the refund payment within thirty (30) days shall constitute an event of default. If a refund is due for one or more Job Equivalent(s), Company is not entitled to any future payment for that lost Job Equivalent(s) notwithstanding that it subsequently complies with the Job Equivalent requirements of this Agreement."

VI.

Beginning on the effective date of execution of this First Amendment and continuing through the remaining term of the Agreement, Exhibit "B" is hereby replaced with the attached Attachment "1".

VII.

Beginning on the effective date of execution of this First Amendment and continuing through the remaining term of the Agreement, Exhibit "C" is hereby added as an exhibit to the Agreement.

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

ATTEST:

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

Lisa C. Henderson, CITY SECRETARY

Bruce D. Glasscock, CITY MANAGER
Date: _____

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

ATTEST:

MUSTANG TECHNOLOGY GROUP,
L.P., a Texas Limited Partnership

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Attachment "1"

EXHIBIT "B"

ANNUAL CERTIFICATE OF COMPLIANCE

Please select one of the options below before signing and returning the certification:

_____ a. I hereby certify that Mustang Technology Group, L.P. is in compliance with each applicable term as set forth in the Agreement and the transferred or added number of Job Equivalents has not fallen below the number for which Mustang Technology Group, L.P. has received a grant payment in accordance with the terms and conditions set out in Article IV. I further certify that as of December 31 of the prior year, the number of Job Equivalents was _____.

_____ b. I hereby certify that Mustang Technology Group, L.P. is not in compliance with each applicable term as set forth in the Agreement and the transferred or added number of Job Equivalents has fallen below the number for which Mustang Technology Group, L.P. has received a grant payment. I further certify that as of December 31 of the prior year, the number of Job Equivalents was _____ and that that the City of Plano has been refunded the appropriate amount as required by Article IV, Section 4.03 of the Agreement and First Amendment.

ATTEST:

MUSTANG TECHNOLOGY GROUP,
L.P., a Texas Limited Partnership

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

NOTE:

This form is due by January 31 of each year beginning on January 31, 2013 and as long as this Agreement is in effect.

This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358

EXHIBIT "C"

CERTIFICATION FOR THIRD GRANT

Please select one of the options below before signing and returning the certification:

_____ a. I hereby certify that Mustang Technology Group, L.P. has transferred or created the additional 96 Job Equivalents at the Real Property by August 1, 2015 in addition to maintaining the 89 baseline Job Equivalents, and is entitled to receive a third (3rd) grant payment in accordance with Section 4.02(d) of the First Amendment to the Agreement. I further certify that as of August 1, 2015, the total number of Job Equivalents was _____.

_____ b. I hereby certify that Mustang Technology Group, L.P. has failed to transfer or create the additional 96 Job Equivalents in addition to maintaining the 89 baseline Job Equivalents at the Real Property by August 1, 2015, and is not entitled to receive a third (3rd) grant payment in accordance with Section 4.02(d) of the First Amendment to the Agreement. The actual number of Job Equivalents is _____.

ATTEST:

MUSTANG TECHNOLOGY GROUP,
L.P., a Texas Limited Partnership

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

This Certification must be returned no earlier than February 1, 2016 and no later than May 1, 2016.

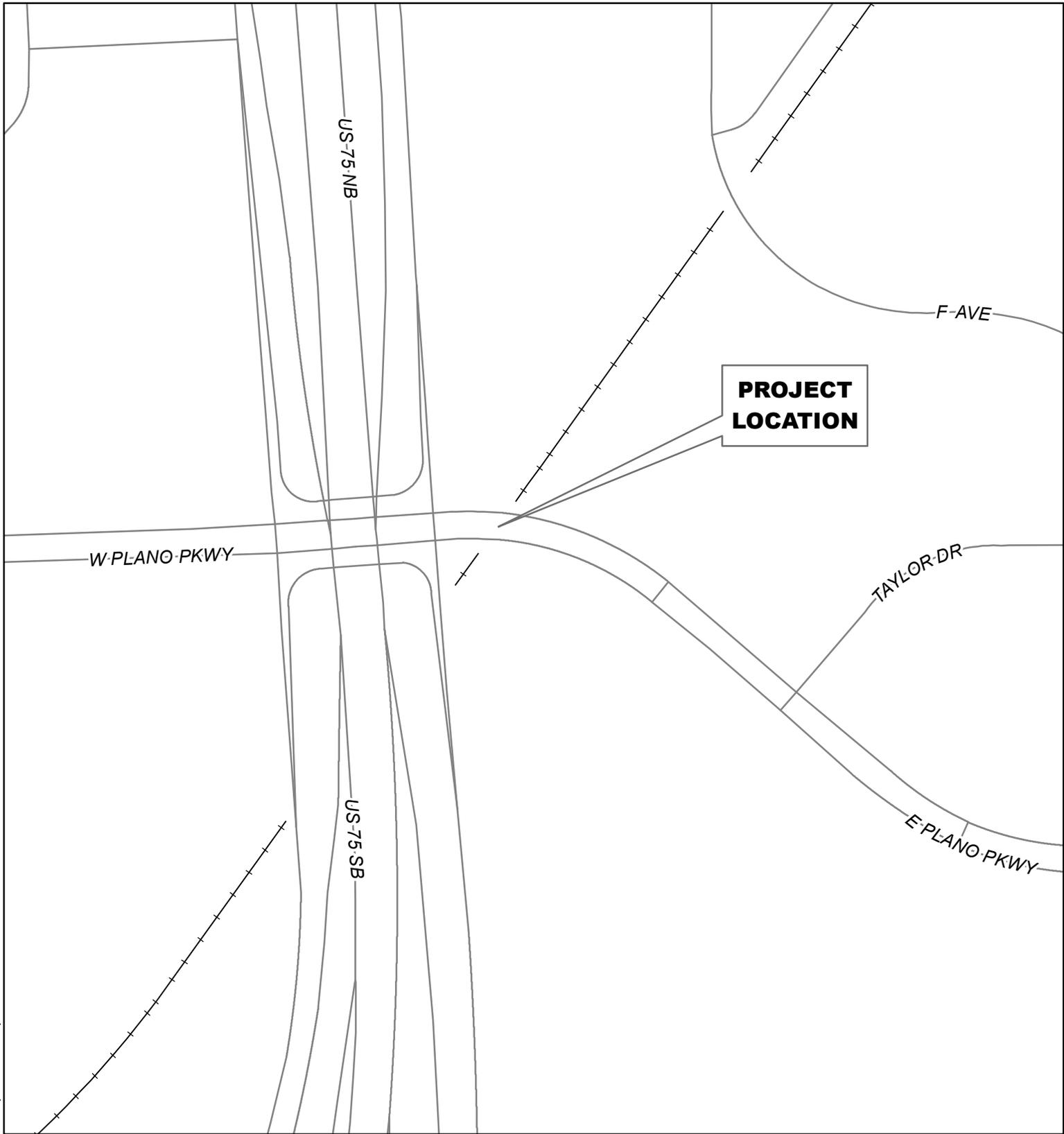
This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358

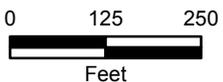


**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		4/13/15			
Department:		Engineering			
Department Head		Jack Carr			
Agenda Coordinator (include phone #): Kathleen Schonne X-7198					
CAPTION					
A Resolution of the City of Plano, Texas, approving the terms and conditions of an Agreement with the State of Texas for State contracted traffic signal construction with the City of Plano providing limited materials and labor; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; 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:	2014-15	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): STREET IMPROVEMENTS CIP					
<p>COMMENTS: This Resolution would approve the terms and conditions of an agreement between the State of Texas and the City of Plano, with the State of Texas providing up to \$31,000 for the City of Plano to construct improvements at the US 75 at Plano Parkway interchange. The actual amount provided will depend on the expenditure incurred by the City of Plano during this project.</p> <p>STRATEGIC PLAN GOAL: Participating in an agreement where Plano will receive funding from the Texas Department of Transportation relates to the City's goals of Partnering for Community Benefit and Financially Strong City with Service Excellence.</p>					
SUMMARY OF ITEM					
<p>This TxDOT project is for the construction and rehabilitation of the interchange along US 75 @ Plano Parkway. It will provide for a new traffic signal along with modern railroad preemption devices for the crossing on the east side of US 75 at Plano Parkway.</p> <p>At the completion of the project the City of Plano will assume maintenance responsibilities of the traffic signals. Therefore, in order to maintain equipment consistency citywide, the following equipment will be furnished by city forces and a request for reimbursement is being made by this agreement: (1) Traffic signal controller, (2) Video detection devices, and (3) Battery backup units.</p> <p>https://maps.google.com/maps?q=us+75+at+plano+parkway&hl=en&ll=33.009184,-96.706959&spn=0.00078,0.001212&sll=33.061262,-96.736625&sspn=0.199688,0.310364&t=h&hnear=U.S.+75&z=20</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Location Map			N/A		
Resolution					
Agreement					

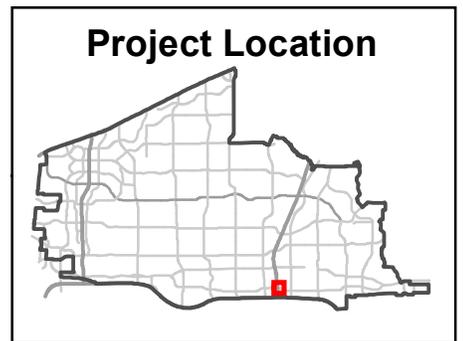


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City of Plano GIS Division
March, 2015

US 75 at Plano Parkway Traffic Signal Construction and Interchange Rehabilitation



A Resolution of the City of Plano, Texas, approving the terms and conditions of an Agreement with the State of Texas for State contracted traffic signal construction with the City of Plano providing limited materials and labor; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 (“ISTEA”), codified under Title 23 USC Section 101 et seq., authorizes funding for Metropolitan Planning at 23 USC subsection 104(f), which has been reauthorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”); and

WHEREAS, the City has requested the State to reimburse the Federal allowable percentage of the cost of installing traffic signals and other items directly related to the operation of an intersection at the intersections established in this Agreement called the “Project;” and

WHEREAS, the City Council has been presented a proposed Agreement for State contracted traffic signal construction by and between the City of Plano, Texas, and the State of Texas, 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 13th day of April, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

Exhibit "A"

CSJ # 0047-06-133
District #18/DAL
Code Chart 64 # 33100
Project: US 75 at Plano Pkwy
Federal Highway Administration
CFDA # 20.205 _____
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

SURFACE TRANSPORTATION PROGRAM – METROPOLITAN MOBILITY AGREEMENT FOR STATE-CONTRACTED TRAFFIC SIGNAL CONSTRUCTION (WITH A MUNICIPALITY PROVIDING LIMITED MATERIALS OR LABOR)

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the "State," and North Central Texas Council of Governments, a Metropolitan Planning Organization chartered under the laws of the State of Texas, acting through the City of Plano, called the "City," acting through its duly authorized officers.

W I T N E S S E T H

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA"), codified under Title 23 USC Section 101 et seq., authorizes funding for Metropolitan Planning at 23 USC subsection 104(f), which has been reauthorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU"); and

WHEREAS, 23 USC §104 establishes a surface transportation program ("STP"); and

WHEREAS, 23 USC §134 establishes that Metropolitan Planning Organizations ("MPOs") and the States' Transportation Agencies develop transportation plans and programs for urbanized areas of the State; and

WHEREAS, 23 USC §120 establishes the Federal share of funding for STP programs involving the procurement and installation of traffic signals as defined elsewhere in this agreement; and

WHEREAS, the State is empowered under existing laws to operate and maintain a system of highways and roadways for public use and benefit; and

WHEREAS, the City has requested the State to reimburse the Federal allowable percentage of the cost of installing traffic signals and other items directly related to the operation of an intersection at the intersections established in this agreement, called the "Project;" and

WHEREAS, the Project has been designated as a federal-aid project and, thus, this agreement shall be made in accordance with Federal Highway Administration (FHWA) procedures and regulations; and

WHEREAS, the City has offered to participate in the development and construction of the Project as defined elsewhere in this agreement; and

WHEREAS, it is in the best interest of the City and the State for the City to assist the State by

furnishing and installing traffic signal equipment on the Project; and

WHEREAS, the State will secure the federal cost share, and reimburse the City for their appropriate cost associated with the Project as defined elsewhere in this agreement; and

WHEREAS, the Texas Transportation Commission passed Minute Order No.114125 authorizing the Project through the State Transportation Improvement Program; and

WHEREAS, the Governing Body of the City has approved entering into this agreement by resolution or ordinance dated _____, 20__, labeled Attachment A, which is attached to and made a part of this agreement; and

WHEREAS, the State is authorized to enter into an agreement with the City for the Project pursuant to Texas Transportation Code §221.002;

NOW THEREFORE, the State and the City agree as follows:

AGREEMENT

Article 1. Period of this Agreement

This agreement becomes effective on final execution by both parties and shall remain in effect as long as the traffic signal equipment furnished by the City is in operation at the described location and the signal project is incomplete, or unless otherwise terminated or modified as provided below.

Article 2. Scope of Work

A. Signal Warranting Data. The City shall collect, prepare, and provide to the State the required warranting and justification data for each signalized intersection contemplated in this agreement. The City shall provide the data to the State in a format approved by the State. Only those intersections that are warranted and approved by the State shall be eligible for signalization under this agreement.

B. Intersection Locations.

1. All State-approved intersections which are on routes that are part of the State Highway System are listed in Attachment B, which is attached to and made a part of this agreement. These intersections are referred to as "on-system" intersections.
2. All State-approved intersections which are not on routes that are part of the State Highway System are listed in Attachment C, which is attached to and made a part of this agreement. These intersections are referred to as "off-system" intersections.

C. Design and Construction Responsibilities.

1. The City shall develop the construction plans and specifications associated with the installation of traffic signals at each intersection. The construction plans and specification require final approval by the State.
2. If indicated in the plans and specifications, the furnishing or installing of a portion of the traffic signal equipment may be part of the construction to be undertaken by the City.
3. The City's plans and specifications shall conform to the requirements of the latest edition of the Texas Manual on Uniform Traffic Control Devices (TMUTCD) and use applicable Texas Department of Transportation standard specifications, special specifications, special provisions, and standard sheets.
4. The State will advertise for construction bids, let the construction contract, or otherwise provide for the construction and will supervise the construction as required by the construction plans and specifications. The State will secure the City's concurrence of the construction plans and specifications prior to the award of the construction contract.

D. Implementation Plan

1. If the Project includes any traffic signal systems, the City shall attach to this agreement an FHWA-approved Implementation Plan as Attachment D, which is made a part of this agreement.
2. The Implementation Plan shall address the operation and maintenance of the traffic signal systems after the Project is complete.

- E.** Any variations to the Scope of Work are provided in Attachment E, which is attached to and made a part of this agreement.

Article 3. Personnel, Equipment, and Material

- A.** The City shall use labor and supervisory personnel employed directly by the City.
- B.** All employees of the City assigned to this agreement shall have sufficient knowledge and experience to enable them to perform the duties assigned to them.
- C.** The State may require the City to remove any employee from the work authorized in this agreement if, in the sole opinion of the State, the work of that employee does not comply with this agreement or the conduct of that employee is detrimental to the Project.
- D.** All materials used for the work shall be new and undepreciated.
- E.** Reimbursement for the use of materials purchased by other than competitive bid procedures will be made only if:
 1. Those procedures are shown to be in the public interest; and
 2. The State has given prior approval for the use of materials.
- F.** The City shall use City-owned machinery, equipment, and vehicles for the work. In the event that the City does not have the necessary machinery, equipment, and vehicles, they may be rented or leased at the lowest bid price of those submitted by two or more approved bidders.

Article 4. Compensation

- A.** The maximum amount reimbursable by the State to the City under this agreement without modification is **\$31,000.00**. A cost estimate of the traffic signal equipment furnished by the City under this agreement, labeled Attachment F, is attached to and made part of this agreement.
- B. Reimbursement of Costs to City.** The State will reimburse the City for costs incurred under this agreement, provided the City has paid from City funds those obligations previously billed.
1. The State will reimburse the City up to 100% of the cost of furnishing or installing City traffic signal equipment according at the locations described in Attachment B.
 2. The State will pay up to 100% of the construction costs at the locations described in Attachment B.
 3. The State will reimburse the City up to N/A% of the cost of furnishing or installing City traffic signal equipment according at the locations described in Attachment C.
 4. The State will pay up to N/A% of the construction costs at the locations described in Attachment C.
 5. The State will reimburse the City for applicable labor, equipment use, materials, supplies, travel expenses, and warehouse or material handling charges.
 6. The State will not reimburse unsupported costs, costs incurred prior to the issuance of a written work order by the State, and costs incurred after final acceptance by the State.
 7. The State shall make payment to the City within thirty (30) days from the receipt of the City's request for payment contingent upon both:
 - a. The State's:
 - 1) Acceptance of the completed Project; or
 - 2) Partial acceptance by letter, on a quarterly basis, wherever the work; and materials provided have been found by the State to satisfy the requirements of the plans and specifications; and
 - b. The City's submission of an original and four copies of a request for payment:

To the following address: Texas Department of Transportation
Attn: Director of Operations
4777 E. Highway 80
Mesquite, TX 75150
- 1) On the State's Form 132 Billing Statement or other type of invoice acceptable to the State; and
 - 2) That documents the work performed and materials used through descriptions, quantities, unit prices, and extensions.

C. City Payments to State.

1. Thirty (30) days prior to the date set for the State to receive construction bids, the City shall remit payment to the state in the amount equal to:
 - a. N/A% of the estimated bid items for locations described in Attachment C; and

- b. N/A% of the estimated engineering and contingencies (State inspection costs) for the bid items for locations described in Attachment C; and
 - c. N/A% of the estimated State inspection costs for City furnished and/or installed traffic signal equipment for locations described in Attachment C; and
 - d. N/A% of any federal non-participating costs.
2. It is estimated that the State inspection cost will be N/A% of construction cost.
 3. The City check or warrant is \$N/A.
 4. Payments to the State shall be by check or warrant made payable to "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied by the State to the Project.
 5. In the event it is determined by the State that the initial amount submitted by the City for construction of the project is insufficient to cover the State's costs, the City will within thirty (30) days from the State's written notification, make additional funding available to the State.
 6. Following completion and the State's acceptance of the project, the State will make a final audit of all costs associated with the project. Upon completion of the final audit, any remaining funds due the City will be promptly returned.
- D.** The City shall be responsible for any funds determined to be ineligible for federal reimbursement, and shall reimburse the State the amount of those funds previously provided to it by the State.
- E.** If the City will perform any work under this agreement for which reimbursement will be provided by or through the State, the City must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The City shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the City or an employee of a firm that has been contracted by the City to perform oversight of the Project. The State in its discretion may deny reimbursement if the City has not designated a qualified individual to oversee the Project.

Article 5. Insurance

If this agreement authorizes the City or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

Article 6. Responsibilities of the Parties

The State and the City agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 7. Progress

- A. Communications.** The City shall confer with the State during the progress of the Project. The City shall prepare and present all information that is requested by the State or is necessary for the State to evaluate the work performed by the City.
- B. Reports.** The City shall promptly advise the State in writing of events that may have a significant effect on the progress of the Project.
 - 1. The City shall promptly advise the State in writing of any problems, delays, or adverse conditions that will materially affect the ability to meet scheduled goals. This disclosure will be accompanied by statement of the action taken or contemplated and any State or federal assistance needed to resolve the situation.
 - 2. The City shall also promptly advise the State in writing of favorable developments or events that enable meeting goals sooner than anticipated.

Article 8. Inspection of Work

- A.** The State shall make frequent and complete inspection of all materials, equipment, and work to determine and permit certification that:
 - 1. They are in suitable condition for operation and maintenance by the City after completion; and
 - 2. All applicable requirements of the plans and specifications are satisfied.
- B.** The City shall provide opportunities, facilities, and representative samples, as required by the State to perform the above inspections.
- C.** The State will promptly notify the City of any deficiencies determined by the above inspections and the City shall, without delay, take corrective action acceptable to the State.

Article 9. Maintenance, Retention, and Audit of Records

- A. Retention Period.** The City shall maintain all books, documents, papers, computer-generated files, accounting records, and all other evidence pertaining to costs incurred and work performed under this agreement, and shall make those materials available at its office during the time period covered and for four years from the date of final payment under this agreement, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.
- B. Availability.** The State, FHWA, United States Department of Transportation and its Office of the Inspector General, State Auditor's Office, United States Comptroller General, and any of their authorized representatives shall have access to the records for the purpose of making audits, examinations, excerpts, and transcriptions.
- C. State Auditor.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this agreement or indirectly through a

subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

D. Audit Timing. The State will prepare an audit:

1. Upon completion of the work authorized or early termination of the agreement to determine the amount of the work performed and materials furnished by the City at that time; and
2. At any time it is deemed to be in the best interest of the State.

Article 10. Disputes

The State's decision on disputes regarding the responsibilities and obligations set forth in this agreement shall be final and binding.

Article 11. Non-collusion

The City shall warrant that it has not employed or retained any company or person, other than a bona fide employee working for the City, 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, 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 City breaches or violates this warranty, the State 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 the fee, commission, brokerage fee, gift, or contingent fee.

Article 12. Termination and Remedies

A. Causes. This agreement shall remain in effect until the project is completed and accepted by all parties, unless the agreement is terminated by:

1. Written agreement of the parties;
2. Written notice from either party because the other party did not fulfill its contractual obligations;
3. Written notice from the City, after the completion of preliminary engineering, specifications, and estimates, that it elects not to provide funding;
4. The State if the Project is inactive for thirty-six months or longer and no expenditures have been charged against federal funds; or
5. Thirty (30) days written notice from the State, with or without cause.

B. Payments Due After Termination.

1. If the State terminates this agreement, the State shall not be liable for any costs other than those due at the time of termination.

2. If this agreement is terminated under Article 12(A)(3) and the project does not proceed because of insufficient funds, the City shall reimburse the State for its reasonable actual costs incurred during the project.
3. If this agreement is terminated under Article 12(A)(5), the City shall not incur costs during the thirty (30) days after notice is given if those costs are more than the costs incurred during the preceding thirty (30) days.

C. Value of Completed Work. The State shall determine the value of any work that has been performed at the time of termination. In determining the compensation for partial work, the State will consider

1. Actual costs incurred in performing the work to the date of termination;
2. The amount of work that was satisfactorily completed as of the date of termination;
3. The value of the work that is usable by the State;
4. The cost to the State of employing others to complete the required work;
5. The time required to employ others to complete the work; and
6. Any other factors that affect the value to the State of the work performed.

D. Payment of Additional Costs. If this agreement is terminated under Article 12(A)(2), the State may take over the project and complete the work. The City shall be liable to the State for any additional costs to the State caused by the termination.

E. Excusable Delays. Except with respect to subcontractors, the City will not be considered in default for any failure that arises out of causes beyond the control and without the negligence of the City. These include acts of God or the public enemy, acts of the Government in its sovereign immunity or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

F. Surviving Requirements. Except for provisions that specifically establish responsibilities that extend beyond the agreement period, termination and payment under this article extinguish the rights, duties, and obligations of the State and the City under this agreement.

G. Remedies.

1. Any costs incurred by the State arising from the termination of this agreement under Article 12(A)(2) or (3) shall be paid by the City.
2. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be pursued by either party and shall be cumulative.

Article 13. Compliance with Laws

A. Compliance Requirement. The parties shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement, including worker's compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws, and licensing laws and regulations.

B. Proof of Compliance. At the request of the State, the City shall furnish satisfactory proof of its compliance with this article.

Article 14. Gratuities

- A. Employees Not To Benefit.** Employees of the State or the City shall not accept any benefits, gifts, or favors from any person doing business with, or who reasonably speaking may do business with the State or the City under this agreement.
- B. Liability.** The State may terminate this agreement if the City or any other person who is doing business with or who reasonably speaking may do business with the State under this agreement offers benefits, gifts, or favors to State employees in violation of this policy.

Article 15. Subcontracting

- A. Prior Approval.** The City shall not assign, subcontract, or transfer services related to the work under this agreement without the advance written approval of the State.
- B. Required Provisions.** All subcontracts shall include the provisions contained in this agreement and any other provisions required by law.
- C. City Responsibilities.** A subcontract does not relieve the City of any responsibilities under this agreement.

Article 16. Amendments to this Agreement

Any change to one or more of the terms and conditions of this agreement shall not be valid unless made in writing and agreed to by the parties before the change is implemented.

Article 17. Legal Construction

If any provision in this agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision of this agreement. In that case, this agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

Article 18. Successors and Assigns

- A.** The City and the State bind themselves and their successors and assigns to each other party of this agreement and to the successors and assigns to each other party with regard to all covenants of this agreement.
- B.** The City shall not assign, subcontract, or otherwise transfer its interests in this agreement without the written approval of the State.

Article 19. Sole Agreement

This agreement constitutes the sole agreement between the parties concerning the Project and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this agreement.

Article 20. Debarment Certification

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this

agreement, the City certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this agreement shall require any party to a subcontract or purchase order awarded under this agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

Article 21. Civil Rights Compliance

The City shall comply with the regulations of the United States Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

Article 22. Disadvantaged Business Enterprise (DBE) Program Requirements

- A.** The parties shall comply with the DBE Program requirements established in 49 CFR Part 26.
- B.** The City shall adopt, in its totality, the State's federally approved DBE program.
- C.** The City shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The City shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D.** The City shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://txdot.gov/business/business_outreach/mou.htm.
- E.** The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).
- F.** Each contract the City signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin,*

or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

Article 23. Procurement and Property Management Standards

The parties shall adhere to the procurement standards established in 49 CFR § 18.36 and with the property management standard established in 49 CFR § 18.32.

Article 24. Office of Management and Budget (OMB) Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

Article 25. Lobbying Certification

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A.** No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the City shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C.** The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Article 26. Federal Funding Accountability and Transparency Act Requirements

- A.** Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170,

including Appendix A. This agreement is subject to the following award terms:

<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and
<http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

B. The City agrees that it shall:

1. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR web-site whose address is: <https://www.bpn.gov/ccr/default.aspx>;
2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five executives to the State if:
 - a. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - b. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

Article 27. Single Audit Report

- A.** The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B.** If threshold expenditures of \$500,000 or more are met during the City's fiscal year, the City must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at http://www.txdot.gov/contact_us/audit.htm.
- C.** If expenditures are less than \$500,000 during the City's fiscal year, the City must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D.** For each year the project remains open for federal funding expenditures, the City will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

Article 28. Notices

All notices to either party by the other under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to the other party at the following addresses:

CSJ # 0047-06-133
 District #18/DAL
 Code Chart 64 # 33100
 Project: US 75 at Plano Pkwy
 Federal Highway Administration
 CFDA # 20.205 _____
 Not Research and Development

City	State
City of Plano	Texas Department of Transportation
Traffic Engineering	Director of Operations
PO Box 860358	4777 E. Highway 80
Plano, TX 75086-0358	Mesquite, TX 75150

All notices shall be deemed given on the date delivered or deposited in the mail. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and the request shall be carried out by the other party.

Article 29. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the City in duplicate.

THE CITY OF PLANO

Signature

Bruce D. Glasscock

Type or Printed Name

City Manager

Title

Date

Date

THE STATE OF TEXAS

Signature

James K. Selman, P.E.

Type or Printed Name

Dallas District Engineer

Title

Date

CSJ # 0047-06-133
District #18/DAL
Code Chart 64 # 33100
Project: US 75 at Plano Pkwy
Federal Highway Administration
CFDA # 20.205 _____
Not Research and Development

ATTACHMENT A
CITY RESOLUTION OR ORDINANCE

WILL BE ATTACHED AFTER COUNCIL APPROVAL

CSJ # 0047-06-133
District #18/DAL
Code Chart 64 # 33100
Project: US 75 at Plano Pkwy
Federal Highway Administration
CFDA # 20.205 _____
Not Research and Development

ATTACHMENT B
ON-SYSTEM INTERSECTIONS

US 75 AT PLANO PARKWAY

CSJ # 0047-06-133
District #18/DAL
Code Chart 64 # 33100
Project: US 75 at Plano Pkwy
Federal Highway Administration
CFDA # 20.205 _____
Not Research and Development

ATTACHMENT C
OFF-SYSTEM INTERSECTIONS

NONE

CSJ # 0047-06-133
District #18/DAL
Code Chart 64 # 33100
Project: US 75 at Plano Pkwy
Federal Highway Administration
CFDA # 20.205 _____
Not Research and Development

ATTACHMENT D
FHWA-APPROVED IMPLEMENTATION PLAN
NOT REQUIRED

CSJ # 0047-06-133
District #18/DAL
Code Chart 64 # 33100
Project: US 75 at Plano Pkwy
Federal Highway Administration
CFDA # 20.205 _____
Not Research and Development

**ATTACHMENT E
VARIATIONS TO SCOPE OF WORK**

STATE TO COLLECT AND PREPARE THE WARRANTING DATA

STATE TO PREPARE PLANS

**ATTACHMENT F
 COST ESTIMATE**

The following table is an estimate of cost participation in the Project. This is only an estimate and final participation amounts will be based on actual costs.

Description	Total Estimated Cost	Federal Participation		State Participation		City Participation	
		%	Cost	%	Cost	%	Cost
Engineering							
On State System	\$0.00	0%	\$0.00	0%	\$0.00	0%	\$0.00
Off State System	\$0.00	0%	\$0.00	0%	\$0.00	0%	\$0.00
Construction							
On State System	\$31,000.00	80%	\$24,800	20%	\$6,200	0%	\$0.00
Off State System	\$0.00	0%	\$0.00	0%	\$0.00	0%	\$0.00

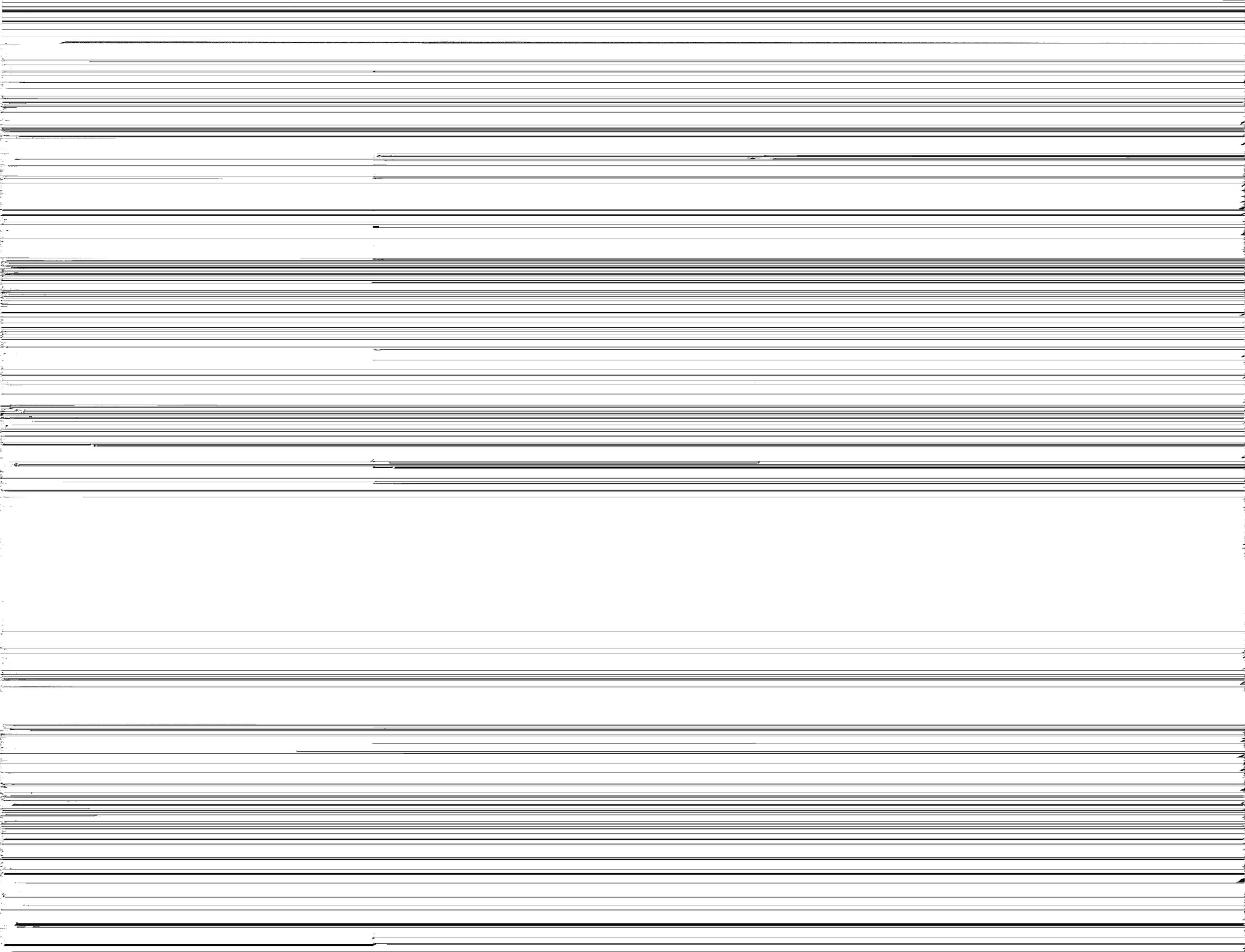
US 75 at Plano Parkway

Video Detection (Autoscope Encore)	\$16,000.00
Battery Backup Unit	\$ 5,000.00
Traffic Signal Controller	\$10,000.00
Total	\$31,000.00



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:		4/13/15		
Department:		Engineering		
Department Head:		Jack Carr		
Agenda Coordinator (include phone #): Kathleen Schonke (7198)				
CAPTION				
<p>A Resolution of the City of Plano, Texas, approving the terms and conditions of a Memorandum of Understanding between the City of Plano, the Regional Transportation Council, and the North Central Texas Council of Governments for which the City will be reimbursed for the purchase of a 2.628 acre tract of vacant land located at 1106 Avenue K in the City of Plano, Collin County, Texas, for future development as a passenger station for the Cotton Belt Rail station; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2014-15	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	916,000	0
BALANCE		0	916,000	0
FUND(S): CAPITAL RESERVE FUND				
<p>COMMENTS: This item approves a Memorandum of Understanding that will facilitate a reimbursement from the Regional Transportation Council and North Central Texas Council of Governments for the purchase of land for a passenger station along the future Cotton Belt Rail line. The land purchase was approved at the February 9, 2015 council meeting.</p> <p>STRATEGIC PLAN GOAL: Approving a Memorandum of Understanding with other organizations to improve transportation for Plano residents relates to the City's goal of Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
<p>Resolution approving Memorandum of Understanding related to a 2.628 acre tract of land for future development as a Cotton Belt Rail passenger station. City will be reimbursed \$916,000.00.</p> <p>https://maps.google.com/maps?output=classic&dg=brw</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map, Resolution, Exhibit "A"			N/A	



A Resolution of the City of Plano, Texas, approving the terms and conditions of a Memorandum of Understanding between the City of Plano, the Regional Transportation Council, and the North Central Texas Council of Governments for which the City will be reimbursed for the purchase of a 2.628 acre tract of vacant land located at 1106 Avenue K in the City of Plano, Collin County, Texas, for future development as a passenger station for the Cotton Belt Rail station; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the Regional Transportation Council (RTC), the independent transportation policy body of the North Central Texas Council of Governments (NCTCOG) acting as the Metropolitan Planning Organization for the region, is responsible for transportation project selection, programming and funding for regional transportation needs; and

WHEREAS, the City of Plano (the City) participates in addressing transportation needs within its jurisdiction; and

WHEREAS, Mobility 2035, the metropolitan transportation plan for the Dallas-Fort Worth metropolitan area, identifies the Tex Rail/Cotton Belt corridor (the Cotton Belt rail system) as a key regional link connecting southwest Fort Worth to Plano with connections throughout the corridor including D-FW International Airport; and

WHEREAS, the City, RTC and NCTCOG desire to enter into a Memorandum of Understanding (the "Agreement"), Exhibit "A" attached hereto, under which Plano will acquire a 2.628 acre tract of vacant land located at 1106 Avenue K in the City of Plano, Collin County, Texas, for the purpose of developing a passenger station in the City of Plano for the Cotton Belt rail system and RTC/NCTCOG will reimburse the City for said purchase, (the "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 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 this the 13th day of April, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF PLANO, REGIONAL TRANSPORTATION
COUNCIL AND NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS FOR ACQUISITION OF
PROPERTY FOR THE COTTON BELT RAIL SYSTEM**

This Memorandum of Understanding is to outline the terms and conditions of an agreement between the Regional Transportation Council (RTC), North Central Texas Council of Governments (NCTCOG) and the City of Plano (City) regarding the acquisition of the real property described in Exhibit "A" attached hereto (the "Property") for the purpose of developing a passenger station in the City of Plano for the Cotton Belt Corridor rail system. Mobility 2035, the metropolitan transportation plan for the Dallas-Fort Worth metropolitan area, identifies the Tex Rail/Cotton Belt corridor as a key regional link connecting southwest Fort Worth to Plano with connections throughout the corridor including D-FW International Airport.

For good and valuable consideration, the City, RTC and NCTCOG agree as follows:

1. The City agrees to use its best efforts to purchase the Property on or before May 1, 2015 in the amount of Nine Hundred and Sixteen Thousand Dollars (\$916,000.00) to hold for the purpose of developing a passenger station at a later date to be determined by the parties for the Cotton Belt Corridor rail system. The City will advance the costs associated with the purchase of the Property from the current available revenues of the City to be reimbursed as provided herein. If the City fails to purchase the Property on or before May 1, 2015, RTC and NCTCOG may terminate this Memorandum of Understanding with no further obligation hereunder by the parties.
2. The RTC and NCTCOG agree to reimburse the City for the purchase of the Property in the amount of Nine Hundred and Sixteen Thousand Dollars (\$916,000.00) on or before December 31, 2015. If the RTC, NCTCOG or the Texas Department of Transportation (TxDOT), subject to Number 3 below, fails to reimburse the City for the purchase of the Property on or before December 31, 2015, the City may terminate this Agreement with no further obligation hereunder by the parties.
3. The RTC represents that it has approved the programming of Regional Toll Revenue funds in the amount of Nine Hundred and Sixteen Thousand Dollars (\$916,000.00) to reimburse the City for the purchase of the Property. RTC approval of funding for reimbursement to the City is subject to Texas Transportation Commission approval which is anticipated to occur by August 31, 2015. Upon approval by the Texas Transportation Commission, the City will enter into a funding agreement with TxDOT to be reimbursed for the purchase of the Property. Payment by TxDOT of Nine Hundred and Sixteen Thousand Dollars (\$916,000.00) to the City for reimbursement of the purchase of the Property shall satisfy the reimbursement by RTC and NCTCOG as required by number 2 above.
4. Subject to approval of the RTC and NCTCOG, the City may improve and use the Property for another purpose during the pendency of this Memorandum of Understanding, provided such use does not diminish the use of the Property for its original intended purpose and provided the use ceases upon notice from RTC pursuant to number 5 below to transfer the property for development for the rail system.
5. At the direction of the RTC, the City agrees to transfer a property interest in and to the Property, in a manner and means allowed by law, to the entity responsible for development of the Cotton Belt Corridor

rail system. Upon written notice by the RTC to the City to transfer the Property for the development of a passenger station for the Cotton Belt Corridor rail system, the City shall transfer the Property within sixty (60) days subject to City Council approval, if required.

6. Upon agreement of the parties or at the expiration of ten (10) years from the date of this Memorandum of Understanding, whichever occurs first, the City may sell the Property, with RTC approval, with the proceeds, less expenses of the sale, paid to the NCTCOG. Alternatively, the City may reimburse the NCTCOG for the fair market value of the Property and use it thereafter for any purpose as determined in the sole discretion of the City.

This Memorandum of Understanding shall be effective, beginning with the date of the last signature hereto as evidenced below and end upon completion of the obligations herein or ten (10) years from the effective date subject to the requirements in number 6 above, whichever occurs first or by termination as otherwise provided herein. Each party signing below represents that it is a duly authorized representative of the entity for which it is signing and that it has full authority to enter into this Memorandum of Understanding on behalf of their respective entity. Further, the parties agree that this will be a valid and binding agreement between the City, the RTC and the NCTCOG.

City of Plano, Texas

By: _____ Date: _____

Bruce D. Glasscock
City Manager

North Central Texas Council of Governments

By: _____ Date: _____

Mike Eastland,
Executive Director

Regional Transportation Council

By: _____ Date: _____

Michael Morris, P.E.
Director of Transportation



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY					
<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		4/13/2015			
Department:		City Secretary			
Department Head		Lisa C. Henderson			
Agenda Coordinator (include phone #): Sharon Kotwitz X7120					
CAPTION					
An Ordinance of the City of Plano, Texas, adopting and enacting Supplement Number 110 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date.					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2014-2015	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): NA					
COMMENTS: This item has no fiscal impact.					
STRATEGIC PLAN GOAL: Adoption of the Quarterly Code Supplement relates to the City's goal of Financially Strong City with Service Excellence.					
SUMMARY OF ITEM					
Adoption of this ordinance enables this supplement to be admissible in court.					
List of Supporting Documents: Ordinance			Other Departments, Boards, Commissions or Agencies		

An Ordinance of the City of Plano, Texas adopting and enacting Supplement Number 110 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date.

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

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

WHEREAS, the Code of Ordinances of the City of Plano, Texas has been revised by previous amendments duly passed as individual ordinances by the City Council and such amendments are reflected on Supplement Number 110; and

WHEREAS, the City Council wishes to adopt the ordinance codification version appearing in Supplement Number 110 of the Plano Code of Ordinances in order for the printed Code form to be considered identical to the original ordinance and to eliminate any confusion or differences in the format of the original ordinance.

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

Section I. The City Council hereby adopts the printed Code form of the ordinances contained in Supplement Number 110 as prepared by the codifier.

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

DULY PASSED AND APPROVED this the 13th day of April, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

DATE: March 17, 2015
TO: Honorable Mayor & City Council
FROM: Doug Bender, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of March 16, 2015

**AGENDA ITEM NO. 6A - PUBLIC HEARING
ZONING CASE 2014-40
APPLICANT: HEADQUARTERS 121 VENTURE, LTD.**

Request to rezone 50.6± acres located at the southwest corner of State Highway 121 and future Ridgeview Drive **from** Regional Employment and Regional Commercial **to** Planned Development-Single-Family Residence Attached with modified development standards. Zoned Regional Employment and Regional Commercial/State Highway 121 Overlay District. Tabled February 16, 2015 and March 2, 2015.

APPROVED: 5-2 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 1 **OPPOSE:** 0

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **SUPPORT:** 0 **OPPOSE:** 0

PETITION(s) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

The Commissioners voting in opposition discouraged rezoning properties for residential uses in prime economic development areas of the city. In addition, concerns were raised regarding proposed improvements intended to mitigate the effects of State Highway 121.

Recommended for approval as follows:

Restrictions:

The permitted uses and standards shall be in accordance with the Single-Family Residence Attached (SF-A) zoning district unless otherwise specified herein.

1. Residential lots adjacent to State Highway 121 must be set back a minimum of 550 feet.

2. A minimum 100-foot wide irrigated landscape edge (as measured from the front property line), to be owned and maintained by the HOA, shall be provided adjacent to State Highway 121. The landscape edge shall include a landscaped berm with a minimum height of 6 feet and a minimum slope of 4:1 consisting of trees, shrubs, groundcover, and related elements. A minimum of one 3-inch caliper shade tree and one 3-inch caliper ornamental tree (7-foot planted height) shall be placed per 50 feet of frontage.
3. Prior to preliminary site plan approval, the applicant must submit an Environmental Noise Study to verify that residential lots will be in conformance with the City of Plano's Performance Standards.
4. A minimum 6-foot ornamental iron fence to be owned and maintained by the Homeowner's Association is required along the rear property line of all residential lots adjacent to State Highway 121.

FOR CITY COUNCIL MEETING OF: April 13, 2015 (To view the agenda for this meeting, see www.planotx.gov)

PUBLIC HEARING - ORDINANCE

RA/ks

xc: Headquarters 121 Venture, Ltd.
Bryan Klein, ION Design

<http://goo.gl/maps/d3zP9>

CITY OF PLANO
PLANNING & ZONING COMMISSION

March 16, 2015

Agenda Item No. 6A

Public Hearing: Zoning Case 2014-40

Applicant: Headquarters 121 Venture, Ltd.

DESCRIPTION:

Request to rezone 50.6± acres located at the southwest corner of State Highway 121 and future Ridgeview Drive **from** Regional Employment and Regional Commercial **to** Planned Development-Single-Family Residence Attached with modified development standards. Zoned Regional Employment and Regional Commercial/State Highway 121 Overlay District. Tabled February 16, 2015 and March 2, 2015.

REMARKS:

This item was tabled at the March 2, 2015 Planning & Zoning Commission meeting. It must be removed from the table.

The purpose for this request is to rezone 50.6± acres from Regional Employment (RE) and Regional Commercial (RC) to Planned Development-Single-Family Residence Attached (PD-SF-A). The RE district is intended to provide for office and limited manufacturing uses that are consistent with the regional status of certain tollways and expressways serving Plano and surrounding communities. Some retail uses are also appropriate when developed in conjunction with the primary uses. The district's standards are designed to ensure compatibility between the various uses within a corridor and surrounding residential neighborhoods. The RC district is intended for use in conjunction with an RE district. It provides for retail and service uses at appropriate nodes within the corridor of specified tollways and expressways serving Plano and surrounding communities, in addition to office and limited manufacturing uses. The district's standards are designed to ensure compatibility between various uses within a corridor and surrounding residential neighborhoods.

The requested zoning is PD-SF-A to allow for single-family residence attached and patio homes with modified development standards. A planned development (PD) district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls to both off- and onsite conditions.

A concept plan, Villages of Prairie Commons West, accompanies this request as Agenda Item No. 6B.

Surrounding Land Use and Zoning

The area of the request is currently undeveloped. To the east of the subject property, north of Ridgeview Drive, is undeveloped land zoned RE and is associated with Zoning Case 2014-34, and south of Ridgeview Drive are existing residences zoned Single-Family Residence-6 (SF-6). To the south of the subject property are existing residences zoned SF-6. To the west, the property is zoned RC and is undeveloped. To the north, across State Highway 121, the property is undeveloped and is located within the city of Frisco.

Proposed Planned Development Stipulations

The requested zoning is PD-SF-A. There are two primary parts to this request: land use and design standards.

Land Use - The applicant is proposing to rezone to PD-SF-A to allow for townhome and patio home residences.

Design Standards - The language in the proposed PD would allow this site to be developed as townhomes and patio homes built to comply with development standards of the SF-A and Patio Home (PH) zoning districts including stipulations intended to mitigate the impacts of State Highway 121 to the north.

The requested PD language is as follows:

Restrictions:

The permitted uses and standards shall be in accordance with the Single-Family Residence Attached (SF-A) zoning district unless otherwise specified herein.

1. Residential lots adjacent to State Highway 121;
 - a. Must be set back an average of 550 feet from the centerline of State Highway 121; and
 - b. Must not be closer than 450 feet.
2. A minimum 100-foot wide irrigated landscape edge (as measured from the front property line), to be owned and maintained by the HOA, shall be provided adjacent to State Highway 121. The landscape edge shall include a landscaped berm with a minimum height of 6 feet and a minimum slope of 4:1 consisting of trees, shrubs, groundcover, and related elements. A minimum of one 3-inch caliper shade tree and one 3-inch caliper ornamental tree (7-foot planted height) shall be placed per 50 feet of frontage.

3. Prior to preliminary site plan approval, the applicant must submit an Environmental Noise Study to verify that residential lots will be in conformance with the City of Plano's Performance Standards.
4. A minimum 6-foot ornamental iron fence to be owned and maintained by the Home Owners Association is required along the rear property line of all residential lots adjacent to State Highway 121.

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this property as Major Corridor Development (MCD). The city's current land use policies recommend that land along expressway corridors be reserved for economic development and employment opportunities. However, residential development may be appropriate along expressway corridors in accordance with the interim amendment policy recommendations of the Comprehensive Plan that were adopted in April 2012. The policies that apply to this request include:



1. Residential should be set back a minimum of 1,200 feet from the centerline of State Highway 121. Factors including topography, creeks, vegetation, and existing development patterns should be considered in applying this standard.

The applicant is proposing an average of 550-foot setback for residential lots from the right-of-way of State Highway 121, with landscaping to serve as screening. Although this request is not consistent with the recommended setback, the property has significant development challenges due to existing frontage, topography, and vegetation which limit its viability for commercial development.

2. Isolated residential development should not be permitted; residential rezoning requests need to establish a complete neighborhood or expand an existing neighborhood or an urban mixed-use center. Mid-rise multifamily development (5 to 12 stories) and special needs housing (i.e., senior housing) could be an exception if the surrounding land uses are compatible.

The zoning request is an expansion of the existing residential neighborhood immediately adjacent to the south and east.

Adequacy of Public Facilities - Water and sanitary sewer services are available to serve the subject property. The available sanitary sewer capacity is sufficient to handle additional commercial development in the area; however, the applicant may be responsible for making improvements to the sanitary sewer system to increase the system capacity if the property is rezoned for residential uses.

Traffic Impact Analysis (TIA) - A TIA is not required for this rezoning request. However, in considering the traffic impact of the proposed residential development, using the average Institute of Traffic Engineers (ITE) trip generation rates, staff compared the proposed residential development with the potential build-out of the subject property as office. Using comparable developments on other properties within

the city, staff estimated that 240,000± square feet of office could develop on the property. The table below shows the estimated traffic generation during peak hours (7:00-9:00 a.m. and 4:00-6:00 p.m.):

	AM	PM
SF-A (46 units)	20	24
PATIO HOME (148 units)	114	151
TOTAL RESIDENTIAL	134	175
OFFICE	372	358

From these calculations, it is evident that office development would generate greater traffic than the requested residential subdivision.

School Capacity - This is provided for informational purposes only. The subject property is within the Frisco Independent School District (FISD) and is served by the following schools:

Elementary School	Borchardt
Middle School	Fowler
High School	Liberty

Based upon the current projections and feeder alignments FISD has determined that current elementary facilities in Plano would be sufficient, but the middle and high school zone increases would all need to be accommodated by campuses located north of State Highway 121. FISD has stated that there may be capacity issues at Liberty High School.

Public Safety Response Time - Based upon existing personnel, equipment, and facilities, fire emergency response times will be sufficient to serve the site. Additional residential units in this area will increase EMS and fire calls for service and may impact future staffing levels and the type of equipment assigned to area fire stations.

Access to and Availability of Amenities and Services - The subject property is not within a Park Fee service area. The W.H. "Buzz" Razor Park is located along the southern property boundary and the 2012 Park Master Plan identifies a future trail connection and proposed park along the entire western portion of the site within the floodplain. Private open space, as required by the SF-A district, will also serve the residents of this area.

The subject property is located within the Davis Library's service area. Although Davis Library is at service capacity, Schimelpfenig Library has capacity to serve additional patrons.

Economic Development Element and Land Use Element - The Economic Development Element and the Land Use Element policies of the Comprehensive Plan discourage rezoning properties for residential uses in prime economic development areas of the city. The intent of both policies is to ensure land that is located along the expressway corridors and in the major employment centers is developed in accordance

with the Future Land Use Plan recommendations and supporting zoning districts and to take advantage of future nonresidential development opportunities.

In addition, the Economic Development Element of the Comprehensive Plan encourages the preservation of land in expressway corridors, such as the RE area, for future economic development. The element states that:

“Rezoning requests must be carefully examined to ensure that proposed locations are suitable for residential development and that Plano’s economic viability is not being jeopardized in order to accommodate short-term demand. The availability of undeveloped “greenfield” sites is vital to encourage expansion and relocation of businesses. Therefore, the City should preserve land along the expressway corridors and in the employment centers for future economic development opportunities.”

Although this property has frontage on State Highway 121, it has topographical challenges which make it difficult for future economic development potential. The property has 1,401± feet of frontage on State Highway 121, however 935± feet are adjacent to the floodplain which limits opportunity for direct access to the frontage road due to TxDOT spacing requirements for drives. The floodplain located along the entire western property boundary reduces the developable area and is planned as future city park land consistent with the Park Master Plan. The property is slightly depressed with vegetation in the floodplain which limits visibility from State Highway 121. For these reasons, staff believes that this property has limited viability for commercial development.

ISSUES:

Residential Use in a Major Corridor

Although the request is not in conformance with some elements of the Comprehensive Plan, it is consistent with other recommendations of the plan and it is an extension of residential uses on adjacent properties. The applicant is proposing PD language intended to mitigate future residences from the effects of the highway through setbacks, berming, and landscaping. Furthermore, the existing floodplain vegetation along the western property boundary serves as a natural barrier from State Highway 121.

Additionally, the applicant is proposing to require an Environmental Noise Study in order to verify that residential lots will meet the city’s performance standards for sound levels due to noise from State Highway 121. If the study determines that the sound levels exceed the performance standards, the developer would be required to provide additional screening or setbacks for sound mitigation.

Although the property is not ideal for residential development, staff believes its unique topography, with a large amount of floodplain and limited access and visibility create difficulties for future economic development.

SUMMARY:

The applicant is requesting to rezone 50.6± acres located at the southwest corner of State Highway 121 and future Ridgeview Drive from RE and RC to PD-SF-A to allow for single-family residences with modified development standards. The request is not in conformance with the Future Land Use Plan designation; however, the subject property has limited visibility and access, which makes it less suitable for commercial development. The requested zoning is in compliance with some of the adopted interim amendments to the Land Use Element of the Comprehensive Plan and is an extension of the existing neighborhoods to the south and east. Furthermore, the applicant is proposing to mitigate residences from State Highway 121 through required setbacks and landscaping. For these reasons, staff recommends approval of the rezoning request.

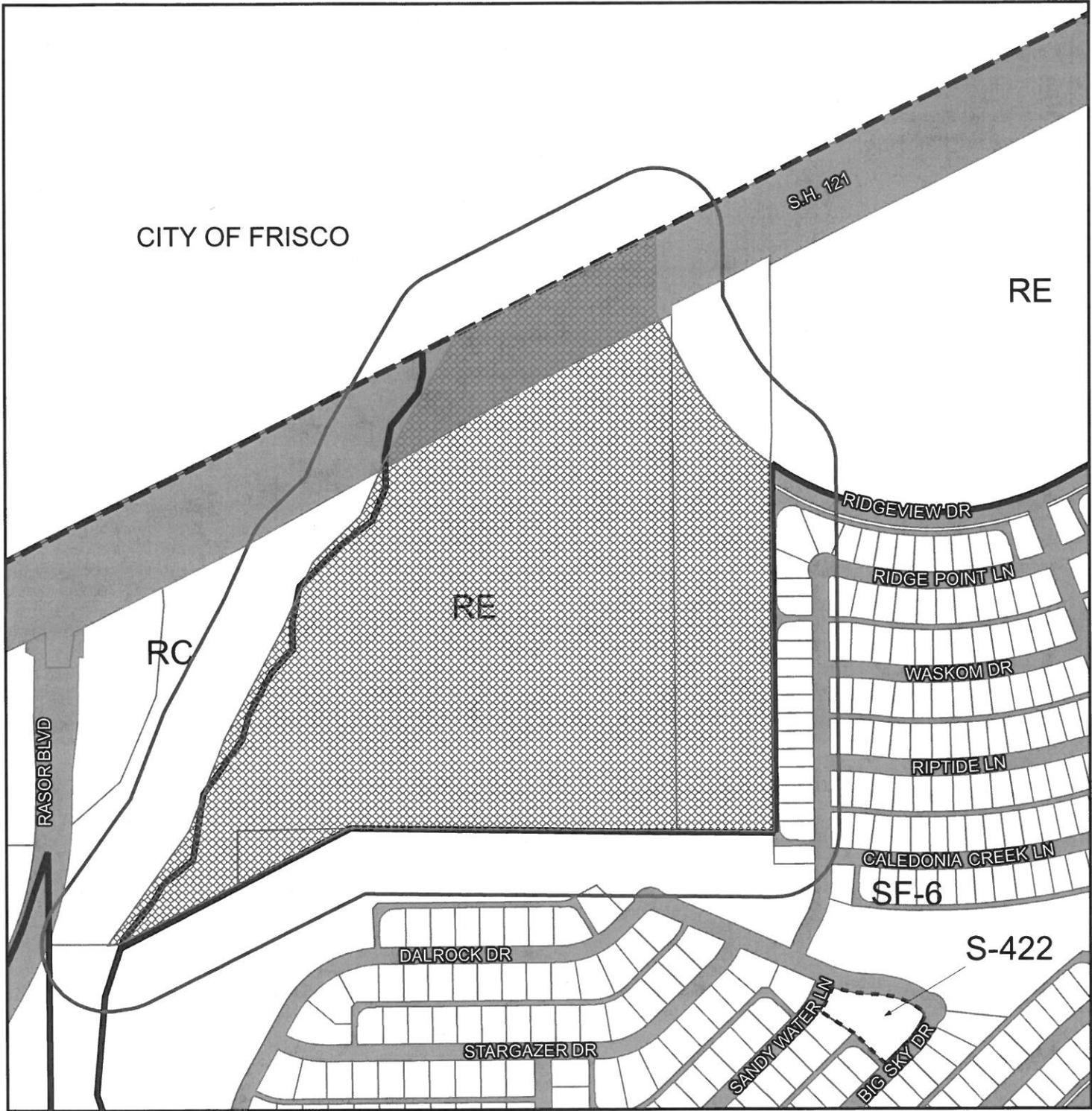
RECOMMENDATION:

Recommended for approval as follows:

Restrictions:

The permitted uses and standards shall be in accordance with the Single-Family Residence Attached (SF-A) zoning district unless otherwise specified herein.

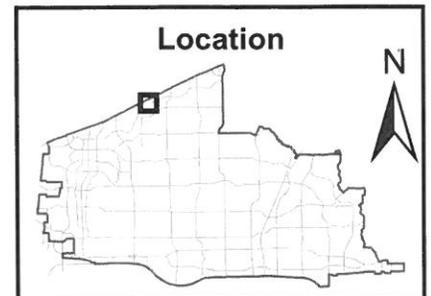
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3. Prior to preliminary site plan approval, the applicant must submit an Environmental Noise Study to verify that residential lots will be in conformance with the City of Plano's Performance Standards.
4. A minimum 6-foot ornamental iron fence to be owned and maintained by the Home Owners Association is required along the rear property line of all residential lots adjacent to State Highway 121.



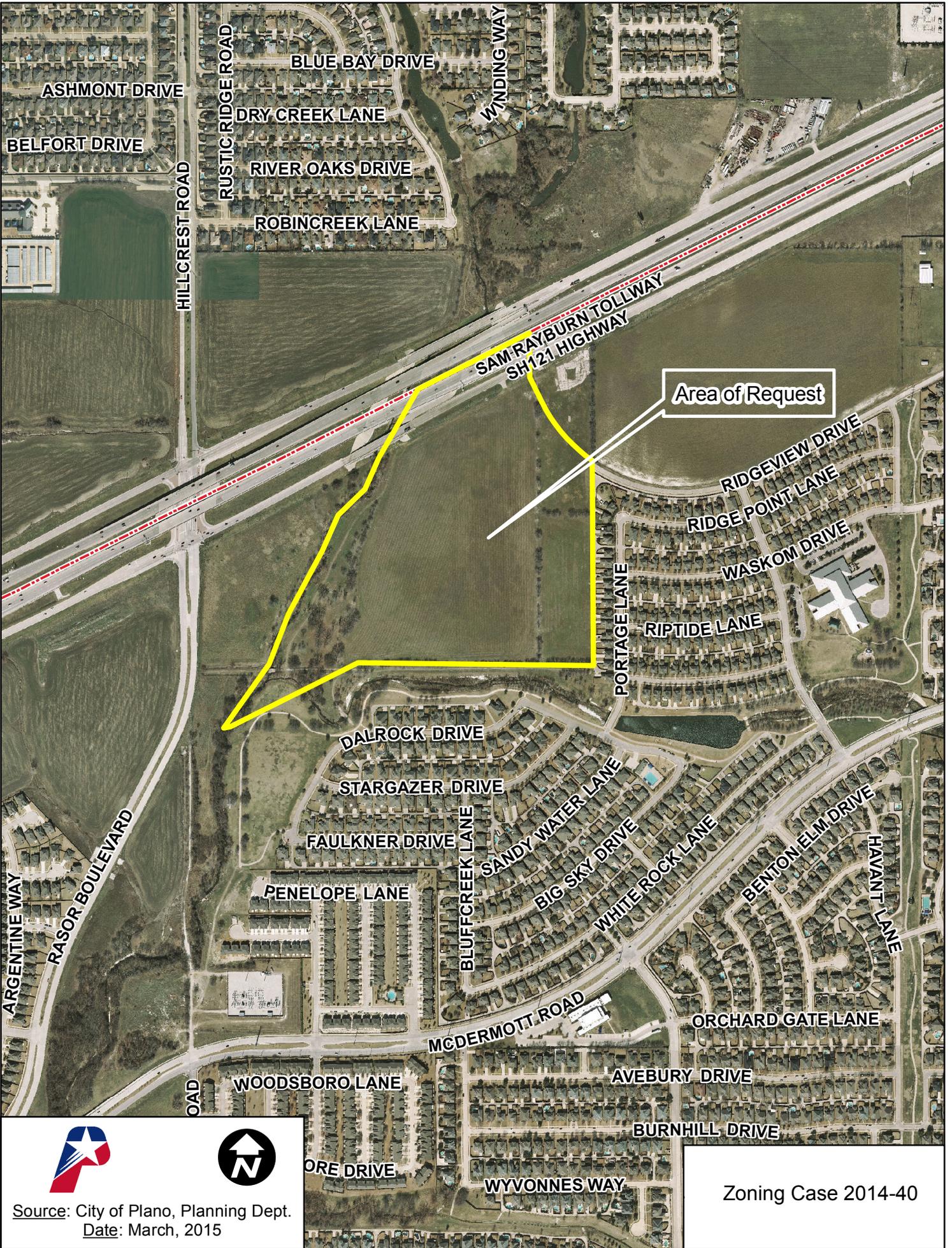
Zoning Case #: 2014-40

Existing Zoning: REGIONAL EMPLOYMENT &
REGIONAL COMMERCIAL/
STATE HIGHWAY 121 OVERLAY DISTRICT

- 200' Notification Buffer
- ▨ Subject Property
- Zoning Boundary
- - - City Limits
- - - Specific Use Permit
- Right-of-Way



Source: City of Plano Planning Department



Area of Request



Source: City of Plano, Planning Dept.
Date: March, 2015

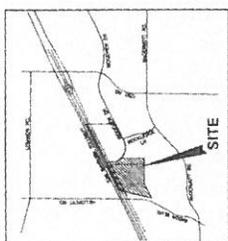
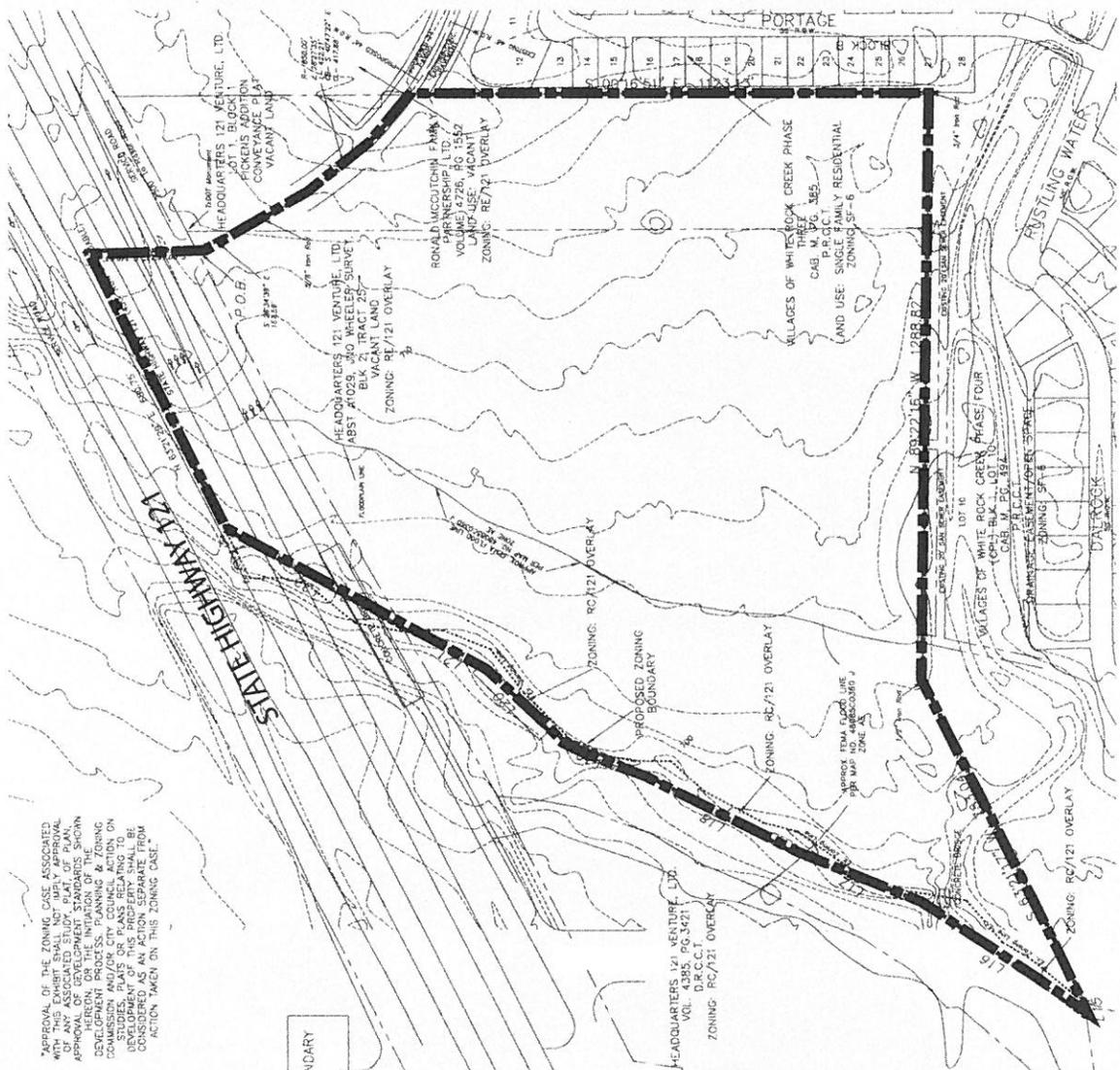
Zoning Case 2014-40



LINE	MARKING	DETAIL
1-3	S-1517-207-04	24.67'
4	N-1827-207-4	45.3'
5	N-2705-27-1	79.3'
6	N-2705-27-1	79.3'
7	N-2412-27-1	23.25'
8	N-2412-27-1	23.25'
9	N-2412-27-1	23.25'
10	N-2412-27-1	23.25'
11	N-2412-27-1	23.25'
12	N-2412-27-1	23.25'
13	N-2412-27-1	23.25'
14	N-2412-27-1	23.25'
15	N-2412-27-1	23.25'
16	N-2412-27-1	23.25'
17	N-2412-27-1	23.25'

FIELD NOTES WEST TRACT

BEING TRACTS OF LAND situated in the Johns Warehouse County, Alabama, known as Tracts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.



VICINITY MAP
NOT TO SCALE

LEGEND

- ZONING DISTRICT BOUNDARY
- PROPERTY BOUNDARY

OWNER
HEADQUARTERS 121
VENTURE, LTD.
18500 Dallas Pkwy
Dallas, TX 75248
Phone: 972.333.3094
Contact: John Appert

APPLICANT
MECAEL HOMES
5512 S. 110th
Mesa, AZ 85203
Phone: 480.948.1100
Contact: Zach Abbott, J.J. Singh

PLANNER/ENGINEER
ION DESIGN GROUP, LLC
7075 S. 110th Ave
Mesa, AZ 85203
Phone: 480.948.1100
Contact: Bryan Mahan

SURVEYOR
MADDOX SURVEYING, INC.
PO Box 2139
Fowler, AZ 85931
Phone: 927.564.4416
Contact: Brian Maddox

ZONING EXHIBIT, VILLAGES OF WHITE ROCK CREEK PHASE FOUR
ZONING CASE # 2014-10

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Zoning Case 2014-40

An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 50.6± acres of land out of the John Wheeler Survey, Abstract No. 1029, located at the southwest corner of State Highway 121 and future Ridgeview Drive in the City of Plano, Collin County, Texas, from Regional Employment and Regional Commercial to Planned Development-497-Single-Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 13th day of April, 2015, for the purpose of considering rezoning 50.6± acres of land out of the John Wheeler Survey, Abstract No. 1029, located at the southwest corner of State Highway 121 and future Ridgeview Drive in the City of Plano, Collin County, Texas, from Regional Employment and Regional Commercial to Planned Development-497-Single-Family Residence Attached; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 13th day of April, 2015; and

WHEREAS, the City Council is of the opinion and finds that such rezoning would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

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

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to rezone 50.6± acres of land out of the John Wheeler Survey, Abstract No. 1029, located at the southwest corner of State Highway 121 and future Ridgeview Drive in the City of Plano, Collin

County, Texas, from Regional Employment and Regional Commercial to Planned Development-497-Single-Family Residence Attached, said property being described in the legal description on Exhibit "A" attached hereto.

Section II. The change granted in Section I is granted subject to the following:

Restrictions:

The permitted uses and standards shall be in accordance with the Single-Family Residence Attached (SF-A) zoning district unless otherwise specified herein.

1. Residential lots adjacent to State Highway 121 must be set back a minimum of 550 feet.
2. A minimum 100-foot wide irrigated landscape edge (as measured from the front property line), to be owned and maintained by the HOA, shall be provided adjacent to State Highway 121. The landscape edge shall include a landscaped berm with a minimum height of 6 feet and a minimum slope of 4:1 consisting of trees, shrubs, groundcover, and related elements. A minimum of one 3-inch caliper shade tree and one 3-inch caliper ornamental tree (7-foot planted height) shall be placed per 50 feet of frontage.
3. Prior to preliminary site plan approval, the applicant must submit an Environmental Noise Study to verify that residential lots will be in conformance with the City of Plano's Performance Standards.
4. A minimum 6-foot ornamental iron fence to be owned and maintained by the HOA is required along the rear property line of all residential lots adjacent to State Highway 121.

Section III. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

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

Section V. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section VI. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

Section VIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 13TH DAY OF APRIL, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

Zoning Case 2014-40

BEING a tract of land situated in the John Wheeler Survey, Abstract Number 1029, Collin County, Texas and being all of a tract of land to Headquarters 121 Venture, LTD. recorded in Volume 4638, Page 3389 of the Deed Records of Collin County, Texas, a portion of Pickens Addition an addition to the City of Plano as recorded in Cabinet Q, Page 88 of the Plat Records of Collin County, Texas, and a portion of State Highway Number 121, and being more particularly described by metes and bounds as follows;

COMMENCING at a T.X.D.O.T. monument found for the northwest corner of said Pickens Addition, same being the northeast corner of said Headquarters tract, said point also lying on the southerly right-of-way line of State Highway Number 121, (a variable width R.O.W.);

THENCE South $63^{\circ}11'43''$ West along said right-of-way a distance of 46.59 feet to the point of beginning of the herein described tract;

THENCE South $26^{\circ}34'39''$ East through the interior of said Pickens Addition, Headquarters tract and along the near center of a 92 feet wide right-of-way reservation, a distance of 157.59 feet to a 5/8-inch iron rod found at the beginning of a curve to the left;

THENCE with said curve to the left and along said near center having a radius of 850.00 feet, a central angle of $28^{\circ}27'35''$, an arc length of 422.21 feet, a chord bearing of South $40^{\circ}47'22''$ East, a distance of 417.88 feet to a point on the east line of said Pickens Addition;

THENCE South $00^{\circ}16'51''$ East along the common line of said Pickens Addition, said McCutchin tract, and Villages of White Rock Creek Phase Three, an addition to the City of Plano as recorded in Cabinet M, Page 385 of said Plat Records, a distance of 1,123.13 to a 3/4-inch iron rod found at the southeast corner of said Pickens Addition;

THENCE North $89^{\circ}22'16''$ West along the south line of said Pickens Addition and the south line of said Headquarters tract, a distance of 1,288.82 feet to a 1/2-inch iron rod found;

THENCE South $63^{\circ}21'17''$ West along the south line of said Headquarters tract, a distance of 783.04 feet to a point;

THENCE through the interior of said Headquarters tract the following courses and distances;

South $81^{\circ}37'49''$ West a distance of 34.67 feet to a point for corner;

North $35^{\circ}23'50''$ East a distance of 429.76 feet to a point for corner;

North 20°58'52" East a distance of 296.38 feet to a point for corner;

North 28°07'14" East a distance of 388.31 feet to a point for corner;

North 24°12'12" East a distance of 215.26 feet to a point for corner;

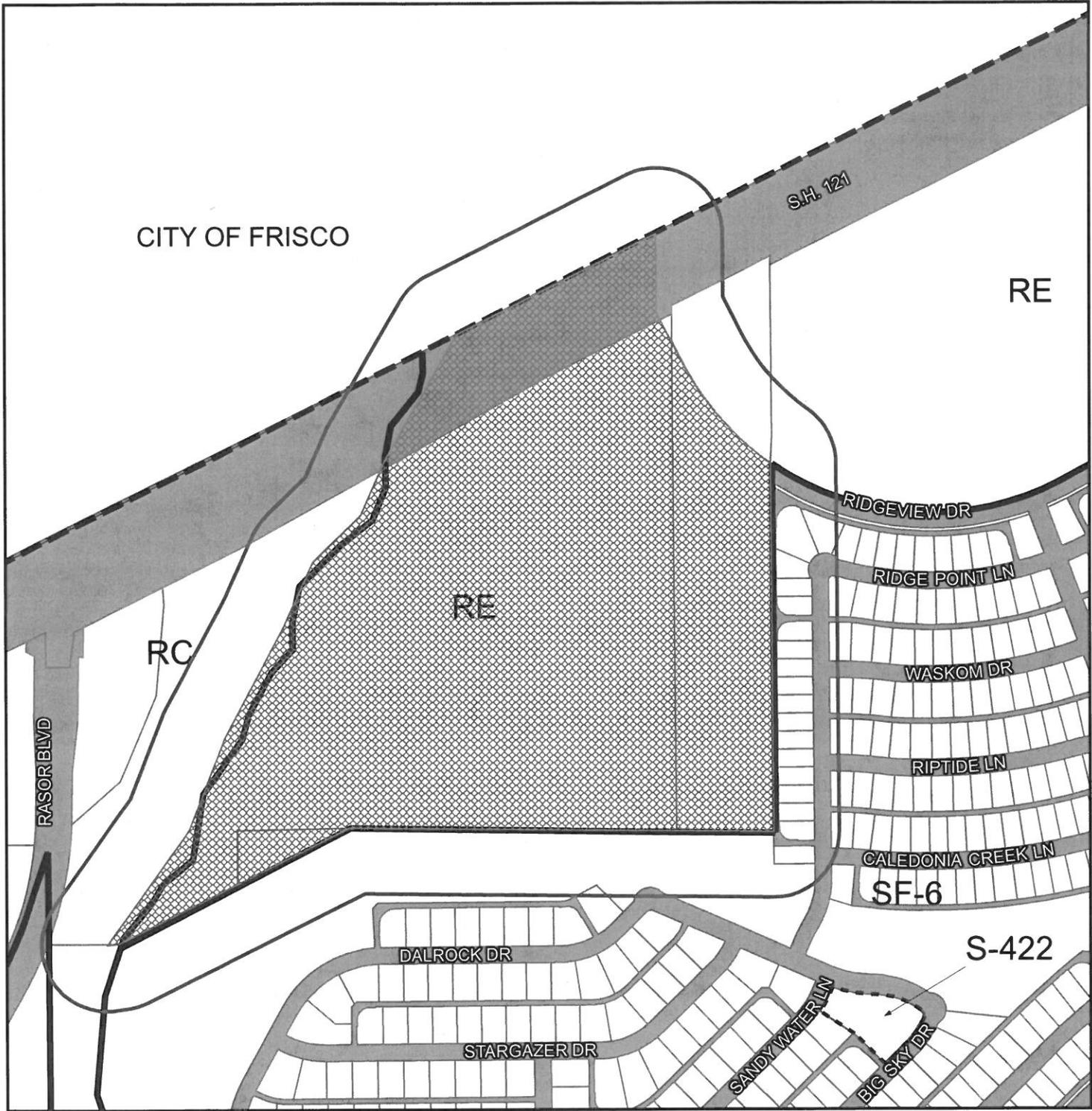
North 45°32'21" East a distance of 204.11 feet to a point for corner;

North 23°55'01" East a distance of 186.75 feet to a point for corner;

THENCE North 29°47'45" East continuing through the interior of said Headquarters tract a distance of 435.85 feet to a point near the developed center of said State Highway;

THENCE North 63°21'29" East along said near developed center of said State Highway, a distance of 680.75 feet to a point;

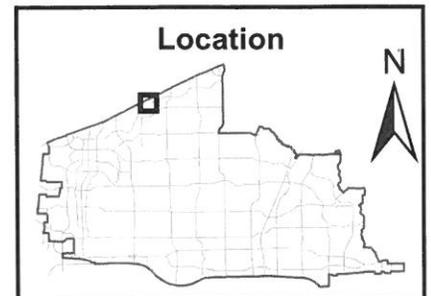
THENCE South 00°16'23" East a distance of 240.53 feet to the POINT OF BEGINNING and CONTAINING 2,203,609 square feet, or 50.588 acres of land.



Zoning Case #: 2014-40

Existing Zoning: REGIONAL EMPLOYMENT &
REGIONAL COMMERCIAL/
STATE HIGHWAY 121 OVERLAY DISTRICT

- 200' Notification Buffer
- ▨ Subject Property
- Zoning Boundary
- - - City Limits
- - - Specific Use Permit
- Right-of-Way



Source: City of Plano Planning Department



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:		April 13, 2015		
Department:		Legal		
Department Head		Paige Mims		
Agenda Coordinator (include phone #): Betsy Allen # 7545				
CAPTION				
Consideration of a request for reconsideration of the appeal of Zoning Case 2014-47 (Request for a Specific Use Permit for Mid-Rise Residential on 2.4± acres located at the northeast corner of Spring Creek Parkway and Headquarters Drive) pursuant to Resolution No. 2002-9-23(R).				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2014-15	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): N/A				
COMMENTS: This item has no fiscal impact. STRATEGIC PLAN GOAL: Reconsidering an appeal of a Zoning Case relates to the City's goals of Great Neighborhoods - 1 st Choice to Live and Exciting Urban Centers - Designation for Residents and Guests.				
SUMMARY OF ITEM				
Council Member Davidson requested reconsideration of a prior council action pursuant to Resolution No. 2002-9-23(R). This item is to discuss and vote on whether the City Council should reconsider the appeal of Zoning Case 2014-47 pursuant to Council Member Davidson's request.				
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:		4/13/15		
Department:		City Manager		
Department Head		P. Jarrell - Special Projects		
Agenda Coordinator (include phone #): T. Stuckey - 7156				
CAPTION				
<p>A Resolution of the City of Plano, Texas, approving the terms and conditions of a lease agreement between the City of Plano and SWC Tollway and 121, LLC for the lease of city-owned property located on the north side of Headquarters Drive and east of Leadership Drive, upon which is located a city-owned elevated water tank intended to be removed; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2014-15 to 2034-35	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	10	190	200
BALANCE	0	10	190	200
FUND(S) GENERAL FUND				
<p>COMMENTS: Approval of this item will result in \$10 in new land lease revenues for 2014-15, and \$10 of lease revenue per future fiscal year. This land lease agreement with SWC Tollway and 121, LLC is for the city-owned water tank property located at Lot 2, Block B, Legacy West. Total lease revenue for 2014-15 is \$10. The future annual revenue from this lease agreement is \$10 per year for nineteen additional years, or \$190.</p> <p>STRATEGIC PLAN GOAL: Land Lease Agreements relate to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
Please see attached memos.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memos				
Resolution Lease Agreement				

Date: March 31, 2015

To: Bruce D. Glasscock, City Manager
Frank F. Turner, Deputy City Manager

From: Phyllis M. Jarrell, Special Projects Director

Subject: Lease of Water Tank Property in Legacy West

JC Penney and its development partners have requested the city to consider removal of the water tank located on the north side of Headquarters Drive across from the Penney campus and to allow the property to be included in the overall development plan for the Legacy West project. The tank, which sits on a 1+ acre tract of land owned by the City of Plano, is considered to be a detriment in attracting corporations and other users to the development. A separate memo from Gerald Cosgrove, Director of Public Works, summarizes an engineering consultant's recommendation on removal of the tank and impacts on the water delivery system in the area. The city also has communications antennas mounted on the water tank, and an emergency warning siren sits on the property.

Staff is proposing that the underlying property be leased to the development group to be used as public open space. Unlike an outright sale of the property, a lease insures that the land can be used in a manner compatible with adjacent development and remain under the control of the development partners. The terms of the lease are:

- An initial lease term of 20 years, with the option of 2 additional 10 year terms, for \$10 per year and the lessee's creation and maintenance of an open space accessible to the public.
- The lessee is to remove the water tank and associated infrastructure, including the concrete foundation. The lessee retains any salvage value of the water tank.
- The lessee must reimburse the city for costs associated with relocation of its communications antennas. There are alternative locations for the antennas on city-owned communications towers.
- If required, the lessee must provide a new location for an emergency warning siren in the Legacy West area and reimburse the city for relocation costs.
- The removal of the water tank and the construction of open space improvements on the property must be completed within 12 months of commencement of construction.
- The property must be maintained as mowed open space and may be improved with landscaping, fountains, walkways, etc. No buildings, parking or drives may be constructed on the property. The lessee may use the property for performances, art or other displays, fairs and markets, and other events.

- At a future date, the lessee would have the option to purchase the property if it is to be incorporated into an adjacent development as part of an economic development reinvestment zone approved by City Council.

Please let me know if you have any questions.

XC: Gerald Cosgrove, Director of Public Works



Memorandum

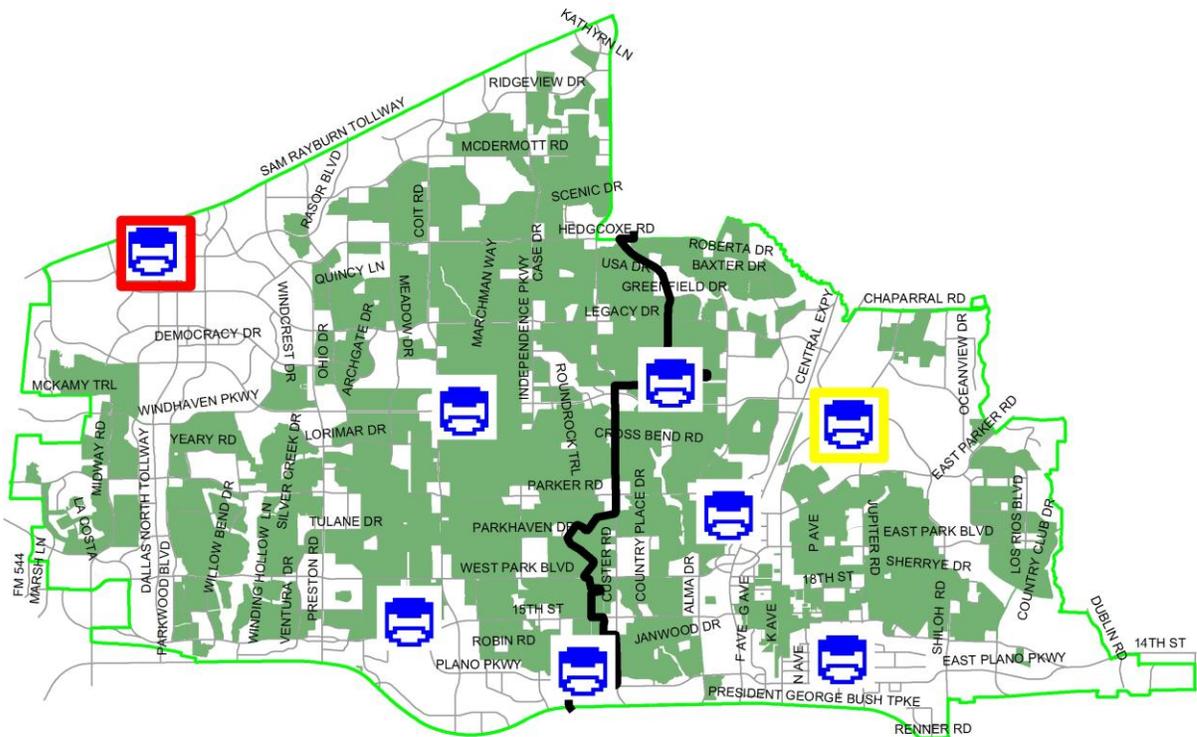
Date: March 26, 2015
To: Bruce D. Glasscock, City Manager
From: Gerald P. Cosgrove, P.E., Director of Public Works
Subject: Abandonment of the White Rock Elevated Tank

The City of Plano hired Birkhoff, Hendricks and Carter LLP to evaluate the impacts of abandoning the White Rock Tank. They concluded that we can abandon the tank without detrimental effect to providing water service to the 875 service area. The 875 service area generally serves Plano west of Custer Road. The 875 service area has sufficient elevated storage to meet TCEQ requirements today. If the area grows significantly, we made need to get an exception from TCEQ. This is allowed under their rules and regulations. We have sufficient ground & elevated storage, emergency generation and pump capacity to meet all future needs. Many cities of our size and larger do not meet the elevated storage capacity requirement and have received an exception. Dallas only has 9 elevated tanks and Fort Worth has 12 tanks and both of them do not meet the 100 gallon per connection elevated storage requirement.

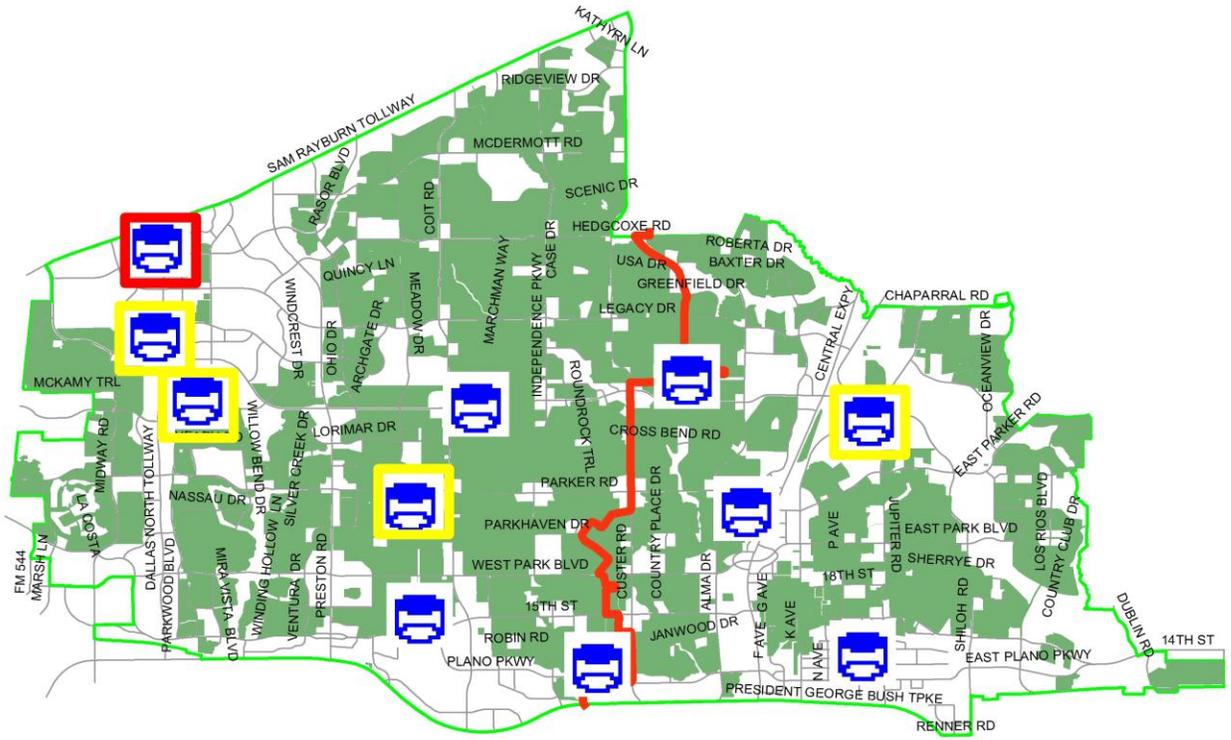
The White Rock Tank was constructed in 1985 when the Legacy development was started. It was located far west of the developed portion of Plano. Attached are maps showing Plano residential developments as of 1980, 1990 and today. When the White Rock Tank was constructed, the nearest elevated tank was the Coit Tank on Spring Creek Parkway, east of Coit Road. Since that time, three elevated tanks have been added to the west side of Plano. The White Rock Tank does not work well with the other tanks on the west side. In fact, the White Rock Tank has not been used since September 19, 2010. If we took a different tank out of service, it would impact our ability to supply water to the west side of Plano.

In conclusion, the removal of the White Rock Elevated Tank will not be detrimental to the City of Plano's ability to supply water to the west side of Plano today and into the future.

Plano Residential Development 1990



Plano Residential Development 2015



A Resolution of the City of Plano, Texas, approving the terms and conditions of a lease agreement between the City of Plano and SWC Tollway and 121, LLC for the lease of city-owned property located on the north side of Headquarters Drive and east of Leadership Drive, upon which is located a city-owned elevated water tank intended to be removed; 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 lease agreement by and between the City of Plano and SWC Tollway and 121, LLC for the lease of property located on the north side of Headquarters Drive and east of Leadership Drive and upon which is located a city-owned elevated water tank intended to be removed, a substantial copy of which is attached hereto as Exhibit "A" and is incorporated herein by reference (hereinafter called "Lease Agreement") and;

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

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

Section I. The terms and conditions of the Lease 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 Lease Agreement between SWC Tollway and 121, LLC and the City 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 Lease Agreement.

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

DULY PASSED AND APPROVED THIS THE 13th DAY OF APRIL, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

maintain or restore, during the terms of this Lease, any improvements on the Leased Premises.

Section 1.05. EARLY TERMINATION. Either party shall have the right to terminate this Lease in the event that LESSEE has not commenced construction of the Improvements as defined herein on or prior to the twelfth (12th) month following the Effective Date of this Lease, subject to force majeure. At such time as LESSEE commences construction of the Improvements it shall thereafter proceed with diligence and reasonable efforts to cause construction to be completed within twelve (12) months thereafter, force majeure excepted.

II. CONSIDERATION

Section 2.01. CONSIDERATION DURING THE TERM. Consideration for the term of this Lease shall be **TEN DOLLARS (\$10.00)** per year and other good and valuable consideration, including but not limited to the creation of a Public Space (as defined below) for the benefit of Plano citizens and citizens of surrounding municipalities by LESSEE. All monetary amounts due shall be payable to the City of Plano, Attention: Accounting, Post Office Box 860358, Plano, Collin County, Texas, 75086-0358 and shall be due on the Effective Date of this Lease and annually each year thereafter on the anniversary of the Effective Date. At its option, LESSEE may, without further discount, prepay the consideration for the Initial Term, as well as any extended term of this Lease which may subsequently become due under the terms of this Lease. In the event of an early termination of this Lease, LESSOR will reimburse LESSEE the pro rata portion of any prepaid consideration for the remaining Lease term.

III. USAGE OF THE LEASED PREMISES

Section 3.01. USE OF LEASED PREMISES. It is the intent of the parties that this Lease shall be to remove an existing water tower from the Leased Premises and to maintain and operate the Leased Premises as open space, green space, park/amenity space or in another similar manner determined by LESSEE (each such use being a "Public Space") designed to improve the beautification of the Leased Premises (hereinafter referred to as "Improvements"). All Improvements shall be undertaken by, and be the responsibility of, LESSEE, and under no circumstances shall LESSOR have any responsibility to prepare, arrange or construct any Improvements on the Leased Premises. The Leased Premises shall be used only for the following purposes:

- (a) To completely remove the existing water tower and the associated infrastructure thereon by LESSEE, the salvage value of which is to be retained by LESSEE, and
- (b) As mowed open space or space improved in a manner designed to enhance the beautification of the space and make it usable open space for residents or visitors, such as with landscaping, fountains, walkways or pathways, sculptures, other unenclosed structures constituting open space amenities, or other similar uses or basic open space uses determined by LESSEE. In no event shall LESSEE construct buildings

intended for occupancy, parking spaces or parking facilities or drives intended for vehicular use, on the Leased Premises.

Under no circumstance shall LESSEE's Improvements be utilized to derive revenue from the Leased Premises. However, LESSEE may, by separate agreement, recover reimbursements for operating, maintenance or other costs from one or more property owners or users in proximity to the Leased Premises so long as LESSEE does not seek to charge or levy an admission or use fee on members of the general public wishing to enter upon or utilize the Leased Premises.

Section 3.02. STATEMENT OF PUBLIC BENEFIT. A primary purpose of this Lease is to provide an aesthetically pleasing environment for citizens of LESSOR and those who work within its corporate limits. The Leased Premises shall be accessible by the public for passive recreational use; provided, however, Lessee may impose normal and customary rules of conduct and use restrictions as may be appropriate to preserve the Public Space use on the Leased Premises. LESSEE agrees to provide LESSOR, during the term of this Lease, updates, as may be reasonably requested by LESSOR from time to time, on any Improvement on the Leased Premises. In order to accomplish the public benefit identified herein, LESSEE agrees to begin the removal of the water tower present on the Leased Premises and begin other Improvement to the Leased Premises as provided herein.

Section 3.03. USE OF THE IMPROVEMENTS BY LESSOR. After the completion of the Improvements, LESSEE will provide open access to the Leased Premises for LESSOR's citizens and will not restrict access thereto, except as may be required for public safety or to preserve or maintain the use and public benefit of the Leased Premises; provided, however, LESSEE may impose normal and customary operating hours compatible with adjacent uses and restrict access during "closed" hours. Except in cases of emergency, in the event LESSEE deems it necessary to otherwise restrict access to the Leased Premises, LESSEE shall obtain the prior written consent of LESSOR, which consent shall not be unreasonably withheld.

Section 3.04. INGRESS AND EGRESS. LESSEE shall have the right to obtain ingress and egress by means of all existing roadways to be used in common with others that have rights of passage thereon. LESSEE and LESSOR hereby agree that LESSOR is under no obligation to construct any roadways, driveways, or drainage systems to provide ingress or egress to LESSEE.

Section 3.05. SUBLEASE. LESSEE shall have no right to sublease the Leased Premises without obtaining prior written permission from LESSOR. LESSOR shall have no obligation to approve any proposed sublease. LESSEE may grant rights to others to use all or portions of the Leased Premises for purposes consistent with this Lease, including musical or other performances, art or other displays, fairs, markets and other such events.

IV. UTILITIES

Section 4.01. UTILITIES. LESSEE agrees to secure and maintain all utilities required for the operation of the Leased Premises and any Improvements, if any, including but not limited to the telephone, gas (if desired), electricity, and water used in

or on the Leased Premises and for the removal of trash or debris therefrom. LESSEE's obligation to secure and maintain utilities extends to ensuring that any utilities which need be disconnected, temporarily or permanently, during the course of any construction on the Leased Premises, including that of the Improvements, are so disconnected and subsequently reconnected as appropriate. LESSOR shall in no way be responsible for utilities for the Leased Premises, nor shall LESSOR be responsible for utility connections; however, said connections shall in all respects conform to the regulations and ordinances of the City of Plano and the State of Texas. All the utilities to the Leased Premises shall be installed underground (other than above ground elements such as transformers, junction boxes, control apparatus, etc).

V. INSPECTIONS, REPAIRS AND ALTERATIONS

Section 5.01. REPAIRS BY LESSEE. LESSEE agrees, at its own expense, to maintain the Leased Premises and Improvements in a sanitary, safe and clean condition during the term of this Lease and any extension thereof. LESSEE shall be solely responsible for, and shall provide at its own expense, janitorial, landscaping or porter (if any) services for the Leased Premises, as may be required, and maintain in good operating condition and repair the Leased Premises and any and all of the future permanent Improvements, if any, including but not limited to any and all electrical, plumbing and mechanical systems, external walkways, and the lawn and grounds. Upon the expiration or other termination of the term of this Lease, the Leased Premises shall be surrendered to LESSOR, together with all improvements at the end of the term or any extension thereof, in good condition, normal wear and tear and casualty excepted.

Section 5.02. LESSOR'S RIGHT TO INSPECT AND OPTION TO MAKE REPAIRS. LESSEE agrees that LESSOR may enter upon the Leased Premises at any time during the term of this Lease or any extension thereof during business hours and upon reasonable prior notice for the purpose of inspection. LESSOR shall have the right and privilege, through its representatives, agents and officials, to make inspections of the Leased Premises and Improvements and thereafter to make recommendations to LESSEE of any maintenance or repairs that accord with the provisions of Section 5.01 above. However, LESSOR has no duty or obligation to inspect the Leased Premises. LESSEE agrees and covenants that it shall commence such maintenance or repairs within forty-five (45) days) from the date that such recommendations are made unless LESSEE disputes, in good faith, whether or not maintenance or repairs are required. Such maintenance or repairs shall be made in an expeditious and conscientious manner. In the event that LESSEE shall fail to commence such recommended and undisputed maintenance or repairs within the time provided, it is understood and agreed that LESSOR may, within its discretion, after fifteen (15) days prior written notice of its intent to do so, make such maintenance or repairs as it deems necessary for and on behalf of LESSEE; and in such event, the cost of such maintenance or repairs shall be paid by LESSEE within thirty (30) days following its receipt of the billing for said maintenance or repairs. LESSOR has no duty or obligation to maintain or make repairs to the Leased Premises.

Section 5.03 DAMAGES. Should LESSOR undertake any repairs in accordance with Section 5.02, LESSEE hereby waives any claim for damages, consequential or otherwise, as a result therefrom, except to the extent of claims and damages arising from the LESSOR's negligence. The foregoing shall in no way affect or alter the primary

obligations of the LESSEE as set forth in this Lease and shall not impose or be construed to impose upon LESSOR any obligations to maintain the Leased Premises, unless specifically stated otherwise herein.

Section 5.04. ALTERATION AND REMODELING. Any exterior or structural changes to erected Improvements desired by LESSEE shall require the prior written consent of LESSOR, which consent shall not be unreasonably withheld. No consent shall be required for changes to mowed open space, landscaping, lighting, open space amenities or other non-building improvements.

Section 5.05. COMPLIANCE WITH GOVERNMENTAL REGULATIONS. LESSEE shall fully comply with all of the ordinances of the City of Plano applicable to the Leased Premises and any Improvements on the Leased Premises, and in connection therewith promptly fulfill all orders and requirements applicable to LESSEE's occupation of and operation upon the Leased Premises as imposed by the Code Enforcement, Health, Police and other departments for the correction, prevention and abatement of nuisances or hazards which may exist by reason of the condition of the premises or improvements on the Leased Premises. LESSEE covenants also that it will comply with all state and federal laws and regulations in its use and occupation of the Leased Premises.

Section 5.06. DISPUTE RESOLUTION. In the event of a dispute under Section 5.02 above, the LESSOR and LESSEE will, within thirty (30) days of written request by either party, appoint a mutually agreeable licensed architect or engineer to make a final and binding determination as to the issue in dispute. In the event the LESSOR and LESSEE cannot mutually agree on a licensed architect or engineer, each will select a licensed architect or engineer who will together agree upon a third licensed architect. This panel of three architects will, by at least a two-thirds (2/3) vote, make a final and binding decision as to the dispute. None of the architects shall be agents, officers or employees of either the LESSOR or LESSEE. Any costs or fees incurred under this section shall be shared equally by both parties.

VI. IMPROVEMENTS

Section 6.01. INITIAL CONSTRUCTION OF IMPROVEMENTS.

- (a) LESSEE intends to and covenants to commence construction of the Improvements to the Leased Premises including, but not limited to, the complete removal or the water tower and associated above-ground infrastructure on the Leased Premises in accordance to the specifications and plan approval of the City of Plano within the twelve (12) months following the Effective Date of this Lease, which shall be constructed and substantially completed within twelve (12) months following the commencement of construction, subject to force majeure. These Improvements shall include the complete demolition and removal of all existing water-tower improvements, including the foundation and appurtenances, and utilities, save utilities which may be reused or repurposed during this initial term of construction. These Improvements shall also include the grading of the Leased Premises and the

reestablishment of turf except that portions of the Leased Premises may be otherwise improved in accordance with the terms of this Lease.

- (b) For any vertical enclosed building improvements, if any (but not for the demolition work or any landscaping or other open space, green space or amenity work):
 - (i) Plans and specifications for such Improvements shall be prepared by state-licensed architects or engineers and shall comply with all applicable federal, state or municipal laws, ordinances, rules, regulations and requirements;
 - (ii) Plans and specifications for such Improvements shall be submitted to the LESSOR's Director of Engineering (hereinafter referred to as the "Director") or his designee, and no construction shall begin on such Improvements until said plans and specifications are approved by the Director or his designee, which approval shall not be unreasonably withheld or delayed, so long as the design of such improvements are compatible with the useage of the Leased Premises;
 - (iii) Prior to commencement of construction, LESSEE shall furnish to LESSOR a preliminary budget setting forth the estimated construction costs for any Improvements and a statement indicating that LESSEE reasonably anticipates being able to cover such expenses.
- (c) LESSEE shall require its general contractor to furnish a bond by surety companies authorized to do business in the State of Texas, which bond shall be in the amount of the construction contract and shall contain the form as is customarily required by LESSOR in projects constructed on LESSOR's properties on a nature to the Improvements. LESSEE shall secure a payment and performance bond from its general contractor in the full amount of the budgeted costs of construction.
- (d) LESSEE shall require the following language in all construction contracts for any Improvements:

"CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY OF PLANO AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEY FEES WHICH MAY ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGE TO, OR LOSS OF USE OF ANY PROPERTY OCCASIONED BY ERROR, OMISSION, OR NEGLIGENT ACT OF CONTRACTOR, ITS OFFICERS,

AGENTS, EMPLOYEES, SUBCONTRACTORS, INVITEES OR ANY OTHER PERSON, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL AT HIS OR HER OWN COST AND EXPENSE DEFEND AND PROTECT THE CITY OF PLANO FROM ANY AND ALL SUCH CLAIMS AND DEMANDS, SUCH INDEMNITY SHALL APPLY WHETHER THE CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF PLANO, ITS OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY OF PLANO FROM THE CONSEQUENCES OF THE CITY OF PLANO'S OWN NEGLIGENCE, WHERE THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE. IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR OR ANY SUBCONTRACTOR UNDER WORKERS' COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS."

- (e) LESSEE shall require the Contractors who are to perform the Improvements to furnish insurance in such amounts as specified below and include in all construction contracts for the Improvements the following language:

Prior to commencement of any activity permitted on City of Plano's property, Contractor shall purchase and maintain during the term of this Lease, at its own expense, hereinafter stipulated minimum insurance satisfactory to the City of Plano's Risk Manager. Contractor shall not allow any subcontractor to commence work until all similar insurance of the subcontractor has been obtained. All insurance policies provided under this Lease shall be written on an "occurrence" basis.

Workers' Compensation, statutory, as required by law, and Employer's Liability Insurance of not less than **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** for each accident, **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** disease for each employee, **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)** disease as policy limit.

Commercial General Liability Insurance, including Independent Contractor's Liability, Products/Completed Operations and Contractual Liability, covering, but not limited to the indemnification provisions of this Lease, fully insuring Contractor's liability for injury to or death of employees of the City of Plano and third parties, extended to include personal injury liability coverage, and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of **ONE MILLION DOLLARS (\$1,000,000.00)** per occurrence.

Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage limit of ONE MILLION DOLLARS (\$1,000,000.00).

"Umbrella" Excess Liability Insurance, insuring the Contractor for an amount not less than **ONE MILLION DOLLARS (\$1,000,000.00)** combined single limit bodily injury and property damage liability insurance, including death, in excess of the primary coverage required herein above.

Builder's Risk. The LESSEE shall purchase a completed value builder's risk policy for the duration of this project.

- (f) For all Improvements, the following shall apply:
- (i) LESSEE shall, at its expense, make arrangements for the installation, disconnection or connection of whatever utilities it may desire or need in connection with the use of Improvements or additions made by the LESSEE to the Leased Premises. LESSEE acknowledges that LESSOR is not responsible for providing utility service to LESSEE. Any construction performed by LESSEE within any utility easement area must meet utility company and City of Plano criteria for design and construction in such easement area. Any and all connections to water and sewer lines must occur at the existing utility connection points, unless otherwise agreed to in writing by LESSOR. LESSOR will allow new easements as required for the Improvements contemplated by this Lease. All costs incurred with any relocation of existing utility lines or facilities or installation of additional utility lines or facilities shall be entirely at LESSEE's expense whether on or off the Leased Premises. LESSEE shall also provide LESSOR legal descriptions for any required utility easements;
 - (ii) LESSEE shall be responsible for any costs LESSOR incurs to relocate or replace any public communications or emergency warning equipment currently located on or adjacent to the Leased Premises as may become necessary for LESSEE to construct the various Improvements contemplated by this Lease. LESSEE agrees and covenants that it shall reimburse LESSOR for any

such costs incurred by LESSOR within forty-five (45) days of receiving documentation from LESSOR that such costs have been incurred, unless LESSEE disputes, in good faith, whether or not such costs are required.

- (g) It is agreed by all parties to this Lease that the insurance required under this Lease, including that required above, shall:
- (i) Be written with the City of Plano as an additional insured on all applicable policies. City of Plano is self-insured and this self-insurance program shall not be deemed or considered "other insurance".
 - (ii) Provide for thirty (30) days notice of cancellation to the City of Plano for nonpayment of premium, material change or any other cause.
 - (iii) Waive subrogation rights for loss or damage so that insurers have no right to recovery or subrogation against the City of Plano, it being the intention that the required insurance policies shall protect all parties to the Lease and be primary coverage for all losses covered by the policies.
 - (iv) Provide a Certificate of Insurance evidencing the required coverages to:

City of Plano
Attention: Risk Manager
Post Office Box 860358
Plano, Texas 75086-0358

Section 6.02. CONSTRUCTION OF ADDITIONAL IMPROVEMENTS. If, after the removal of the water tower, LESSEE maintains the Leased Premises as mowed open space, LESSEE shall construct and install any proposed open space amenities, if any, on the Leased Premises within six (6) months of LESSEE obtaining or receiving a building permit to develop any property within "Legacy West" which is North of Headquarters Drive and is adjacent to or within 200 feet of the Leased Premises. Such construction shall be conducted in compliance with paragraph 6.01(b)-(g).

Section 6.03. COST OF IMPROVEMENTS. The complete cost of developing all necessary plans and specifications and the cost of the construction of any Improvements themselves shall be borne solely by LESSEE and shall be at no expense to LESSOR whatsoever.

Section 6.04. OWNERSHIP OF IMPROVEMENTS. It is expressly agreed and understood that all alterations and Improvements on the Leased Premises at the commencement of the term, or those that may be erected or installed during the term, shall, at the expiration or sooner termination of this Lease, become part of the Leased Premises and the property of the City of Plano.

Section 6.05 LIENS. LESSEE shall discharge all obligations to contractors, subcontractors, materialmen, workmen and/or other persons for all work performed and for materials furnished for or on account of LESSEE as such obligations mature. LESSEE expressly agrees that it will neither give nor grant, nor purport to give or grant any mechanic's or materialmen's lien upon the LESSOR's property or upon any improvements thereupon in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party should be entitled, as a matter of law, to a mechanic's or materialmen's lien against the LESSOR's property or improvements thereon, and LESSEE will discharge, contest or "bond around" any such lien within thirty (30) days after notice of filing thereof.

Section 6.06. MISCELLANEOUS.

- (a) LESSEE agrees that all work to be performed by it or its contractors, including all workmanship and materials, shall be of first-class quality and shall be performed in full compliance and in accordance with all federal, state and local laws, ordinances, codes and regulations, and such work shall be subject to LESSOR inspection during the performance thereof and after it is completed. However, the LESSOR has no duty to inspect.
- (b) LESSEE shall repair any damage to any offsite improvements of Lessor caused by or resulting from any activities or construction by LESSEE, or LESSEE's agents, employees and contractors.

Section 6.07. ADDITIONAL IMPROVEMENTS; REPAIRS AND MAINTENANCE; ALTERATIONS. LESSEE shall have the right to construct additional or replacement Improvements on the Leased Premises in compliance with paragraph 6.01(b)-(g) so long as the additional or replacement Improvements are of like kind and nature as the Improvements or are consistent with the usage of the Leased Premises. LESSEE shall have the right to alter the Improvements in connection with the repair, maintenance or improvement thereof without the prior written consent of LESSOR, so long as such alterations do not involve structural modifications to the foundation or exterior, if any, of the Improvements.

**VII.
INSURANCE AND INDEMNITY**

Section 7.01. INDEMNITY.

- (a) LESSEE does hereby agree to waive all claims, release, indemnify and hold harmless LESSOR and all of its officers, officials, agents, and employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property, arising out of or in connection with this Lease, or any and all activity or use pursuant to this Lease, whether on, about or off the Leased Premises, occasioned by error, omission, or negligent act of LESSEE, its officers, agents, employees, invitees, or other person for whom it is legally liable, with regard to the

performance of this Lease, other than claims arising out of the City's gross negligence.

- (b) In addition, LESSEE does hereby agree to waive all claims, release, indemnify, defend and hold harmless LESSOR and all of its officers, officials, agents, and employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees, including all expenses of litigation or injury to or death of any LESSEE employee or volunteer or for loss of, damage to, or loss of use of any property of any LESSEE employee or volunteer, arising out of or in connection with the performance of this Lease, other than claims arising out of the City's gross negligence. This indemnification by LESSEE shall include, but not be limited to, liability arising from workers' compensation and general liability claims.

Section 7.02. INSURANCE. Prior to the commencement of any activity permitted on the Leased Premises, LESSEE shall purchase and maintain during the term of this Lease and any extensions thereof, at its own expense, the hereinafter stipulated additional minimum insurance satisfactory to the LESSOR's Risk Manager.

- (a) Workers' Compensation: Statutory, as required by law, and Employer's Liability Insurance of not less than **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** for each accident, **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** disease for each employee **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)** disease as policy limit.
- (b) General Liability: **ONE MILLION DOLLARS (\$1,000,000.00)** per occurrence for bodily injury, including death, personal injury and property damage, and fully insuring and covering the indemnification provisions of this Lease. The policy shall have no standard coverages removed by exclusion. The policy shall include coverage for premises operation, independent contractors, products/completed operations, personal and advertising injury, contractual liability, fire legal liability and medical payments expense. A **ONE HUNDRED THOUSAND DOLLAR (\$100,000.00)** limit for fire legal liability is required.
- (c) Fire and Extended Coverage Insurance covering the improvements presently existing on, or hereafter created on the Leased Premises or off the Leased Premises in accordance with this Lease, against loss or damage by fire, windstorm, hail, tornado, explosion, water, lightning, rain, sleet, snow, sprinkler leakage, riots, civil commotion, vandalism, malicious mischief and aircraft/vehicle damage. This type of insurance shall be carried with a company of companies satisfactory to LESSOR and in an amount of coverage not less than replacement cost of the property dedicated to or necessary to performance of LESSEE's obligations under this Lease, and the policy or policies of insurance shall be issued to the LESSEE and LESSOR, as their interests may appear.
- (d) The City of Plano shall be named as an additional insured on applicable policies. The City of Plano is self-insured and this self insurance program

shall not be deemed or considered "other insurance". The policy shall contain the appropriate additional insured endorsement signed by a person authorized by that insurer to bind coverage on its behalf.

- (e) The insurance policies shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to LESSOR.
- (f) The insurance policies shall be written on an "occurrence" basis.
- (g) The insurance policies shall waive subrogation rights for loss or damage so that insurers have no right to recovery or subrogation against LESSOR, it being the intention that the required insurance policies shall protect all parties to the Lease and be primary coverage for all losses covered by the policies.
- (h) Certificates of Insurance and endorsements effecting coverage required by this clause shall be forwarded to:

City of Plano
Attention: Risk Manager
Post Office Box 860358
Plano, Texas 75086-0358

- (i) LESSEE shall be responsible for the contents of the Leased Premises and should procure insurance for such as LESSEE desires.
- (j) LESSOR reserves the right to review the insurance requirements of this section during the effective period of the Lease, and any extensions thereof, and to adjust insurance coverages and their limits when required by law or applicable court decisions. LESSOR agrees that in the event such adjustment is required, LESSEE shall be given sixty (60) days to obtain such coverage.

VIII. DESTRUCTION OF LEASED PREMISES

Section 8.01. DAMAGE TO IMPROVEMENTS. In the event of damage to Improvements erected by LESSEE, LESSEE will immediately notify LESSOR of the nature and extent of such damage. In the event of damage or destruction to the Improvements, LESSOR shall have no obligation or duty to repair, rebuild or reconstruct the Improvements or any fixtures, equipment or other personal property installed by LESSEE.

Section 8.02. INSURANCE PROCEEDS. All proceeds of the insurance contemplated by the provisions of this Lease payable by reason of any loss or damage to the Leased Premises, or any portion thereof, or the Improvements shall be paid to LESSEE and utilized for reconstruction or repair, as the case may be, of any damage to

or destruction of the Leased Premises or any portion thereof. Any excess proceeds of insurance remaining after the completion of the restoration or reconstruction of the Leased Premises shall be paid to LESSEE. If LESSEE elects not to repair and restore, and the Lease is terminated as described in Section 8.03, all such insurance proceeds shall be allocated to and retained by LESSEE.

Section 8.03. RECONSTRUCTION OF THE LEASED PREMISES.

- (a) If during the term the Leased Premises is totally or partially destroyed by a risk covered by the insurance described in this Lease (herein called **"An Insured Risk"**) and the Leased Premises thereby is rendered unsuitable in LESSEE's reasonable opinion for its intended use, this Lease shall terminate as of the date of the casualty and neither LESSOR nor LESSEE shall have any further liability hereunder except for any liabilities which have arisen prior to or which survive such termination, and all insurance proceeds shall be allocated to LESSEE. If LESSEE elects to terminate Lease because of partial or total destruction of the Leased Premises, LESSEE, at LESSEE's expense, will clean up and scrape Improvements, including removal of slab if required by LESSOR, and will place the Leased Premises in a condition whereby it constitutes unimproved land.
- (b) If during the Term the Leased Premises is partially destroyed by An Insured Risk, but the Leased Premises is not thereby rendered unsuitable for LESSEE's use, or is totally destroyed by An Insured Risk but LESSEE desires to reconstruct the Leased Premises, LESSEE shall, to the extent of available insurance proceeds, restore the Leased Premises to substantially the same condition as existed immediately before the damage or destruction and otherwise in accordance with the terms of the Lease, except that if the water tower has not yet been removed it shall be removed as part of the restoration, and this Lease shall not terminate as a result of such damage or destruction. LESSEE shall utilize the available insurance proceeds to pay the reasonable costs of such restoration. Any excess proceeds remaining after such restoration shall be allocated to LESSEE.
- (c) If the Leased Premises are to be restored in accordance with the provisions of Section 8.03(b) and if the cost of the repair or restoration exceeds the amount of proceeds received by LESSEE from the insurance required under this Lease, or in the event the Leased Premises is totally or materially damaged or destroyed by a risk not covered by the insurance described in this Lease, LESSEE at its option shall either (a) at LESSEE's sole cost and expense, restore the Leased Premises to substantially the same condition it was in immediately before such damage or destruction and this Lease shall not terminate as a result of such damage or destruction, or (b) terminate the Lease and neither LESSOR nor LESSEE shall have any further liability hereunder except for any liabilities which have arisen or occurred prior to such termination and those which expressly survive termination of this Lease. If LESSEE elects to terminate Lease because of partial or total destruction of the Leased Premises, LESSEE, at LESSEE's expense, will clean up and scrape

Improvements, including removal of slab if required by LESSOR, and will place the Leased Premises in a condition whereby it constitutes unimproved land.

Section 8.04 RELEASE. LESSEE covenants and agrees that it will not hold LESSOR or any of its agents or employees responsible for any loss occasioned by fire, theft, rain, windstorm, hail or any other cause whatsoever, whether said cause be the direct, indirect or merely a contributing factor in producing the loss to any personal property that may be stored on the Leased Premises, whether caused in whole or in part by the negligence of LESSOR or its officials, officers, agents or employees; and LESSEE agrees all personal property is to be stored at LESSEE's risk.

IX. CONDEMNATION

Section 9.01. TOTAL TAKING. If, after the commencement date, the Leased Premises shall be taken in its entirety by right of eminent domain for any public or quasi-public use, then, when possession shall be taken thereunder by the condemnor, or LESSEE is deprived of its practical use of the Leased Premises and other improvements, whichever date is earlier, this Lease and all rights of LESSOR and LESSEE hereunder shall terminate and any rental and all other payments required of LESSEE shall be immediately paid by LESSEE to LESSOR through the date of taking. In no event shall LESSOR exercise its rights of condemnation in order to simply defeat LESSEE's rights hereunder.

Section 9.02. PARTIAL TAKING. In the event of a partial taking of any part of the Leased Premises as a result of which the remaining portion of the Leased Premises cannot be utilized in a manner consistent with the usage of the Leased Premises provided for in this Lease, then this Lease, at LESSEE's option, shall terminate as of the time when possession of the Leased Premises shall be taken by the condemnor or LESSEE is deprived of its practical use thereof, whichever date is earlier. If the Leased Premises can be utilized in a manner consistent with the usage of the Leased Premises provided for in this Lease, then this Lease shall not be affected and LESSEE shall retain the remaining portion thereof; provided, however, that the rent shall be reduced on an equitable basis.

Section 9.03. EMINENT DOMAIN AWARD. If there is a taking by right of eminent domain, the rights and obligations of LESSOR and LESSEE with reference to the award and the distribution thereof shall be allocated between LESSOR and LESSEE on the following basis:

- (a) All proceeds, whether attributable to the Leased Premises or LESSEE's Leasehold Estate shall be allocated first to the expenses incurred by LESSOR or LESSEE in connection with defending the proceedings, then to costs of repair, alteration, renovation or improvement to the Leased Premises, with the balance to be allocated pursuant to subparagraph (b) below.

- (b) The balance of any award for partial taking and the award for a taking of the Leased Premises in its entirety shall be first allocated to LESSEE in an amount equal to costs incurred in connection with the construction of the Improvements contemplated hereby.
- (c) The balance of any award shall be paid to and retained by LESSOR and Lessee in equal parts until LESSEE has received the value of LESSEE's remaining leasehold, with LESSOR receiving any remaining award.

X. DEFAULT

Section 10.01. EVENTS OF DEFAULT. The following events shall be deemed to be events of default by LESSEE under this Lease:

- (a) LESSEE shall fail to pay any monetary consideration when due, and such failure shall continue for a period of fifteen (15) days after notice of such delinquency is delivered to LESSEE.
- (b) LESSEE shall fail to comply with any term, provision, clause, sentence, covenant or any other item of this Lease, other than the payment of consideration as described above, and shall not cure (or commence to cure if a longer period is required under the circumstances) such failure within forty-five (45) days after written notice thereof to LESSEE.
- (c) LESSEE shall cease using the Leased Premises for the purposes intended by this Lease for a period of ninety (90) days or more after receiving written notice of such cessation from Lessor.
- (d) It is recognized that if LESSEE is adjudged a bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, such could impair or frustrate LESSEE's performance of this Lease. Accordingly, it is agreed that upon the occurrence of any such event, LESSOR shall be entitled to request of LESSEE or its successor in interest adequate assurance of future performance in accordance with the terms and conditions hereof. Failure to comply with such request within sixty (60) days of delivery of the request shall entitle LESSOR to terminate this Lease and to the accompanying rights set forth below.

Section 10.02 REMEDIES. Upon the occurrence of any event of default specified above, and in addition to any other remedies LESSOR may be entitled to at law or in equity, LESSOR shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

- (a) Terminate this Lease in which event LESSEE shall immediately surrender the Leased Premises to LESSOR; and if LESSEE fails to do so, LESSOR may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession and expel or remove LESSEE and any other person who may be occupying

said Leased Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefore; and LESSEE agrees to pay to LESSOR on demand the amount of all actual (but not consequential) loss and damages which LESSOR may suffer by reason of such termination, whether through inability to relet the Leased Premises on satisfactory terms or otherwise.

- (b) Enter upon and take possession of the Leased Premises and expel or remove LESSEE and any other person who may be occupying the Leased Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefore; and if LESSOR so elects; relet the Leased Premises on such terms as LESSOR shall deem advisable and receive the rent thereof; and LESSEE agrees to pay to LESSOR on demand any deficiency that may arise by reason of such reletting.
- (c) Enter upon the Leased Premises without being liable for prosecution or any claim of damages therefore and do whatever LESSEE is obligated to do under the terms of this Lease; and LESSEE agrees to reimburse LESSOR on demand for any expenses which LESSOR may incur, thus effecting compliance with LESSEE's obligations under this Lease; and LESSEE further agrees that LESSOR shall not be liable for any damages resulting to LESSEE from such action.

Section 10.03. ELECTION TO TERMINATE IN EVENT OF DEFAULT. No reentry or taking possession of the Leased Premises by LESSOR shall be construed as an election on its part to terminate this Lease unless a written notice of such intention shall be given to LESSEE. Notwithstanding any such re-letting or re-entry or taking possession, LESSOR may at any time thereafter elect to terminate this Lease for a previous default. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall the pursuit of any remedy herein provided constitute a forfeiture or waiver of any payments due to LESSOR hereunder or of any damages accruing to LESSOR by reason of the violation of any of the terms, provisions and covenants herein contained. LESSOR's acceptance of payments following an event of default hereunder shall not be construed as LESSOR's waiver of such event of default. No waiver by LESSOR of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Forbearance by LESSOR to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. The loss or damage that LESSOR may suffer by reason of termination of this Lease or the deficiency from any reletting as provided for above shall include the expense of repossession and any repairs or remodeling undertaken following repossession. Should LESSOR at any time terminate this Lease for any default, in addition to any other remedy LESSOR may have, LESSOR may recover from LESSEE all damages LESSOR may incur by reason of such default, including cost of recovering the Leased Premises and reasonable attorney's fees expended by reason of default.

**XI.
DEVELOPMENT TERMINATION**

Section 11.01. TERMINATION OF LEASE AS PART OF DEVELOPMENT AGREEMENT. In the event that a reinvestment zone, or a similar development area as provided by state or federal law, is designated as provided by law which includes the entire Leased Premises, the LESSOR, at its sole discretion, may terminate the provisions of this Lease upon thirty (30) days written notice to LESSEE. Upon LESSOR providing LESSEE with written notice of its intention to terminate the Lease as provided herein, LESSOR shall, at its sole cost, obtain an appraisal of the fair market value of the fee interest of the Leased Premises as if the Lease was not in effect, and LESSOR shall provide said appraisal to LESSEE.

Section 11.02. LESSEE'S OPTION TO PURCHASE IN EVENT OF TERMINATION. In the event that LESSOR exercises its right to terminate this Lease pursuant to the provisions of Section 11.01, LESSEE shall have the option to purchase all, but not less than all, of the Leased Premises at the fair market value contained in the appraisal provided to it in accordance with Section 11.01. The deadline for LESSEE to exercise its option is the latter of thirty (30) days from the termination of the Lease or thirty (30) days after LESSEE's receipt of the appraisal from LESSOR. In the event LESSEE exercises its option to purchase the Leased Premises, the closing of such purchase shall occur within thirty (30) days after the exercise of the option. In the event LESSEE exercises its option, LESSEE shall bear all closing costs, including title, escrow, and recording fees.

Section 11.03. EXERCISE OF OPTION NOT MANDATORY. Nothing in this Article should be interpreted to imply that LESSEE has any obligation to exercise its option as provided in Section 11.02. LESSEE's decision to exercise its option is in its sole discretion.

Section 11.04. EXPIRATION OF OPTION UNDER CERTAIN CONDITIONS. LESSEE's option to purchase the Leased Premises in the event of LESSOR's termination pursuant to Section 11.01 shall expire and be void *ab initio* in the event of any development in constitutional law, statutory law or case law which would result in LESSEE's purchase in the manner prescribed in Section 11.02 being prohibited by law.

**XII.
SURRENDER**

Section 12.01. SURRENDER. In the event that this Lease is terminated in accordance with its terms, upon such termination, LESSEE shall vacate the property no later than the date of termination and shall leave the property in substantially the same condition it was in on the date this Lease became effective along with the any Improvements, normal wear and tear and damages due to casualty excepted.

**XIII.
TAXES AND IMPOSITIONS**

Section 13.01. PAYMENTS OF IMPOSITIONS. The parties recognize that the Leased Premises and Improvements and LESSEE's leasehold estate created pursuant to the provisions of this Lease are tax exempt, as of the date hereof. To the extent the

tax exempt status for the Leased Premises, improvements or leasehold estate created hereby are hereafter withdrawn or changed, LESSOR and LESSEE shall be responsible for payment of applicable taxes as follows:

- (a) LESSOR will be responsible for all taxes attributable to the Leased Premises exclusive of the LESSEE's Improvements; and
- (b) LESSEE will be responsible for taxes attributable to the Improvements and LESSEE's leasehold estate.

Section 13.02. PAYMENT BEFORE DELINQUENCY. Any and all impositions and installments of impositions required to be paid by LESSEE under this Lease shall be paid by LESSEE at least ten (10) days before each such imposition, or installment thereof, becomes delinquent, and the official and original receipt for the payment of such imposition or installment thereof shall immediately be given to LESSOR.

Section 13.03. INDEMNIFICATION. LESSEE shall indemnify and defend LESSOR and the Leased Premises and any improvements now or hereafter located on the Leased Premises free and harmless from any claims, causes of action, liabilities, losses, damages, expenses, including attorney's fees and costs, resulting from any impositions required by this **Article XIII** to be paid by LESSEE, and from all interest, penalties, and other sums imposed thereon, and from any sale or other proceeding to enforce collection of any such imposition.

XIV. HOLDING OVER

Section 14.01. HOLDING OVER WITH CONSENT. In the event that LESSEE holds over and remains in possession of the Leased Premises with the written consent of the LESSOR, that holding over shall be deemed to be from month to month only, and upon all of the same rents, terms, covenants and conditions as contained in this Lease.

Section 14.02. HOLDING OVER WITHOUT CONSENT. In the event that LESSEE holds over and remains in possession of the Leased Premises without consent of the LESSOR, that holding over shall render LESSEE a trespasser.

XV. NONDISCRIMINATION

Section 15.01. NONDISCRIMINATION. The LESSOR and LESSEE, for itself and its representatives do hereby agree that no persons on the grounds of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises.

XVI. MISCELLANEOUS

Section 16.01 NOTICES. Any notice provided for herein shall be given by written instrument, personally delivered or sent by U.S. mail, postage prepaid, to:

LESSOR: City of Plano
City Manager
Post Office Box 860358
Plano, Texas 75086-0358

with copy to: City Attorney
City of Plano
Post Office Box 860358
Plano, Texas 75086-0358

LESSEE: SWC Tollway & 121, LLC
c/o Team Legacy Land LLC
7200 Bishop Road, Suite 250
Plano, Texas 75024
Fehmi Karahan

with copy to: R.J. Grogan, Jr.
c/o Grogan & Brawner P.C.
2808 Fairmount, Suite 150
Dallas, Texas 75201

and a further copy to: JC Penney Corporation, Inc.
6501 Legacy Drive, M.S. 1104
Plano, Texas 75024
Attn: Real Estate Legal

or such address that LESSOR or LESSEE designates in writing to the other party.

Section 16.02. ENTIRE AGREEMENT. This Lease embodies the complete agreement of the parties hereto superseding all oral or written previous and contemporary agreements between the parties relating to matters herein and, except as otherwise provided herein, cannot be modified without written agreement of the parties.

Section 16.03. APPLICABLE LAWS. This Lease is entered into subject to the charter and ordinances of LESSOR 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, state and local laws. LESSEE also agrees to obtain, from all governmental authorities having jurisdiction, all licenses, certificates and permits necessary for the conduct of its operations and to keep them current.

Section 16.04. SEVERABILITY. If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Lease are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Lease shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 16.05. SUCCESSORS AND ASSIGNS. LESSOR and LESSEE shall bind themselves, their successors, executors, administrators and assigns to the other party to this Lease. Neither LESSOR nor LESSEE will assign, sublet, subcontract or

transfer any interest in this Lease without the written consent of the other party. No assignment, delegation of duties or subcontract under this Lease will be effective without the written consent of LESSOR.

Section 16.06. REMEDIES. No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy by law of equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Lease may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Lease.

Section 16.07. FINANCING. LESSEE may, at any time and from time to time, encumber LESSEE's leasehold interest by deed of trust, mortgage or other security instrument without obtaining the consent of LESSOR, but no such encumbrance shall constitute a lien on the fee title of LESSOR in and to the Leased Premises. Any indebtedness secured by any encumbrance covering LESSEE's leasehold estate shall at all times be and remain inferior and subordinate to all the conditions, covenants and obligations of this Lease and to all the rights of LESSOR under this Lease, including LESSOR's rights upon the termination hereof to receive title to the Improvements free and clear of all liens and encumbrances and any such deed of trust or mortgage shall contain such express subordination language. Any encumbrance created by LESSEE on its leasehold estate shall be without cost or expense to LESSOR and to the extent LESSOR incurs any cost or expense in respect thereto, LESSEE shall promptly reimburse LESSOR for such costs or expenses.

Section 16.08 INDEPENDENT CONTRACTOR. LESSEE covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of LESSOR and that LESSEE shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between LESSOR and LESSEE, its officers, agents, employees, contractors, subcontractors, and consultants, and nothing herein shall be construed as creating a partnership between LESSOR and LESSEE.

Section 16.09. NON-WAIVER. It is further agreed that one (1) or more instances of forbearance by LESSOR in the exercise of its rights herein shall in no way constitute a waiver thereof.

Section 16.10. VENUE. The parties to this Lease agree and covenant that this Lease will be enforceable in Plano, Texas and that if legal action is necessary to enforce this Lease, exclusive venue will lie in Collin County, Texas.

Section 16.11. LESSOR's GOVERNMENTAL POWERS AND IMMUNITIES. It is understood and agreed that LESSOR, through the execution of this Lease, does not waive or surrender any of its governmental powers or immunities.

Section 16.12. HEADINGS. The headings of this Lease are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

Section 16.13. ATTORNEY'S FEES. In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective

rights under this Lease as a consequence of any breach by the other party of its obligations under this Lease, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorney's fees and out-of-pocket expenditures paid by the losing party. All such fees shall be deemed to have accrued upon the commencement of such action.

Section 16.14. AMENDMENTS IN WRITING. This Lease cannot be orally amended or modified. Any modification or amendment hereof must be in writing and signed by the party to be charged.

Section 16.15. MUTUAL ASSISTANCE; GOOD FAITH. During the term of this Lease, to the extent practicable, the parties agree to cooperate fully, to work in good faith, and to mutually assist each other in the performance of this Lease. In this connection, the parties shall, from time to time, meet upon the reasonable request of each other and shall confer in good faith, amicably and in a businesslike manner, with respect to the current and future operation of the Leased Premises and with a view toward resolving any problems which may arise. Except as otherwise provided herein, a party shall not unreasonably withhold its approval of any act or request of the other as to which its approval is necessary or desirable.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the day and year written above.

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

By _____
Name _____
Title _____

SWC TOLLWAY & 121 LLC,
a Delaware limited liability company

By: Team Legacy Land, LLC
a Texas limited liability company
its Manager

By: _____
Fehmi Karahan, President

REPLAT
 LEGACY WEST
 LOT 1 AND LOT 2, BLOCK B
 LOT 1, BLOCK C
 LOT 1R, BLOCK D
 LOT 1 AND LOT 2, BLOCK E
 BEING A REPLAT OF LOT 1 AND LOT 2, BLOCK B; J.C. PENNEY
 HEADQUARTERS
 LOT 1, BLOCK D, J.C. PENNEY HOME OFFICE
 LOT 1, BLOCK D, LEGACY WEST
 258.356 ACRES SITUATED IN THE
 COLLIN COUNTY SCHOOL LAND SURVEY NO. 5 ABSTRACT NO. 150
 COLLIN COUNTY SCHOOL LAND SURVEY NO. 5 ABSTRACT NO. 149
 J.C. BARROW SURVEY ABSTRACT NO. 90
 H.N. THOMPSON SURVEY ABSTRACT NO. 896
 GARLAND R. MARTIN SURVEY ABSTRACT NO. 622
 HENRY COOK SURVEY ABSTRACT NO. 183
 CITY OF PLANO, COLLIN COUNTY, TEXAS

Kimley»»Horn

12750 Merit Drive, Suite 1000
 Dallas, Texas 75251

FIRM # 10115500

Tel. No. (972) 770-1300
 Fax No. (972) 239-3820

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 100'	SRD	DAB	DEC. 2014	068111009	4 OF 7

DWG NAME: K10DAL_SURVEY068111009-LEGACY WEST PLANO.DWG PLOTTED BY: DUNN, STACY 1/22/2015 3:05 PM LAST SAVED 1/2



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:		4/13/15		
Department:		City Manager		
Department Head		P. Jarrell - Special Projects		
Agenda Coordinator (include phone #): Tammy Stuckey - 7156				
CAPTION				
A Resolution of the City of Plano, Texas, approving the terms and conditions of a development agreement by and between Texas InTownHomes, LLC and the City of Plano for the Rice Field development project located at the southwest corner of 18th Street and G Avenue, authorizing its execution by the City Manager or his authorized designee; and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
2014-15	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
FISCAL YEAR:				
Budget	0	300,000	0	300,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-250,000	0	-250,000
BALANCE	0	50,000	0	50,000
FUND(S): TIF #2 FUND				
COMMENTS: Funding for this item was approved in the Project and Finance Plan for TIF Reinvestment Zone #2. This item, in the amount of \$250,000, will leave a balance of \$50,000 available for TIF Reinvestment Zone #2 projects. STRATEGIC PLAN GOAL: Agreeing to reimburse developers for public improvements relates to the City's goal of Partnering for Community Benefit.				
SUMMARY OF ITEM				
Texas InTownHomes, LLC has purchased the Rice Field property and intends to complete the development with urban single-family houses. Since attached townhouses were originally planned, the lot pattern must be reconfigured and additional infrastructure installed, including a new alley, utility line relocation, sidewalks and street trees. The development agreement obligates the city to reimburse the developer for up to \$250,000 in public improvements, to be paid from TIF #2 funds.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Resolution				
Development Agreement				

A Resolution of the City of Plano, Texas, approving the terms and conditions of a development agreement by and between Texas InTownHomes, LLC and the City of Plano for the Rice Field development project located at the southwest corner of 18th Street and G Avenue, authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council of the City of Plano, Texas has been presented a proposed development agreement for completion of the Rice Field development project by and between Texas InTownHomes, LLC and the City of Plano, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference as the "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 designed 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 designed 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. The City Manager, at his discretion, is hereby authorized to extend the deadline dates contained within the Agreement upon the written request of Texas InTownHomes, LLC.

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

DULY PASSED AND APPROVED THIS THE 13TH DAY OF APRIL, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

STATE OF TEXAS

COUNTY OF COLLIN

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PLANO, TEXAS AND TEXAS INTOWNHOMES, LLC
FOR THE RICE FIELD DEVELOPMENT PROJECT**

This Development Agreement (“Agreement”) is entered into by and between the City of Plano, a Texas municipal corporation (the “City”), acting by and through its duly authorized officers, and Texas InTownHomes LLC, a Texas limited liability company (“InTown”):

RECITALS

WHEREAS, the City is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purposes of providing supporting public facilities and services; and

WHEREAS, InTown desires to develop approximately 5.2+- acres located at the southwest corner of 18th Street and G Avenue (the “Property”) and as shown in Exhibit “A:” attached hereto; and

WHEREAS, InTown has proposed a development on the Property in substantial compliance with a Preliminary Site Plan prepared by InTown attached hereto as Exhibit “B” (the “Plan”); and

WHEREAS, InTown’s proposed development is located in Tax Increment Financing District No. 2 (“TIF 2”) and is in keeping with the intent of that reinvestment zone to promote sound growth; and

WHEREAS, a portion of the proposed public improvements (hereinafter defined as the “Public Improvements”) shown in the Plan are to be funded through the revenue derived by TIF 2 in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, to promote development and redevelopment in the area through the use of tax increment financing; and

WHEREAS, the Public Improvements are projects identified in the current *Project Plan and Financing Plan* for TIF 2, for which at least Two Hundred Fifty Thousand Dollars (\$250,000) has been budgeted; and

WHEREAS, the termination date for TIF 2 is December 31, 2029; and

WHEREAS, InTown’s proposed development is consistent with the goals and objectives as set forth in *Downtown Plano – A Vision and Strategy for Creating a Transit Village*, which was adopted by the City Council by Resolution No. 99-5-14, dated May 10, 1999 and the subsequent *Downtown Plano Vision and Strategy Update*, adopted by the City Council by Resolution No. 2013-2-20(R), dated February 25, 2013; and

WHEREAS, the development of the Property in accordance with the Plan by InTown will contribute important direct and indirect economic and social benefits to the City, including, but not limited to, the creation of a pedestrian-oriented, owner occupied residential development in close proximity to the DART railway station; and

WHEREAS, it is essential to the City's public health, safety and general welfare to assure that the Development is supported by adequate levels of public facilities and services; and

WHEREAS, the City Council has adopted Resolution No. _____ on _____, 2015, approving this Agreement with InTown and authorizing the City Manager or his authorized designee to execute same;

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

SECTION 1. INTOWN'S OBLIGATIONS

- A. Prior to receiving any funding from the City as authorized by this Agreement, InTown shall:
1. Obtain approval of appropriate zoning and a preliminary site plan as required to develop a minimum of 60 single-family detached houses on the Property (the "Development");
 2. Obtain approval from the city's Heritage Commission for façade and building design for lots located within the Haggard Park Heritage District, as required by the Heritage Preservation Ordinance;
 3. Provide documentation to the reasonable satisfaction of the City of financial ability to complete the obligations under this Agreement in the form of a letter from lenders providing financing for the Development or proof of ownership of the Property and verification of construction financing;
 4. Obtain all necessary City permits to begin construction of the Development, which shall not be unreasonably withheld, conditioned or delayed by the City, and begin construction of the Development no later than July 1, 2015; provided that Construction shall be deemed to have begun when InTown actually commences site work (i.e., grading, clearing or trenching) on the Property;
 5. Complete the design, construction, and installation of the private improvements comprising the Development at its sole cost and expense, and which when completed shall have a private investment value of not less than Thirteen Million Dollars (\$13,000,000);
 6. Complete the design, construction, and installation of all public improvements described in Exhibit "C" attached hereto (the "Public Improvements"). The Public Improvements shall be designed, constructed and installed in a good and workmanlike manner in accordance with all applicable laws, statutes and ordinances, rules and regulations of the City and any other governmental authority having jurisdiction, including, without limitation, the City Right-of-Way Management Ordinance, the City Code of Ordinances and the City Zoning and Subdivision Ordinances. The Public Improvements shall be substantially completed on or before July 1, 2016;

7. A conveyance of the Public Improvements to the City shall be evidenced by the filing of the final plat for the Development with the Collin County Clerk's office, and any other instrument which the City may reasonably request, and shall include, to the extent assignable, an assignment of all contractors' warranties, if any, and maintenance bonds; and
- B. InTown shall complete construction of 60% of the housing units comprising the Development by December 31, 2017. A unit shall be considered complete with the City's approval of the final building inspection.

SECTION 2. CITY'S OBLIGATIONS

- A. The City shall perform the following obligations:
 1. Reimburse InTown for eligible expenses for "Project Costs" (as defined hereinafter) for any public improvements in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000), after final inspection and acceptance of the Public Improvements by the City in accordance with Section 1.A.6 and 1.A.7 above. However, such reimbursement shall exclude "Overhead Costs" (as defined hereinafter).
 2. "Project Costs" means actual construction and/or installation costs and design costs for Public Improvements, including but not limited to:
 - i. civil engineering, architecture and landscape architecture fees associated with the public improvements specified in this paragraph; and
 - ii. design and construction of storm sewer, drainage, water utilities, paving, lighting, landscape, hardscape and other improvements required by the City, both on-site and off-site, that are described or specified on the project plans approved by the City;
 3. "Overhead Costs" means:
 - i. overhead and management fees of InTown;
 - ii. financing charges;
 - iii. marketing costs;
 - iv. legal fees; and
 - v. payments made to entities affiliated with or related to InTown to the extent such payments made to entities affiliated with or related to InTown do not exceed what is reasonable and customary for such services.
- B. All payments for Public Improvement reimbursement to InTown under this subsection shall be payable solely from TIF 2 funds as provided by law and shall not be obligated for payment from the City's general fund or any other City fund unrelated to TIF 2 funds;

SECTION 3. DESIGN AND CONSTRUCTION

- A. Design management for the Public Improvements and the Development will be provided by InTown's designated licensed architect and/or a licensed civil engineer for the Development, or such other party as shall be mutually agreed to by the parties to this Agreement.
- B. InTown shall obtain any and all required local, state and federal governmental approvals and permits required for construction of the Public Improvements.
- C. InTown shall require its general contractor to procure and maintain insurance coverage as set forth in Exhibit "D" for the duration of the construction of the Public Improvements at the Property. InTown shall provide their general contractor's signed insurance certificate to the CITY verifying that they have obtained the required insurance coverage prior to the commencement of construction of the Public Improvements and naming the City of Plano as additional insured.
- D. InTown shall procure and maintain insurance coverage as set forth in Exhibit "D" for the duration of this Agreement. InTown shall provide their signed insurance certificate to the CITY verifying that they have obtained the required insurance coverage prior to the commencement of construction of the Public Improvements and naming the City of Plano as additional insured.
- E. Upon completion of the Public Improvements, InTown shall provide a maintenance bond as provided in the form on attached Exhibit "E" in an amount mutually and reasonably agreed between the City and InTown.
- F. In accordance with the City's Subdivision Ordinance, Article 5.10c as amended, all electric utility lines and wires, terminals and other facilities and equipment shall be constructed, placed or located underground.
- G. Except as provided herein, all project designs, drawings, site plans and other documents produced by InTown in connection with the Development, including those attached to this Agreement, shall remain the property of InTown. In exchange for InTown's acceptance of the above-described reimbursement from the City, the portion of the plans created for the Public Improvements shall become the property of the City upon dedication as required by Section 1.A.6. and 1.A.7. of this Agreement.

SECTION 4. DAMAGE, DESTRUCTION, OR FAILURE OF PERFORMANCE

- A. Should InTown fail to complete installation of the Public Improvements by the date specified in Section 1.A.6. of this Agreement, the City shall have no obligation to expend remaining reimbursement funding to complete the Public Improvements.
- B. If, by the date specified in Section 1.B. of this Agreement, InTown has not completed 60% of the housing units comprising the Development, it shall refund to the City a percentage of the reimbursement received for Public Improvements. The percentage reimbursement shall be based on the percentage of 60 housing units that have not been completed by the date specified in Section 1.B. above. For example, if only 15 of the housing units comprising the

Development are completed by the date specified in Section 1.B. above, then 45 out of 60 housing units (*i.e.*, 75%) would not be completed, and InTown would be obligated to repay 75% of the reimbursement funds that it had received under this Agreement.

SECTION 5. FORCE MAJEURE

It is expressly understood and agreed by the parties to this Agreement that if the commencement, progress and/or completion of the construction of any of the Development and Public Improvements contemplated hereunder is delayed by reason by war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; delays caused by the franchise utilities, fire or other casualty; court injunction; necessary condemnation proceedings; or acts of the other party, its affiliates/related entities and/or their contractors, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

SECTION 6. TERM

The term of this Agreement shall begin on the date of execution and end upon the complete performance of all obligations and conditions precedent by parties to this Agreement but in no event later than December 31, 2029. The City Manager or his designee shall have the authority to extend, in writing, the commencement and completion dates contained within the Agreement for an additional period of one year.

SECTION 7. AUTHORITY OF INTOWN

InTown represents and warrants to the City that InTown is duly formed, validly existing and in good standing under the laws of the State of Texas. InTown will provide a certificate of status from the Texas Secretary of State's office evidencing InTown's current legal status and authority to conduct business in Texas. InTown represents that it has full power, authority and legal right to execute and deliver this Agreement. This Agreement constitutes a legal, valid, and binding obligation of InTown and the City, enforceable in accordance with its terms.

SECTION 8. EVENTS OF DEFAULT

A default shall exist if any of the following occurs:

1. Either party fails to perform or observe any material covenant contained in this Agreement.
2. InTown becomes delinquent on ad valorem taxes owed to the City, or any other Collin County taxing unit, provided that InTown retains the right to timely and properly protest and/or contest any such taxes and during the pendency of such proceedings such taxes shall not be deemed delinquent.

A party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default by the defaulting party under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.

SECTION 9. REMEDIES

The defaulting party shall have thirty (30) days to cure after receiving written notice of default from a party. If a default shall continue after the thirty (30) days' notice to cure the default, the non-defaulting party may, at its option, terminate the Agreement and/or pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law without the necessity of further notice to or demand upon the defaulting party. However, the non-defaulting party may, at its option, provide written extension for additional time to cure if the defaulting party proceeds in good faith and with due diligence to remedy and correct the default, provided that the defaulting party has commenced to cure such default within 30 days following notice.

SECTION 10. BANKRUPTCY

In the event InTown files for bankruptcy, whether involuntarily or voluntary, InTown shall provide written notice to the City within three (3) business days of such event.

SECTION 11. INDEMNIFICATION

INTOWN 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 INTOWN'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF INTOWN, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH INTOWN 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 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. INTOWN AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ITS OWN ENTIRE DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF INTOWN'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF INTOWN'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. INTOWN 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 INTOWN FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND INTOWN SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

SECTION 12. AFFIDAVIT OF NO PROHIBITED INTEREST

InTown acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will

render the Agreement voidable. InTown has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "F".

SECTION 13. NOTICES

Any notice required by this Agreement shall be deemed to be properly served if deposited in the U.S. mails by certified letter, return receipt requested, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

If intended for City, to:

City of Plano
Attention: City Manager
PO Box 860358
Plano, Texas 75086-0358

If intended for InTown, to:

Texas InTownHomes, LLC
Attention: Frank M.K. Liu
1520 Oliver Street
Houston, Texas 77007

SECTION 14. WRITTEN NOTICES AND APPROVALS REQUIRED

Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreements, any request, demand, approval, notice or consent of the City or InTown is required, or whenever the City or InTown is required to agree or to take some action at the request of the other, such request, demand, approval, notice or consent, or agreement shall be in writing. Approval by City, unless otherwise provided herein, shall be by the City Manager or his designated representative and approval by InTown shall be by the CEO, CFO or President or any officer of InTown so authorized (and, in any event, the officers executing this Agreement are so authorized); and either party hereto shall be authorized to act in reliance upon any such request, demand, approval, notice or consent, or agreement.

SECTION 15. GIFT TO PUBLIC SERVANT

- A. City may terminate this Agreement immediately if InTown has knowingly offered, conferred, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.
- B. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- C. Notwithstanding any other legal remedies, City may require InTown to remove any employee of InTown from the development of the Public Improvements who has violated the restrictions of this section or any similar state or federal law, and City may obtain reimbursement for any expenditures made to InTown as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

SECTION 16. APPLICABLE LAWS

This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable laws of the State of Texas and federal laws.

SECTION 17. VENUE AND GOVERNING LAW

This Agreement is performable in Collin County, Texas and venue of any action arising out of this Agreement shall be exclusively in Collin County, Texas. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

SECTION 18. LEGAL CONSTRUCTION

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

SECTION 19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

SECTION 20. CAPTIONS

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

SECTION 21. SUCCESSORS AND ASSIGNS

A. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. Provided, however, this Agreement shall not be assigned without the prior consent of InTown and the Plano City Council, which approvals shall not be unreasonably withheld.

B. An assignment or delegation of this Agreement to an Affiliate of InTown shall not require City Council approval and shall not result in a breach of the Agreement if the Affiliate of InTown expressly assumes all of the obligations of InTown under this Agreement for the balance of the term of this Agreement and provides evidence establishing the relationship between InTown and an Affiliate. InTown shall notify the City in writing, however, within 30 days of such assignment. "Affiliate", as used herein, includes any parent, sister, partner, joint venturer, equity investor or subsidiary entity of InTown; any entity in which InTown is a major shareholder, owns an equity interest or is a joint venturer or partner (whether general or limited). Upon such assignment, InTown shall be released from all liability hereunder. Additionally, collateral assignment of this Agreement by InTown in connection with its financing of the Development shall not require City Council approval and shall not result in a breach of this Agreement so long as all obligations of InTown herein are included in such assignment.

SECTION 22. ENTIRE AGREEMENT

This Agreement embodies the complete agreement of the parties hereto with respect to the Property, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement. This Agreement is the complete and final understanding and agreement between InTown and the City with respect to the Property. Except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

SECTION 23. INCORPORATION OF RECITALS

The recitals set forth herein are intended, and are hereby deemed to be a part of this Agreement.

EXECUTED on the _____ day of _____, 2015, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. _____ approved by the City Council on _____, acting through its duly authorized officials.

CITY OF PLANO, TEXAS, a home rule municipal corporation

By: _____
Bruce D. Glasscock, City Manager

APPROVED AS TO FORM:

Paige Mims, City Attorney

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF COLLIN

This instrument was acknowledged before me on the _____ day of _____, 2015, by Bruce D. Glasscock, City Manager, of **CITY OF PLANO, TEXAS**, a home rule municipal corporation.

Notary Public, State of Texas

My Commission Expires: _____

TEXAS INTOWNHOMES, LLC, a Texas limited liability company

By: _____
Frank M.K. Liu, President

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the ____ day of _____, 2015, by Frank M.K. Liu, President of **Texas InTownHomes**, a Texas limited liability company.

Notary Public, State of Texas

My Commission Expires: _____

SCALE: 1"=40'

LEGEND
FIR Found Iron Rod
SIR Set Iron Rod

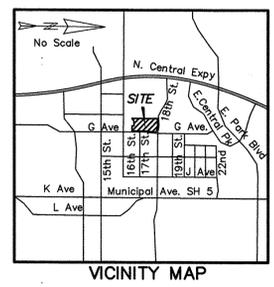


Table with 3 columns: NUM, BEARING, DISTANCE. Lists bearings and distances for lots L1 through L34.

Table with 5 columns: NUM, DELTA, ARC, RADIUS, BEARING, DISTANCE. Lists curve data for lots C1 through C39.

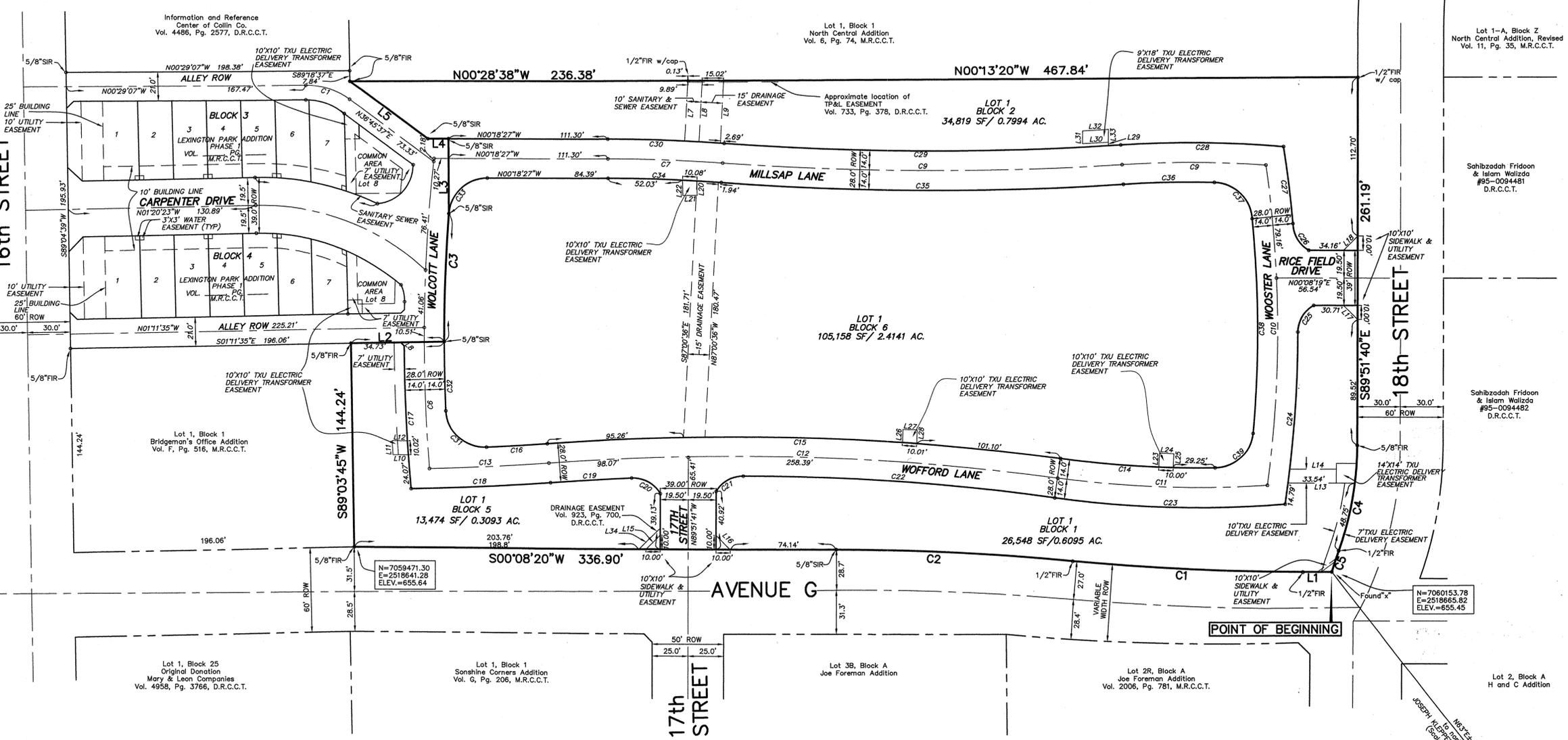


Table with 2 columns: LOT/BLOCK, LOT AREA. Lists areas for lots 1/1, 1/2, 1/5, and 1/6.

NOTE: ALL COMMON AREA LOTS SHALL BE DEDICATED TO THE HOMEOWNER'S ASSOCIATION.

FROM:
R-0340-024-003A-1
R-0340-024-0060-1
FOR TAX YEAR 2013

S10274
SHEET 1 OF 2
CONVEYANCE PLAT
LEXINGTON PARK ADDITION, PHASE 2
ON A 5.1828 ACRE TRACT
BEING A REPLAT OF PART OF BLOCK 24 OF OLD DONATION
TO THE CITY OF PLANO
JOSEPH KLEPPER SURVEY, ABSTRACT NO. 213
PLANO, COLLIN COUNTY, TEXAS

Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
09/07/2012 11:08:45 AM
\$31.00 DPOSTER
20120907010002240
2012-331

OWNER
CDDR PROPERTIES, LLC
2000 McKINNEY AVENUE, SUITE 700
DALLAS, TEXAS 75201
CONTACT: JOHN P. HALLIBURTON
214-932-6882
PREPARED JULY, 2012 BY
KADLECK & ASSOCIATES
ENGINEERING PLANNING SURVEYING
2000 N. CENTRAL EXPY. SUITE 113
(972) 881-0771 PLANO, TX 75074
TBP Reg. No. F-6460 TBP Reg. No. 100555-00
CONTACT: L. LYNN KADLECK



OWNER'S CERTIFICATE

STATE OF TEXAS }
COUNTY OF COLLIN }

WHEREAS, CDDR PROPERTIES, LLC, are the owners of a tract of land situated in the Joseph Klepper Survey, Abstract No. 213, City of Plano, Collin County, Texas, said tract being part of Block 24 of Old Donation to the City of Plano, and said tract conveyed to CDDR Properties, LLC by deed recorded in County Clerk File No. 20120207000140210, Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a found "x" cut on concrete pavement for a corner at the intersection of the west line of Avenue G (a variable width right of way) with the south line of 18th Street (a 60 foot right of way);

THENCE, the following courses and distances with the west line of Avenue G:

- S 00°08'20" W, a distance of 20.00 feet to a found 1/4 inch iron rod at the beginning of a tangent curve to the right with a central angle of 05°29'46", a radius of 1676.08 feet, a chord bearing of S 02°53'13" W and a chord distance of 160.72 feet;
- Southwesterly, along said curve, an arc distance of 160.78 feet to a found 1/4 inch iron rod with a plastic cap at the beginning of a reverse curve to the left with a central angle of 05°29'46", a radius of 1726.08 feet, a chord bearing of S 02°53'13" W and a chord distance of 165.51 feet;
- Southwesterly, along said curve, an arc distance of 165.57 feet to a set 5/8 inch iron rod at the end of said curve;
- S 00°08'20" W, a distance of 336.90 feet to a found 5/8 inch iron rod for a corner, said point being the northeast corner of Lot 1, Block 1 of Bridgeman's Office Addition as recorded in Volume F, Page 516, Map Records of Collin County, Texas;

THENCE, S 89°03'45" W, departing the west line of Avenue G and with the north line of the said Bridgeman's Office Addition, a distance of 144.24 feet to a found 5/8 inch iron rod for a corner, said point being the northwest corner of the said Bridgeman's Office Addition;

THENCE, N 01°11'35" W, a distance of 65.23 feet to a set 5/8 inch iron rod for a corner, said point the beginning of a non-tangent curve to the right with a central angle of 04°30'04", a radius of 1,157.79 feet, a chord bearing of N 87°53'24" W and a chord distance of 90.93 feet;

THENCE, Northwesterly, along said curve, an arc distance of an arc distance of 90.96 feet to a set 5/8 inch iron rod for a corner;

THENCE, S 89°41'33" W, a distance of 52.80 feet to a set 5/8 inch iron rod for a corner;

THENCE, S 00°18'27" E, a distance of 14.49 feet to a set 5/8 inch iron rod for a corner;

THENCE, S 36°45'37" W, a distance of 68.02 feet to a found 5/8 inch iron rod for a corner, said point being the southeast corner of Lot 1 of North Central Addition, as recorded in Volume 6, Page 74, Map Records of Collin County, Texas;

THENCE, N 00°28'38" W, with the east line of said Lot 1, North Central Addition, a distance of 236.38 feet to a found 1/2 inch rod with a plastic cap for an angle point, said point being the common west corner of the said City of Plano tract and the Plano Independent School District tract;

THENCE, N 00°13'20" W, continuing with the east line of said Lot 1, North Central Addition, a distance of 467.84 feet to a found 1/2 inch iron rod with a plastic cap for a corner in the south line of 18th Street, said point being the northeast corner of said Lot 1, North Central Addition;

THENCE, the following courses and distances with the south line of 18th Street:

- S 89°51'40" E, a distance of 261.19 feet to a found 5/8 inch iron rod at the beginning of a curve to the right with a central angle of 19°21'00", a radius of 224.83 feet, a chord bearing of S 80°11'10" E and a chord distance of 75.57 feet;
- Southeasterly, along said curve, an arc distance of 75.93 feet to a found 1/2 inch iron rod with a plastic cap at the point of reverse curvature of a curve to the left with a central angle of 03°18'23", a radius of 278.68 feet, a chord bearing of S 72°09'51" E and a chord distance of 16.08 feet;
- Southeasterly, along said curve, an arc distance of 16.08 feet to the Point of Beginning and Containing 225,762 square feet or 5.1828 acres of land.

NOTE: A CONVEYANCE PLAT IS A RECORD OF PROPERTY APPROVED BY THE CITY FOR THE PURPOSE OF SALE OR CONVEYANCE IN ITS ENTIRETY OR INTERESTS THEREON DEFINED. NO BUILDING PERMIT SHALL BE ISSUED NOR PERMANENT PUBLIC UTILITY SERVICE PROVIDED UNTIL A FINAL PLAT IS APPROVED, FILED OF RECORD, AND PUBLIC IMPROVEMENTS ACCEPTED IN ACCORDANCE WITH THE PROVISIONS OF THE SUBDIVISION ORDINANCE OF THE CITY OF PLANO. SELLING A PORTION OF THIS PROPERTY BY METES AND BOUNDS, EXCEPT AS SHOWN ON AN APPROVED, FILED, AND ACCEPTED CONVEYANCE PLAT, FINAL PLAT, OR REPLAT IS A VIOLATION OF THE CITY ORDINANCE AND STATE LAW.

NOTE: THE BEARING BASIS FOR THIS SURVEY IS A BEARING OF N 00°13'20" W FOR THE EAST LINE OF NORTH CENTRAL ADDITION AS RECORDED IN VOLUME 6, PAGE 74, MAP RECORDS OF COLLIN COUNTY, TEXAS.

SURVEYOR'S CERTIFICATE

STATE OF TEXAS }

THAT, I, L. Lynn Kadleck, a Registered Professional Land Surveyor, do hereby certify that I have prepared this plat from an actual survey of the land and that the corner monuments shown hereon were found or properly placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Plano, Texas.



L. LYNN KADLECK
Registered Professional
Land Surveyor No. 3952

STATE OF TEXAS }
COUNTY OF COLLIN }

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared L. Lynn Kadleck, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY SEAL OF OFFICE this the 28th day of August, 2012.



Marti Taylor
Notary Public, State of Texas

OWNER'S DEDICATION

STATE OF TEXAS }
COUNTY OF COLLIN }

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT We, CDDR PROPERTIES, LLC, acting by and through its authorized agent, do hereby adopt this plat designating the hereinabove described property as LEXINGTON PARK ADDITION, PHASE 2, an addition in the City of Plano, Texas, and do hereby, in fee simple, dedicate to the public use forever, the streets and alleys shown hereon. The streets and alleys are dedicated for street purposes. The easements and public use areas, as shown, are dedicated for the public use forever, for the purposes indicated on the plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the City of Plano. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the Public's and City of Plano's use thereof. The City of Plano and public utility entity shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance or efficiency of their respective systems in said easements. The City of Plano and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Plano, Texas.

WITNESS MY HAND, this the 20th day of August, 2012.

BY: CDDR PROPERTIES, LLC
BY: Texas Capital Bank, Manager

BY: John P. Halliburton
Senior Vice President - ORE Manager

STATE OF TEXAS }
COUNTY OF COLLIN }

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared John P. Halliburton, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said CDDR Properties, LLC, and that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY SEAL OF OFFICE this the 20th day of August, 2012.



Marti Taylor
Notary Public, State of Texas

CERTIFICATE OF APPROVAL

APPROVED on this the 4th day of SEPT., 2012, by the Planning & Zoning Commission, City of Plano, Texas.

Chairman, Planning & Zoning Commission

STATE OF TEXAS:
COUNTY OF COLLIN:

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared FRD BALDA known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration thereof expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE

THIS 5th DAY OF SEPT., 2012

Notary Public in and for the STATE OF TEXAS



Secretary, Planning & Zoning Commission or City Engineer

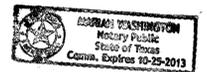
STATE OF TEXAS:
COUNTY OF COLLIN:

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared GERALD P. COSGROVE known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration thereof expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE

THIS 5th DAY OF SEPT., 2012

Notary Public in and for the STATE OF TEXAS



SHEET 2 OF 2

S10274

CONVEYANCE PLAT
LEXINGTON PARK ADDITION, PHASE 2
ON A 5.1828 ACRE TRACT
BEING A REPLAT OF PART OF BLOCK 24 OF OLD DONATION
TO THE CITY OF PLANO
JOSEPH KLEPPER SURVEY, ABSTRACT NO. 213
PLANO, COLLIN COUNTY, TEXAS

OWNER
CDDR PROPERTIES, LLC
2000 MCKINNEY AVENUE, SUITE 700
DALLAS, TEXAS 75201
CONTACT: JOHN P. HALLIBURTON
214-932-6882
PREPARED JULY 2012 BY
KADLECK & ASSOCIATES
ENGINEERING PLANNING SURVEYING
2000 N. CENTRAL EXPY. SUITE 113
(972) 881-0771 PLANO, TX 75074
TBPB Reg. No. F-6460 TBPB Reg. No. 100555-00
CONTACT: L. LYNN KADLECK



Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
09/07/2012 11:08:48 AM
\$31.00 DF05TER
20120907010002240



2012-332
Stacey Kemp

EXHIBIT C

Description and Cost Estimates of Public Improvements

SUMMARY DESCRIPTION AND CONSTRUCTION COST ALLOWANCE OF PUBLIC IMPROVEMENTS

	TOTAL
A Erosion Control, Demolition, Site Clearing, Site Grading, Site Preparation and Clean Up	\$150,000
B Onsite Paving, Concrete, Sidewalks, Curb and Gutter Improvements \$230,000	
C Water, Sanitary Sewer and and Storm Sewer Construction	\$55,000
D Electric Utilities and Antigue Style Street Lights	\$60,000
E Street Trees, Tree Grates, Irrigation Systems, Landscape and Hardscape Improvements	\$80,000
F Civil Engineering and Surveying, Materials Testing	\$60,000
G General Conditions, Mobilization, Traffic Control and Street Cleaning	\$20,000
 SUBTOTAL	 \$655,000
 H Construction contingency (12%)	 \$78,600
 TOTAL	 \$733,600

The above cost estimate is not based on final design or specific quantities and is subject to change once a final design has been completed and specific quantities and pricing have been determined.

EXHIBIT D

Contractor's and InTown's Insurance Requirements

**CITY OF PLANO
GENERAL CONTRACTUAL INSURANCE REQUIREMENTS**

Vendors/Contractors performing work on City property for the City of Plano shall provide the City a certificate of insurance evidencing the coverage's and coverage provisions identified herein. Vendors/Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of insurance as required herein or that the subcontractors are included under the vendors/contractor's policy. The City, at its discretion, may require a certified copy of the policies, including all relevant endorsements.

All insurance companies must be authorized by the Texas Department of Insurance to transact business in the State of Texas, must be acceptable to the City of Plano and be placed with an insurer possessing an A-VII A. M. Best rating or better.

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

1. The following insurance requirements, coverage's and limits apply to most minor construction (Non-CIP), renovation, service provider, installation and maintenance services, work on City property and professional service contracts.
2. Purchases of non-hazardous commodities, equipment, materials and products from distributors and retailers do not require any specific insurance.
3. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment or property may require customized insurance requirements in addition to the general requirements listed.

Commercial General Liability Insurance—(Required for all minor construction, renovation, service provider contracts involving installation, maintenance or work on City property)

Commercial general liability insurance shall be written on an ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-complete operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the commercial general liability policy, including coverage for City with respect to liability arising out of the completed operations.

\$1,000,000 Limit per Occurrence/Aggregate

\$1,000,000 Limit for Personal/Advertising Injury and Products/Completed Operations

Commercial Automobile Liability—(Required for all contracts involving the use of vendor/contractor owned, non-owned or hired automobiles)

Vendor/contractor shall maintain business automobile liability insurance with a limit of not less than \$500,000 each accident or Combined Single Limit.

Such automobile liability insurance shall cover liability arising out of any auto (including owned, hired, and non-owned automobiles). Vendor/contractor waives all rights against City and its agents, officers, directors and employees for recovery by the commercial automobile liability obtained by vendor/contractor pursuant to this section or under any applicable automobile physical damage coverage.

Workers' Compensation & Employer Liability—(Required for all vendors/contractors with employees who perform work or contract services on City property)

Vendor/contractor shall maintain workers' compensation insurance in the amounts required by appropriate state workers compensation statutes. The employer's liability limit shall not be less than \$500,000.

Vendor/contractor waives all rights against City, the City Council and its members, the City's agents, officers, directors and employees for recovery of damages under vendors/contractor's workers' compensation and employer's liability. Vendor/contractor must cause a waiver of subrogation to be effected under its workers' compensation coverage.

Sole Proprietors and companies with no employees may be exempt from this requirement.

Professional Liability (E&O) Insurance--(Required for all Professional Service contracts including but not limited to: architects, engineers, consultants, counselors, medical professionals, attorneys, accountants, etc.)

Professional Liability Coverage (E&O) may be written on a claims made basis but must include an extended reporting period of at least three years after contract completion.

City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the E&O policy, including coverage for City with respect to liability arising out of all errors and omissions of vendor/contractor.

Minimum Limit of \$1,000,000 Each Claim and \$1,000,000 Aggregate

General Requirements Applicable to All Insurance

1. The vendor/contractor shall obtain and maintain the minimum insurance coverage set forth in this section during the entire contract period.
2. The vendor/contractor agrees that the insurance requirements specified herein do not reduce the liability vendor/contractor has assumed in any indemnification/hold harmless section of the contract.
3. Coverage shall be on a primary basis and non-contributory with any other insurance coverage and/or self-insurance carried by City.
4. Vendor/contractor is responsible for providing the City a minimum of 30 days' notice of a material change or voluntary cancellation of insurance coverage required under this contract and notice within 10 days of any notice of termination no matter the cause.

Evidence of Insurance Required

Prior to commencement of work, and thereafter upon renewal or replacement of coverage required by this contract, vendor/contractor shall furnish City a Certificate(s) of Insurance (COI) on a form approved by the Texas Department of Insurance and signed by an authorized representative of each insurer.

The COI shall List each insurer's NAIC Number or FEIN and list the City of Plano, Risk Management Division, 1520 K Avenue, Suite 117, Plano, Texas, 75074 in the Certificate Holder Section.

INSURANCE REQUIREMENT AFFIDAVIT

(SUPPLEMENTAL INFORMATION RFP# _____)

(To be completed by appropriate Vendor/Contractor Insurance Agent)

I, the undersigned agent, certify that the insurance requirements contained in this proposal document have been reviewed by me with the below identified vendor/contractor. If the below identified vendor/contractor is awarded this contract by the City of Plano, I will be able, within ten (10) working days after being notified of such potential award or at contract renewal, to furnish a valid Certificate of Insurance to the City meeting all of the requirements contained in this proposal.

Agent's Printed Name

Agent's Signature

Name of Insurance Agency

Address of Agency

City, State, Zip

Phone number where Agent may be contacted

E-Mail address of Agent

Vendor/Contractor Name:

SUBSCRIBED AND SWORN to before me by the above named _____

on this the _____ day of _____, 20____.

Notary Public in and for the State of _____

NOTE TO INSURANCE AGENT:
IF THIS TIME REQUIREMENT IS NOT MET, THE CITY HAS THE RIGHT TO DECLARE THIS VENDOR NON-RESPONSIVE AND AWARD THE CONTRACT TO THE NEXT LOWEST PROPOSER MEETING THE SPECIFICATIONS. IF YOU HAVE ANY QUESTIONS CONCERNING THESE REQUIREMENTS, PLEASE CONTACT THE CITY OF PLANO PURCHASING DIVISION AT 972-941-7557.

EXHIBIT E

Maintenance Bond

MAINTENANCE 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 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 amount of _____ **DOLLARS** (\$_____), in lawful money of the United States, to be paid in Plano, Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors and assigns, jointly and severally, and 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 Principal will maintain and keep in good repair the work herein contracted to be done for a period of one (1) year from the date of final acceptance and do and perform all necessary work and repair any defective condition, it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal; then this obligation shall be void, otherwise it shall remain in full force and effect; and in case Principal shall fail to do so it is agreed that the City may do such work and supply such materials and charge the same against Principal and Surety on this obligation.

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

PROVIDED FURTHER, that 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 performed thereunder, or the plans, specifications, drawings, etc. accompanying same shall in any way 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.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed on 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 Maintenance Bond must be same date that City Council awarded Contract. Date on Page 2 of Maintenance Bond must be after date of Contract. If Resident Agent is not a corporation, give a person's name.

EXHIBIT F

Affidavit of No Prohibited Interest

AFFIDAVIT OF NO PROHIBITED INTEREST AND COMPLIANCE WITH CITY OF PLANO'S EQUAL RIGHTS ORDINANCE

A. No Prohibited Interest

I, the undersigned, declare that I am authorized to make this statement on behalf of _____, a _____ organized under the laws of the State of _____, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of _____, is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

B. Equal Rights Compliance

1. Section 2-11(F) of the City Code of Ordinances reads as follows:

"It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer to discriminate against a

- person in violation of this subsection;
- (j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;
 - (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
 - (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
 - (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

2. I am aware that my company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies, as indicated below. Further, I understand that if Section 2-11(F) applies, I am entitled to apply to the City Manager for a waiver from signing this section of the affidavit based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, I affirm that my company, its directors, officers and employees agree to comply with Section 2-11(F); or my company is excluded from this Ordinance based on the following: **[PLEASE CHECK BELOW, IF APPLICABLE]**

_____ A religious organization.

_____ A political organization.

_____ An educational institution.

_____ A branch or division of the United States government or any of its departments or agencies.

_____ A branch or division of the State of Texas or any of its departments, agencies or political subdivisions.

_____ A private club that is restricted to members of the club and guests and not open to the general public.

_____ Is not an “employer” under Section 2-11(F) because it has not had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

[THIS SPACE INTENTIONALLY LEFT BLANK]

I also understand and acknowledge that a violation of Section 11.02 of the City Charter or Section 2-11(F) of the City Code of Ordinances, if applicable, at any time during the term of this contract may render the contract voidable by the City.

Company Name

By: _____
Signature

Print Name

Title

Date

STATE OF TEXAS §

§
COUNTY OF _____ §

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

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:		4/13/15			
Department:		City Manager			
Department Head		Phyllis Jarrell - Special Projects			
Agenda Coordinator (include phone #): T. Stuckey - 7156					
CAPTION					
A Resolution of the City of Plano, Texas, approving the terms and conditions of a development agreement between the City of Plano and 14th and J, LLC for development of Municipal Center South; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2014-2015, 2015-2016, 2016-2017	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	7,458,997	0	7,458,997
Encumbered/Expended Amount		0	-23,459	0	-23,459
This Item		0	-2,150,000	0	-2,150,000
BALANCE		0	5,285,538	0	5,285,538
FUND(S): TIF II FUND					
<p>COMMENTS: Funding for this agreement was identified in the TIF II Project and Financial Plan. This item, in the amount not to exceed \$2,150,000, will leave a current year balance of \$5,285,538 available for other expenditures relating to TIF II.</p> <p>STRATEGIC PLAN GOAL: Facilitating redevelopment in and around Downtown Plano relates to the City's goal of Exciting Urban Centers - Destination for Residents and Guests.</p>					
SUMMARY OF ITEM					
See attached memo.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Memo					
Resolution					
Development Agreement					

DATE: March 25, 2015

TO: Bruce D. Glasscock, City Manager
Frank F. Turner, Deputy City Manager

FROM: Phyllis M. Jarrell, Special Projects Director

SUBJECT: Municipal Center South Redevelopment

Attached for City Council's consideration is the development agreement outlining the City's arrangement with 14th and J, LLC (a subsidiary of Southern Land Company) for the redevelopment of the Municipal Center South and the Christie properties at the northwest corner of 14th Street and K Avenue. The City Council approved a letter agreement with Southern Land Company in late 2013 to negotiate the terms and conditions of public/private partnership to support the redevelopment project and to proceed with initial planning and design work. Since that time staff has been working with the developer to structure an agreement for incentives and design requirements.

The redevelopment site consists of approximately 2.0 acres and includes the Municipal Center South building and parking lot, the Christie property (acquired by the City in 2013) and the fire lane that runs along the north and west sides of the Municipal Center South property. The fire lane will be rededicated to the city after it is reconstructed.

The developer is proposing two five story buildings with commercial/restaurant and live/work space on the first floor and apartment units on the upper floors. The buildings will wrap a parking garage consisting of three underground floors and one at-grade level.

The major provisions of the development agreement are as follows:

Southern Land's Obligations

- Construct a mixed-use development of a minimum of 200,000 square feet and structured parking, with a minimum of 175 units and 12,800 square feet of non-residential use, exclusive of the leasing office and other support space. The minimum private investment value of the development shall be \$23,000,000.
- The average unit size shall be 700 square feet, and no more than 80% of the units shall have one bedroom or less.
- Finish out two separate lease spaces for restaurant use.
- Design live/work/flex spaces with taller minimum floor to ceiling heights to support future conversion to commercial use.
- Construct and convey to the City by easement 120 spaces in the parking garage for public parking. 70 public parking spaces are now located in the parking lot on the property.
- Obtain a Certificate of Appropriateness for demolition and approval of the façade and building design of the new structure to replace the Christie buildings.

- Obtain approval of a preliminary site plan.
- Lease a minimum of 400 square feet of space to the City for storage of equipment and supplies for activities and events in the McCall Plaza and J Place parking lot.
- Convey an easement to the city for a new location for a public trash compactor, dumpsters and recycling containers. The existing facility will be relocated during construction and then rebuilt as part of the new development.
- Agree to not make application for ad valorem tax exemptions provided through the Heritage Tax Exemption program.
- Provide documentation of the company's financial ability to complete the development.
- Provide locations for video cameras for security surveillance of the public parking garage and surrounding streets.
- Comply with the timing of commencement of construction and completion of public improvements and the buildings as required in the agreement.

The City's Obligations

- Convey the Municipal Center South and Christie properties to Southern Land, based on their value of \$1.7 million.
- As authorized by Neighborhood Empowerment Zone #1, waive all plan review, permit and building inspection fees, with an estimated value of \$150,000.
- Where necessary, relocate and rehabilitate utility lines on the property and relocate overhead electric lines underground.
- Reimburse Southern Land for eligible expenses for public improvements in an amount not to exceed \$1,250,000.
- Reimburse Southern Land for the cost of 50 spaces in the parking garage that are in excess of the 70 spaces that now exist in the surface lot. The reimbursement shall not exceed \$14,000 per space or a total cost of \$700,000.
- Reimburse the developer for demolition of the buildings on the property, including environmental remediation, up to a maximum of \$200,000. Costs exceeding this amount will be shared equally by the City and the developer.
- Reimburse the developer for the costs of installing conduit and power for security cameras and equipment.

Other Provisions

Provisions for non-performance include a \$100,000 payment to the city if Southern Land does not move forward with the project and close on the properties. After closing, the developer must pay an amount equal to the reimbursement from the City plus the \$1.7 million value of the property if the project is terminated prior to completion of the improvements or if the developer fails to commence construction. If the parking garage is damaged or destroyed, the developer must pay a fee to the city until the garage is restored or provide 120 surface parking spaces. If the garage is not repaired or reconstructed, the developer must pay the City for the appraised value of the property (minus improvements) or convey the property itself.

Funding

The City's financial participation in the project is primarily through TIF#2 funds. The Christie property was purchased using TIF funds, and reimbursements for public improvements, demolition costs and the payment for 50 additional parking spaces will also be from TIF #2. The value of the Municipal Center South property will be transferred from the TIF #2 account to the General Fund and used to partially fund construction of the new Parks and Recreation Department offices. Neighborhood Empowerment Zone fee waivers represent funds not collected for the General Fund.

Timing

The agreement requires Southern Land to commence the project by September 1, 2015 and complete the public improvements by July 15, 2017.

Please let me know if you have questions.

XC: Christina Day, Director of Planning
Timothy A Dunn, Assistant City Attorney

A Resolution of the City of Plano, Texas, approving the terms and conditions of a development agreement between the City of Plano and 14th and J, LLC for development of Municipal Center South; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City of Plano (“City”) is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purposes of providing supporting public facilities and services; and

WHEREAS, on January 13, 2014, the City Council approved Resolution No. 2014-1-13(R) for the purpose of approving a letter agreement between the City of Plano (the “City”) and Southern Land Company, LLC (managing entity of 14th and J, LLC), hereto referred to as “Developer”, to provide an exclusive period for negotiating the terms and conditions for development of 2.0± acres of City-owned land located at the northwest corner of K Avenue and 14th Street; and

WHEREAS, the City Council has been presented with a proposed development agreement between the City and the Developer, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference as “Agreement”; and

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

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

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

Section II. The City Manager or his authorized designee is hereby authorized to execute the Agreement between 14th and J, LLC and the City 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. The City Manager, at his discretion, is hereby authorized to extend the deadline dates contained within the Agreement upon the written request of 14th and J, LLC.

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

DULY PASSED AND APPROVED THIS THE 13TH DAY OF APRIL, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF PLANO, TEXAS AND 14TH AND J, LLC
FOR DEVELOPMENT OF MUNICIPAL CENTER SOUTH**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between the City of Plano, a Texas home rule municipal corporation of Collin County, Texas (the “City”), acting by and through its duly authorized officers, and 14th and J, LLC a Delaware limited liability company (“Developer”);

RECITALS:

WHEREAS, the City is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purposes of providing supporting public facilities and services; and

WHEREAS, Developer desires to develop approximately 2.0 acres located at the northwest corner of 14th Street and K Avenue, as shown in Exhibit “A” attached hereto (“the Property”); and

WHEREAS, Developer has proposed a development on the Property in substantial compliance with a preliminary project design and concept plan prepared by Developer attached hereto as Exhibit “B” (which design and concept plan, together with all additions, changes and amendments thereto approved by Developer and the City, is referred to in this Agreement as the “Development”); and

WHEREAS, the Development is located in Tax Increment Financing District No. 2 (TIF 2) and a portion of the proposed public improvements (sometimes referred to herein as the “public improvements” and the “Public Improvements”) at the Development are to be funded through the revenue derived by TIF 2 in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, to promote development and redevelopment in the area through the use of tax increment financing; and

WHEREAS, the Development is consistent with the goals and objectives as set forth in Downtown Plano, A Vision and Strategy for Creating a Transit Village which was adopted by the City Council by Resolution No. 99-5-14, dated May 10, 1999 and in Downtown Plano Vision and Strategy Update, which was adopted by the City Council by Resolution No. 2013-2-20(R); and

WHEREAS, the Development will contribute important direct and indirect economic and social benefits to the City including, but not limited to, the creation of a mixed-use, pedestrian oriented, residential development in close proximity to the DART railway station; and

WHEREAS, the City is authorized by Tex. Loc. Gov't Code §380.001 et seq. to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to Developer in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City; and

WHEREAS, it is essential to the City's public health, safety and general welfare to assure that the Development is supported by adequate levels of public facilities and services;

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

SECTION 1. DEVELOPER'S OBLIGATIONS

A. Prior to closing on the Property, Developer shall perform the following obligations:

1. Complete a preliminary project design, including schematic floor plans and façade illustrations for the Development. The Development shall contain approximately 175 residential units and 12,800 square feet of floor space designed for non-residential use, net of floor area dedicated to a leasing office, fitness center and other space used for support of the residential units and net of live/work/flex space. The Development shall total approximately 200,000 square feet in gross floor area (excluding the parking garage), and the average residential unit size shall be approximately 700 gross square feet. The number of units with one bedroom or less shall not exceed eighty percent (80%) of the total number of residential units (excluding any live/work units). A minimum of two separate lease spaces shall be designed for restaurant use, with grease traps, ventilation, plumbing and other installations to support food service and preparation. One of the restaurant lease spaces shall be a minimum 3200 square feet in size, exclusive of outdoor dining areas. Individual flex or live/work units must be designed with a minimum 14.5 foot floor-to-ceiling height, with doors opening to the exterior of the building, and must be a minimum of 700 square feet in size. Commercial space in the portion of the Development facing J Avenue must be constructed with a minimum 17 foot floor-to-ceiling height; and

2. Obtain approval from the city's Heritage Commission as required by the city's Heritage Preservation Ordinance for demolition of the existing buildings and for the façade and building design of the development located on the portion of the Property located at 1400 J Avenue; and

3. Complete and obtain approval of a preliminary site plan as required by the City's Zoning Ordinance; and

4. Provide documentation to the reasonable satisfaction of the City of financial ability to complete the obligations under this Agreement in the form of a detailed financial statement, an external audit report, a commitment for debt and/or equity financing, or other form acceptable to the City.

B. After closing on the Property, Developer shall perform the following obligations:

1. Obtain all necessary permits from the City, which shall not be unreasonably withheld, conditioned or delayed by the City, and begin construction of the Development no later than September 30, 2015, subject to Force Majeure (as defined hereinbelow). Construction shall be deemed to have begun when Developer actually commences site work (*e.g.*, demolition, grading or clearing) on the Property (the “Commencement Date”);

2. Complete the design, construction, and installation of the private improvements at the Property (sometimes referred to herein as the “private improvements” and the “Private Improvements”) at its sole cost and expense and in conformity with the requirements in Exhibit “B” attached hereto, and which when completed (and when the Public Improvements have also been completed) shall have a private investment value of not less than Twenty Three Million Dollars (\$23,000,000). The portion of the parking garage at the Development to be conveyed to the City by easement shall be completed on or before September 30, 2016 and the remainder of the Development shall be completed on or before August 15, 2017. 14th and J, LLC shall retain ownership of the Property until 15th and I, LLC sells or transfers its interest in the project known as “Junction 15” in Plano, Texas, but in no instance shall 14th and J, LLC transfer ownership of the Property (i) prior to the completion of the Development unless Developer sells or transfers its interest in the Development as part of a package deal to the person or entity purchasing Junction 15 or (ii) without the City’s consent;

3. Complete the design, construction, and installation of all Public Improvements required to serve the Development (but specifically excluding construction of any off-site utilities not required by Exhibit “C”) including demolition, abatement, storm sewer, drainage, utility, paving, lighting, landscape, hardscape and other improvements required by the City, both on-site and off-site, that are described or referred to in Exhibit “C” attached to this Agreement. Public Improvements shall be designed, constructed and installed in a good and workmanlike manner in accordance with all applicable laws, statutes and ordinances, rules and regulations of the City and any other governmental authority having jurisdiction, including, without limitation, the City Right-of-Way Management Ordinance, the City Code of Ordinances and the City Zoning and Subdivision Ordinances. The Public Improvements shall be completed on or before July 15, 2017.

4. On or before August 15, 2017, convey the Public Improvements and dedicate the reconstructed mews street/fire lane to the City free and clear of all liens. The mews street/fire lane shall be dedicated to the city in fee simple. A conveyance to the City shall be evidenced by the plat filed for the Development, and any other instrument which City may reasonably request, and shall include, to the extent assignable, an assignment of all contractors’ warranties, if any, and all performance, payment and maintenance bonds. Prior to acceptance of such conveyance to the City, Developer shall provide the City with releases from the general

contractor for the design, construction and installation of all Public Improvements on the form attached hereto as Exhibit "D".

5. Convey to the City by easement, attached hereto as Exhibit "E" and incorporated herein, one hundred twenty (120) of the spaces in the parking garage at the Property for the exclusive use of the City without charge. The 120 spaces are in addition to spaces required by the City's Zoning Ordinance for the residential units, commercial space and live/work space included in the Development. The parking spaces including in the easement shall begin with the first space(s) in the lowest level of the garage and shall be outside of any security gates delineating parking for the Development's tenants. The easement shall be subject and subordinate to the lien of any deed of trust in favor of Developer's lender subject to the City's right to compensation in Section 4 of this Agreement in the event of damage, destruction or failure of performance. City may use the parking spaces for general public parking and municipal purposes. The City shall have the right to enact and enforce time restrictions or other regulations for the parking spaces that are subject to the easement. Notwithstanding the foregoing, the City may not lease or assign the parking spaces for a commercial enterprise. Developer shall execute the Parking Space Easement with the City on or before June 30, 2017. In the event of casualty, Developer shall have the opportunity to restore the private improvements on the Property, as more particularly set forth in (among other documents) the Parking Space Easement and the lease agreement described below.

6. Convey a minimum of 400 square feet of climate controlled lease space for the exclusive use of the City at the Development by separate lease agreement, at a mutually agreeable location on the ground floor to be negotiated between the parties after completion of construction of the Development. Developer agrees to lease the space for a 15 year term to the City at a cost of ten dollars (\$10) annually with two ten year lease renewal options with no increase in the amount of cost to the City on renewal. The City shall not be responsible for taxes, common area insurance or common area maintenance at the Property, but will be responsible for payment of utilities, which shall be separately metered. City shall use the lease space for storage of event equipment and supplies or any other lawful use consistent with these activities of the City. The City agrees to carry renter's insurance on its event equipment and supplies and other property located in the lease space and agrees that Developer shall have no responsibility therefor. The lease shall be subject and subordinate to the lien of any deed of trust in favor of Developer. Developer shall execute a lease agreement for the 400 square feet of lease space with the City on or before the date of substantial completion of the Development.

7. Convey by separate easement space for a public trash compactor, dumpsters and recycling containers on the Property or within the parking garage on or before the date of substantial completion of the Development.

8. Provide locations for video cameras for security surveillance of public garage parking and streets.

9. Maintain, repair and replace as needed all common areas, open spaces and landscaping improvements on the Property including all hardscape and landscaping, sidewalks, curbing, paving and related improvements on public property (14th Street, K Avenue and J

Avenue) adjacent to the Property (including the Public Improvements but, with respect to utility lines, pipes, conduits, cables and/or services, Developer shall only be responsible for maintaining, repairing and replacing those that exclusively serve the Development) and extending to the nearest curb of such public rights-of-way (collectively, the "Public Property") in accordance with the City's existing Right-of-Way Management Ordinance. Landscaping and streetscaping in the Public Property shall also be in accordance with the specifications and standards set forth in "Exhibit C" attached hereto and incorporated herein. Developer shall be responsible for all maintenance and operation expenses associated with the Development, including the Public Improvements as set forth above.

10. Agree to not make application for ad valorem tax exemptions provided through the Heritage Tax Exemption program authorized by Ordinance Number 84-8-24, as existing and as amended, offered by the City of Plano, Plano Independent School District, Collin County and Collin College taxing jurisdictions.

SECTION 2. CITY'S OBLIGATIONS

The City shall perform the following obligations:

A. Grant to Developer the Property described in Exhibit "A" in "As Is" condition by Special Warranty Deed. Such transfer shall be consummated at a closing to be held on a date of which Developer may notify the City in writing at least fifteen (15) days in advance, but in no event later than September 30, 2015. The City shall be responsible for obtaining title insurance on the Property, at its expense, based on the value of one million seven hundred thousand dollars (\$1,700,000). Any additional title insurance coverage shall be paid by Developer. The title insurance commitment (and resulting policy) shall insure title to be free and clear of liens, marketable, and not subject to any encumbrances which could interfere with Developer's development of the Development. By mutual agreement, the site may be conveyed to Developer with the City retaining a leasehold of a portion of the property until the City vacates Municipal Center South.

B. Waive all plan review, permit and building inspection fees with an estimated value of \$150,000, in accordance with Neighborhood Empowerment Zone #1, in addition to waiver of park impact fees as allowed for new multi-family development.

C. No later than May 1, 2016, where necessary, commence to relocate and rehabilitate utility lines located on the property, including existing water, sewer and drainage facilities and relocate existing overhead electric underground and existing transformer boxes provided, however, that Developer retains responsibility for installation of new utility services, transformers and other public improvements required to provide service to the Development.

D. Within thirty (30) days after request by Developer, reimburse Developer for eligible expenses for "Project Costs" (as defined hereinafter) for any public improvements or such other work in an amount not to exceed One Million Two Hundred Fifty Thousand Dollars (\$1,250,000). However, such reimbursement shall exclude "Overhead Costs" (as defined hereinafter). As part of the above reimbursement, prior to closing, the City shall reimburse

Developer for design expenses related to public improvements in an amount not to exceed \$150,000.

1. “Project Costs” means actual construction and/or installation costs, and design costs for public improvements, including but not limited to:

i. civil engineering, architecture and landscape architecture fees associated with the public improvements specified in this paragraph;

ii. underground relocation of electrical and communication lines and facilities on the property or adjacent public rights of way, including without limitation, any payments made to entities affiliated with or related to Developer, to the extent that such payments do not exceed what is reasonable and customary for such services;

iii. design and construction of storm sewer, drainage, water utilities, paving, lighting, landscape, hardscape and other improvements required by the City, both on-site and off-site, but specifically excluding construction of any off-site utilities not required by Exhibit “C”, that are described or specified on the project plans approved by the City; and

iv. costs associated with land conveyance.

2. “Overhead Costs” means:

i. overhead and management fees of Developer,

ii. financing charges,

iii. marketing costs,

iv. legal fees, and

v. payments made to entities affiliated with or related to Developer to the extent such payments made to entities affiliated with or related to Developer exceed what is reasonable and customary for such services. All payments for Public Improvement reimbursement to Developer under this subsection shall be payable solely from Tax Increment Financing District No. 2 funds as provided by law and the City shall not be obligated for payment from the City’s general fund or any other City fund unrelated to the Tax Increment Financing District No. 2 fund;

E. Within thirty (30) days after request by Developer, reimburse Developer for fifty (50) parking spaces being provided in the parking garage that are in excess of the seventy (70) existing surface parking spaces being replaced. The reimbursement shall be based on the actual average cost of all garage parking spaces, but shall not exceed \$14,000 per space or a total cost of \$700,000. Developer shall provide documentation as required to verify the actual cost of construction.

F. Reimburse Developer for surface and subsurface demolition of the improvements on Property, including but not limited to environmental remediation and grading in preparation for construction of the project. The City will reimburse Developer for demolition and abatement costs up to a maximum of \$200,000. Should the cost exceed \$200,000, City and Developer will each pay 50% of the amount exceeding \$200,000.

G. Within thirty (30) days after request by Developer, reimburse Developer for all costs associated with the installation of conduit and power for video cameras and security surveillance equipment for the public parking garage and streets.

SECTION 3. DESIGN AND CONSTRUCTION; BONDS

A. In addition to any other approvals required by the City of Plano Code of Ordinances and Zoning Ordinance, Developer shall submit building plans and a site plan for the proposed Public Improvements and Private Improvements at the Property to the City Manager or his designee for written approval of the general design, arrangement, landscaping, materials to be used, and other exterior features and appurtenances that will be used or constructed at the Property. Approval by the City Manager or his designee shall not be unreasonably withheld. Developer shall obtain approval from the City Manager or his designee as required by this section of the Agreement prior to commencing construction of any Improvements at the Property.

B. Design management for the Public Improvements and the Development will be provided by a licensed architect for the Development or such other party as shall be mutually agreed to by the parties to this Agreement.

C. Developer shall obtain any and all required local, state and federal governmental approvals and permits required for construction of the Public Improvements and the Private Improvements at the Property.

D. Developer shall require its general contractor to procure and maintain insurance coverage as set forth in Exhibit "F" for the duration of the construction project at the Property. Developer shall provide their general contractor's signed insurance certificate to the CITY verifying that they have obtained the required insurance coverage prior to the commencement of construction at the Property and naming the City of Plano as additional insured.

E. Developer shall procure and maintain insurance coverage as set forth in Exhibit "F" for the duration of the Agreement. Developer shall provide their signed insurance certificate to the CITY verifying that they have obtained the required insurance coverage prior to the commencement of construction at the Property and naming the City of Plano as additional insured.

F. Prior to the Commencement Date, Developer shall require its general contractor to furnish a payment bond and performance bond to the City by surety companies authorized to do business in the State of Texas, which bonds shall be in the form provided on attached Exhibits "G" and "H". The purpose of such bonds is to insure that construction of the facility is completed

and that all bills for material and labor are paid in full upon completion of construction with no cost to the CITY except as otherwise required herein.

G. Upon completion of the Public Improvements, Developer shall provide a maintenance bond in the amount of ten percent (10%) of the cost of the Public Improvements as provided in the form on attached Exhibit "T".

H. In accordance with the City's Subdivision Ordinance, Article 5.10c as amended, all electric utility lines and wires, terminals and other facilities and equipment shall be constructed, placed or located underground.

I. All project designs, drawings, site plans and other documents produced by Developer in connection with the Private Improvements at the Property, including those attached to this Agreement, shall remain the property of Developer. However, in exchange for Developer's acceptance of the above-described reimbursement from the City, the rights to that portion of the plans created for the Public Improvements and infrastructure, and all assignable rights in the boundary survey and environmental site assessment of the Property obtained by Developer shall become the property of the City upon dedication as required by Section 1(B) (5) and (6) of this Agreement.

J. On the date of closing, Developer shall deliver an executed Deed of Trust (the "Deed of Trust") to the City. The Deed of Trust shall be immediately released by the City on the Commencement Date or reasonably thereafter. In the event Developer obtains construction financing prior to the Commencement Date, the Deed of Trust lien granted to Developer's construction lender shall be a first lien that is superior to the lien of the Deed of Trust, and the City shall execute and deliver at the closing of Developer's construction loan a subordination agreement mutually acceptable to the City, Developer and Developer's construction lender.

K. All performance bonds shall comply with the following requirements:

(1) All performance bonds must be in a form acceptable to the city engineer and the city attorney.

(2) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury.

(3) All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act.

(4) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the state to issue performance bonds for the limits and coverage required.

L. As portions of the public improvements are completed in accordance with the approved engineering plans, the applicant may make written application to the city engineer to reduce the amount of the original security. If the city engineer is satisfied that such portion of the public improvements has been completed in accordance with city standards, the city shall cause the amount of the security to be reduced by such amount that it deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.

SECTION 4. DAMAGE, DESTRUCTION, OR FAILURE OF PERFORMANCE

A. Should Developer not close on the Property as described in Section 2A above due to any reason other than a default by the City, it shall pay the City a total of One Hundred Thousand Dollars (\$100,000), such amount being agreed upon as liquidated damages for the failure of Developer to perform the duties, liabilities and obligations imposed upon it hereunder. No other damages, rights or remedies shall in any case be collectible, enforceable or available to the City and the City agrees to accept and take such amount as its total damages and sole relief hereunder.

B. After closing on the Property, and subject to applicable lender notice and cure rights, and any Developer notice and cure rights, in the event this Agreement is terminated based on a default by Developer prior to completion of the Public Improvements and the Private Improvements, or in the event Developer fails to commence construction at the Property on or before March 31, 2016, Developer shall pay to the City:

(i) an amount equal to all monies paid by the City for reimbursement to Developer pursuant to this Agreement,

(ii) the sum of \$1,700,000, representing the purchase price for the Property, and

(iii) any costs or sums incurred by the City in complying with its obligations under Section 2 of this Agreement,

together with interest at the Wall Street Journal prime rate plus one percent (1%), from the date of termination until paid.

C. In lieu of the reimbursement provided in Subsection B(ii) above, Developer shall have the option of conveying the title to the real property described in Exhibit "A" of this Agreement to the City provided that it is free and clear of all liens and encumbrances other than utility and other easements which do interfere with the development of the Property and returned to (or remains in) the condition it was in at the time the City conveyed it to Developer.

D. Subject to applicable lender notice and cure rights, and any Developer notice and cure rights, in the event of partial or total destruction of the Private Improvements at the Property subsequent to the Public Improvements and the Private Improvements being fully constructed in accordance with Sections 1(B)(1),(2),(3),(4),(5),(6),(7),(8),(9), and (10) that impairs the use of

the parking spaces or lease space pursuant to Sections 1(B)(5) and (6) of the Agreement, the following shall be required of Developer:

1. If Developer reconstructs or repairs the Private Improvements at the Property, the Private Improvements shall be reconstructed or repaired to substantially the same condition as existed immediately before the damage or destruction and otherwise in accordance with the terms of the Agreement. Provided, however, Developer may alter the plan of the replacement Improvements to meet then current building methods and specific development needs and uses, and even change the configuration and access to the Public Improvements or the Private Improvements, so long as the City's practical utilization of the Parking Space Easement is not unreasonably impaired. Subject to availability of casualty insurance proceeds and the approval of the applicable lender, Developer shall commence reconstruction or repair of the Private Improvements at the Property within twelve (12) months of the destruction and shall complete the Private Improvements at the Property and obtain a Certificate of Occupancy within twenty-four (24) months of the date of commencement of the reconstruction or repair, unless an extension of time is requested by Developer for good cause and agreed to by the City in writing, such agreement not to be unreasonably withheld. Beginning from the date of destruction and until the date of restoration of full and complete use of the parking spaces and lease space pursuant to Sections 1(B)(5) and (6) of this Agreement or until Developer makes payment or dedicates the Property to the City pursuant to Section 4(A) and 4(D)(2) below, Developer shall pay to the City a monthly fee equal to one percent (1%) of the appraised value of the real property as described in Exhibit "A" of this Agreement, excluding the value of any improvements thereon (minus the real property dedicated to the City as part of the Public Improvements pursuant to Section 1(B)(4) of the Agreement) as valued on the date of destruction to compensate the City for loss or impairment of use of its parking and/or lease space at the Property. Provision of one hundred twenty (120) surface parking spaces shall alleviate the requirement to pay a monthly one percent (1%) fee but only on an interim basis, not to exceed thirty six (36) months to allow time for the parking garage to be reconstructed or repaired.

2. If Developer decides against reconstruction or repair of the Private Improvements at the Property, or is unable to reconstruct the Private Improvements due to lack of insurance proceeds or lender consent, Developer shall pay the City, within 30 days of such determination, an amount equal to the appraised value of the real property described in Exhibit A to this Agreement as valued at the time of destruction of the Private Improvements but excluding the value of any improvements thereon (minus the real property dedicated to the City as part of the Public Improvements pursuant to Section 1(B)(4) of the Agreement) plus interest at the Wall Street Journal prime rate plus one percent (1%) from the date of the decision until paid. In lieu of reimbursement of the appraised value of the real property pursuant to this subsection, Developer shall have the option of conveying the title to the real property described in Exhibit A to the City provided that it is free and clear of all liens and encumbrances other than utility and other easements which do interfere with the development of the Property and returned to (or remains in) the condition it was in at the time the City conveyed it to Developer.

The provisions of this Subsection D shall be incorporated into the parking space easement.

E. Any appraised values to be determined pursuant to Section 4 of the Agreement shall be determined by an Independent MAI Appraiser selected by agreement of Developer and by the City. The parties shall bear the cost of the appraisal equally.

F. Any obligations required of Developer pursuant to this Section 4 of the Agreement are binding on any successors or assigns of Developer pursuant to Section 21 of the Agreement.

SECTION 5. FORCE MAJEURE

It is expressly understood and agreed by the parties to this Agreement that if any date for performance hereunder, including the substantial completion of the construction of any the Development and Public Improvements contemplated hereunder, is delayed by reason by war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, or interferences, delays caused by the franchise utilities, fire or other casualty, court injunction, necessary condemnation proceedings, or acts of the other party, its affiliates/related entities and/or their contractors (“Force Majeure”), the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

SECTION 6. TERM

The term of this Agreement shall begin on the date of execution and end upon substantial completion of the Development.

SECTION 7. AUTHORITY OF DEVELOPER

Developer represents and warrants to the City that Developer is duly formed, validly existing and in good standing under the laws of the State of Delaware. Developer will provide a certificate of status from the Texas Secretary of State’s office evidencing Developer’s current legal status and authority to conduct business in Texas. Developer represents that it has full power, authority and legal right to execute and deliver this Agreement. This Agreement constitutes a legal, valid, and binding obligation of Developer and the City, enforceable in accordance with its terms.

SECTION 8. EVENTS OF DEFAULT

A default shall exist if any of the following occurs:

1. Either party fails to perform or observe any material covenant contained in this Agreement.
2. Developer becomes delinquent on ad valorem taxes owed to the City, or any other Collin County taxing unit, provided that Developer retains the right to timely and

properly protest and/or contest any such taxes and during the pendency of such proceedings such taxes shall not be deemed delinquent.

A party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default by the defaulting party under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.

SECTION 9. REMEDIES

The defaulting party shall have thirty (30) days to cure after receiving written notice of default from a party. If a default shall continue, after thirty (30) days' notice to cure the default, the non-defaulting party may, at its option, terminate the Agreement and/or pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law, without the necessity of further notice to or demand upon the defaulting party. If the default is of such a nature that the same cannot be reasonably cured or remedied within said thirty (30) day period, the defaulting party shall in good faith have commenced the curing or remedying of such default within such thirty (30) day period and shall thereafter diligently proceed therewith to completion. However, the non-defaulting party may, at its option, provide written extension for additional time to cure if the defaulting party proceeds in good faith and with due diligence to remedy and correct the default, provided that the defaulting party has commenced to cure such default within thirty (30) days following notice.

SECTION 10. BANKRUPTCY

In the event Developer files for bankruptcy, whether involuntarily or voluntary, Developer shall provide written notice to the City within three (3) business days of such event.

SECTION 11. INDEMNIFICATION

DEVELOPER 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 DEVELOPER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF DEVELOPER, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH DEVELOPER 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 THE NEGLIGENCE OF ITS 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. DEVELOPER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ITS OWN ENTIRE DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. DEVELOPER 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 DEVELOPER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND DEVELOPER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

SECTION 12. AFFIDAVIT OF NO PROHIBITED INTEREST

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

SECTION 13. NOTICES

Any notice required by this Agreement shall be deemed to be properly served if deposited in the U.S. mails by certified letter, return receipt requested, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

If intended for City, to:
City of Plano
Attention: City Manager
1520 Avenue K
P. O. Box 860358
Plano, Texas 75086-0358

If intended for Developer, to:
14th and J, LLC
c/o Southern Land Company, LLC
1550 W. McEwen Drive, Suite 200
Franklin, Tennessee 37067
Attn: Brian Sewell

SECTION 14. WRITTEN NOTICES AND APPROVALS REQUIRED

Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreements, any request, demand, approval, notice or consent of the City or Developer is required, or whenever the City or Developer is required to agree or to take some action at the request of the other, such request, demand, approval, notice or consent, or agreement shall be in writing. Approval by City, unless otherwise provided herein, shall be by the City Manager or his designated representative and approval by Developer shall be by the CEO, CFO or President or any officer of Developer so authorized (and, in any event, the officers executing this Agreement are so authorized); and either party hereto shall be authorized to act in reliance upon any such request, demand, approval, notice or consent, or agreement.

SECTION 15. GIFT TO PUBLIC SERVANT

A. City may terminate this Agreement immediately if Developer has knowingly offered, conferred, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

B. For purposes of this section, “benefit” means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

C. Notwithstanding any other legal remedies, City may require Developer to remove any employee of Developer from the development of the Public Improvements who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made to Developer as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

SECTION 16. APPLICABLE LAWS

This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable laws of the State of Texas and federal laws.

SECTION 17. VENUE AND GOVERNING LAW

This Agreement is performable in Collin County, Texas and venue of any action arising out of this Agreement shall be exclusively in Collin County, Texas. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

SECTION 18. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be

considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

SECTION 19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

SECTION 20. CAPTIONS

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

SECTION 21. SUCCESSORS AND ASSIGNS

A. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. Provided, however, this Agreement shall not be assigned without the prior consent of Developer and the Plano City Council, which approvals shall not be unreasonably withheld.

B. An assignment or delegation of this Agreement to an Affiliate of Developer shall not require City Council approval and shall not result in a breach of the Agreement if the Affiliate of Developer expressly assumes all of the obligations of Developer under this Agreement for the balance of the term of this Agreement and provides evidence establishing the relationship between Developer and an Affiliate. Developer shall notify the City in writing, however, within 30 days of such assignment. "Affiliates", as used herein, includes any parent, sister, partner, joint venturer, equity investor or subsidiary entity of Developer; any entity in which either of Developer, a major shareholder, owns an equity interest or is a joint venturer or partner (whether general or limited). Upon such assignment, Developer shall be released from all liability hereunder.

SECTION 22. ENTIRE AGREEMENT

This Agreement embodies the complete agreement of the parties hereto with respect to the Property, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement. This Agreement is the complete and final understanding and agreement between Developer and the City with respect to the Property. Except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

SECTION 23. INCORPORATION OF RECITALS

The recitals set forth herein are intended, and are hereby deemed to be a part of this Agreement.

EXECUTED on the _____ day of _____, 2015, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. _____ approved by the City Council on _____, acting through its duly authorized officials.

CITY OF PLANO, TEXAS, a home rule municipal corporation

By: _____
Bruce D. Glasscock, City Manager

APPROVED AS TO FORM:

Paige Mims, City Attorney

ACKNOWLEDGMENT

**STATE OF TEXAS
COUNTY OF COLLIN**

This instrument was acknowledged before me on the _____ day of _____, 2015, by Bruce D. Glasscock, City Manager, of **CITY OF PLANO, TEXAS**, a home rule municipal corporation.

Notary Public, State of Texas

My Commission Expires:_____

14TH AND J, LLC, a Delaware limited liability company

By: Southern Land Company, LLC,
its Manager

By: _____
Brian S. Sewell, President

STATE OF TENNESSEE

COUNTY OF WILLIAMSON

Before me, _____, a Notary Public in and for the State and County aforesaid, personally appeared Brian S. Sewell, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of Southern Land Company, LLC, the Manager of 14th and J, LLC, a Delaware limited liability company, the within named bargainer, a limited liability company, and that he as such President, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as such President.

WITNESS my hand and seal at office, on this the ____ day of _____,
2015.

Notary Public

My Commission Expires: _____

Exhibit List

Exhibit A – Metes and Bounds Legal Description of Property

Exhibit B – Concept Plan and Schematics

Exhibit C – List of Public Improvements

Exhibit D – Contractor’s Affidavit of Final Payment

Exhibit E – Parking Garage Easement

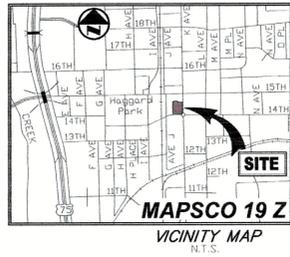
Exhibit F – Contractor’s and City’s Insurance Requirements Checklist

Exhibit G – Payment Bond

Exhibit H – Performance Bond

Exhibit I – Maintenance Bond

Exhibit J – Affidavit of No Prohibited Interest



DESCRIPTION OF PROPERTY SURVEYED

BEING a 87,082-square-foot or 1.999-acre tract of land in the City of Plano, a portion of the Joseph Klepper Survey, Abstract Number 213, Collin County, Texas, and being part of Tract One described in the Special Warranty Deed from Republicbank Plano to the City of Plano, Texas, dated the 17th day of October, 1983, and recorded in Volume 1756, at Page 899 of the Deed Records of Collin County, Texas, said Tract One being in Block Five (5) of ORIGINAL DONATION, an unrecorded addition to the City of Plano, and also embracing that certain 195-square-foot tract of land described in the deed from Billy J. Stubbs to the City of Plano, Texas, dated the 15th day of January, 1986, and recorded in Volume 2291, at Page 363 of the Deed Records of Collin County, Texas, also being a 357-square-foot tract of land being known as Lot 11A in Block 5 of the Original Donation Plano as it appears on an unrecorded map, said point being known as that certain point of beginning in the deed from S. F. Harrington et al to C. L. Harrington, dated the 24th day of October, 1936, and recorded in Volume 310, at Page 453 of the Deed Records of Collin County, Texas, subsequently described in the deed to the City of Plano on the 23rd day of July, 1985, and recorded in Volume 2174, at Page 856 of the Deed Records of Collin County, Texas, also being a 19,994-square-foot tract of land situated in the City of Plano, in the Joseph Klepper 640-acre Survey, Abstract 213, Collin County, Texas, and being all of Tract Three and all of Tract Four as described in the deed dated March 30, 1999 and executed on the 23rd day of April, 1999, from Bill Corbett Christie, Sr. to Bill Corbett Christie, Jr., et al and recorded in Volume 4401, at Page 1599 (County Clerk Document Number 99-0050344) of the Deed Records of Collin County, Texas, and described in the Special Warranty Deed from First CMC Properties, LLC to the City of Plano, dated the 8th day of February, 2002, and recorded in County Clerk Document Number 201440408000334370, on the 23rd day of February, 2002, and recorded in Volume 5125, at Page 1192 of the Deed Records of Collin County, Texas, and also being the recognized southwest corner of said Tract One to the City of Plano, Texas; and also embracing a public alley as occupied, said 58,825-square-foot tract being more particularly described as follows:

BEGINNING the unmarked southeast corner of the last mentioned Tract One to the City of Plano on the recognized northerly right-of-way line of 14th Street, and having coordinates of:
 X = 2,520,378.56 feet
 Y = 7,058,202.10 feet

THENCE S 89°42'55" W with the recognized northerly right-of-way line of said 14th Street a distance of 208.96 feet (Deed Tract One: 210.0 feet) to a point on the easterly right-of-way line of a public alley (a variable width right-of-way) at the southwest corner of a 0.023-acre strip of land described in the Special Warranty Deed from the City of Plano, Texas to the City of Plano, Texas, dated the 26th day of February, 2002, and recorded in Volume 5125, at Page 1192 of the Deed Records of Collin County, Texas, and also being the recognized southwest corner of said Tract One to the City of Plano, Texas;

THENCE S 86°50'38" W for a distance of 28.37 feet to an "X" scribed in concrete set at the southeast corner of Lot 9, Block 13 as it appears on H. & T. C. Railroad Addn to the City of Plano, as it appears on a map of record in Volume 333A, at Slide 846 of the Map Records of Collin County, Texas;

THENCE S 89°28'11" W with the southerly line of said Lot 9, Block 13 of said Railroad Addn for a distance of 99.98 feet to an "X" scribed in concrete set the southwest corner of said lot;

THENCE N 00°31'49" E with the westerly boundary line of Lots 9, 10 on the last mentioned map of Railroad Addn, at 49.99 feet pass the common southwest corner of a tract designated as OL 1 and also being the northwest corner of Lot 10, Block 13 as it appears on said map of Railroad Addn, and continue on the same course with said OL 1 and Lots 1, 2 and 3B as said lots and tracts appear on said map of Railroad Addn, an additional 149.98 feet for a total distance of 199.97 feet to a point at the southwest corner of a one-story brick building and the northwest corner of a plaster veneer building commonly known as Sheppard's Mule Barn, for the northwest corner of said Lot 3B, said building being 20 feet north of the southwest corner of Lot 3B, in Block 14 of said Railroad Addn;

THENCE N 89°28'11" E generally along the party wall between a one-story brick building to the north and a concrete masonry wall building to the south and at all times running 20 feet north of and parallel with the south line of said Lot 3, Block 13 for a distance of 99.98 feet to a point on the easterly line of said Railroad Addn, a point on the westerly line of a public alley;

THENCE N 00°31'49" E with the easterly line of Block 14, Railroad Addn and the westerly line of a public alley for a distance of 83.71 feet;

THENCE N 89°21'32" E departing the east line of said Railroad Addn and the westerly line of said public alley over and across said public alley a distance of 25.52 feet said northerly corner of a 357-square-foot tract of land known as Lot 11A in Block 5 of the Original Donation Plano as it appears on an unrecorded map, said point being on the easterly line of said public alley and also being S 01°38'28" E a distance of 12.00 feet from the southwest corner of the lot described as Tract No. 1 in the deed from S. F. Harrington et al to C. L. Harrington dated October 24, 1936 and recorded in Volume 310, at Page 453 of the Deed Records of Collin County, Texas, said point also being known as the most westerly southwest corner of Lot 2 in Block 5 of the aforementioned Original Donation Plano, and continuing on the same course and with the south boundary line of said 12-foot-wide strip, and also being the south boundary line of Lot 2 in Block 5, at a distance of 21.00 feet pass a 5/8-inch steel rod capped with 2-inch aluminum disk stamped "R-DELTA ENGINEERS FIRM #10155000" set on November 5, 2013, and recovered in July of 2014, for the most northerly northwest corner of a 58,825-square-foot or 1.350-acre tract of land being part of Tract One described in the aforementioned Special Warranty Deed from Republicbank Plano to the City of Plano, Texas, and continuing on the same course with the southerly line of said Moore tract, the southerly line of a tract of land known and designated as Lot Three (3) in Block Five (5) of the aforementioned Original Donation and described in the deed from Kathryn Sue Moore to John A. Weatherford recorded in Volume 1364, at Page 457 of the Deed Records of Collin County, Texas, the southerly line of a tract of land known or designated as Lot Four (4) in Block Five (5) of the aforementioned Original Donation and described in the deed from W. M. Chaddick, et ux to John A. Weatherford dated the 21st day of January, 1948, and recorded in Volume 387, at Page 41 of the Deed Records of Collin County, Texas, and with a tract of land known or designated as Lot Five (5) in Block Five (5) of the aforementioned Original Donation and described in the deed from Mrs. Mattie Weatherford to Luther C. Rainwater, et ux dated the 1st day of February, 1972, and recorded in Volume 809, at Page 353 of the Deed Records of Collin County, Texas, for an additional distance of 81.14 feet for a total distance of 127.66 feet to the southeast corner of said Lot Five being an inaccessible point in the westerly line of Lot 6R of Block 5, Lot 6R, Original Donation according to the plat thereof recorded in Cabinet P, at Slide 615 of the Plat Records of Collin County, Texas;

THENCE S 02°15'44" E with said westerly line of Lot 6R a distance of 11.30 feet to a 5/8-inch steel rod capped with a 2-inch aluminum disk stamped "R-DELTA ENGINEERS FIRM #10155000" set in pavement for the northwesterly corner of the aforementioned 195-square-foot tract to the City of Plano;

THENCE with the common line for said Lot 6R and for the 195-square-foot tract to the City of Plano the following two courses and distances:
 1. S 52°27'24" E to a distance of 7.81 feet to a 5/8-inch steel rod capped with a 2-inch aluminum disk stamped "R-DELTA ENGINEERS FIRM #10155000" set in pavement;
 2. N 87°44'16" E to a distance of 12.00 feet to a 5/8-inch steel rod capped with a 2-inch aluminum disk stamped "R-DELTA ENGINEERS FIRM #10155000" set in pavement for the southeast corner of said Lot 6R in the westerly line of that certain tract of land described in the deed from Kathryn Sue Moore to John A. Weatherford, dated the 20th day of March, 1981, and recorded in Volume 136, at Page 454 of the Deed Records of Collin County, Texas;

THENCE S 02°15'44" E with said westerly line of the last cited John A. Weatherford tract a distance of 10.56 feet to a 2-inch aluminum disk stamped "R-DELTA ENGINEERS FIRM #10155000" set in pavement for the southwest corner of said John A. Weatherford tract in the northerly line of the aforementioned City of Plano, Tract One;

THENCE N 88°21'32" E with the northerly line of said City of Plano, Tract One and with the southerly line of a tract of land known and designated as Lot Eight (8) in Block Five (5) of the aforementioned Original Donation and described as the FIRST TRACT in the deed from Tom Roberts, et ux to Billy J. Stubbs dated the 1st day of March, 1958, and recorded in Volume 537, at Page 409 of the Deed Records of Collin County, Texas, at a distance of 19.41 feet pass a 1/2-inch hole in concrete pavement for the southeast corner of said Lot Eight and the southwest corner of a tract of land known and designated as Lot Nine (9) in Block Five (5) of the aforementioned Original Donation and described as the SECOND LOT in the last cited deed from Tom Roberts, et ux to Billy J. Stubbs, and continue with the northerly line of said City of Plano, Tract One and the southerly line of said SECOND LOT, at an additional distance of 23.21 feet to a brick wall called in the Special Warranty Deed from Linda Ferren to Geraldine Stubbs dated the 1st day of June, 2000, and recorded in Volume 4680, Page 3009 of the Deed Records of Collin County, Texas, and continue with the common line between said City of Plano, Tract One and the last mentioned SECOND LOT an additional distance of 46.47 feet for a total distance of 89.09 feet to a 2-inch aluminum disk stamped "R-DELTA ENGINEERS FIRM #10155000" set in pavement on the recognized westerly right-of-way line of the aforementioned K Avenue for the northeasterly corner of said City of Plano, Tract One;

THENCE S 00°54'23" E with the westerly right-of-way line of said K Avenue at a distance of 266.18 feet pass an X cut in the brick sidewalk pavement and continue with said westerly right-of-way line of said K Avenue and on the same course for an additional distance of 5.00 feet for a total distance of 271.18 feet to the POINT OF BEGINNING and containing 87,082 square feet or 1.999 Acres of land.

I, Wayne C. Terry, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that the survey shown hereon meets the minimum standards of the Texas Board of Professional Land Surveying and that the corners are marked as shown.
 Signed this 29th day of January, 2015



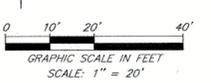
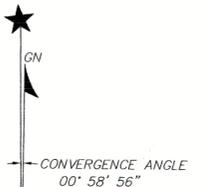
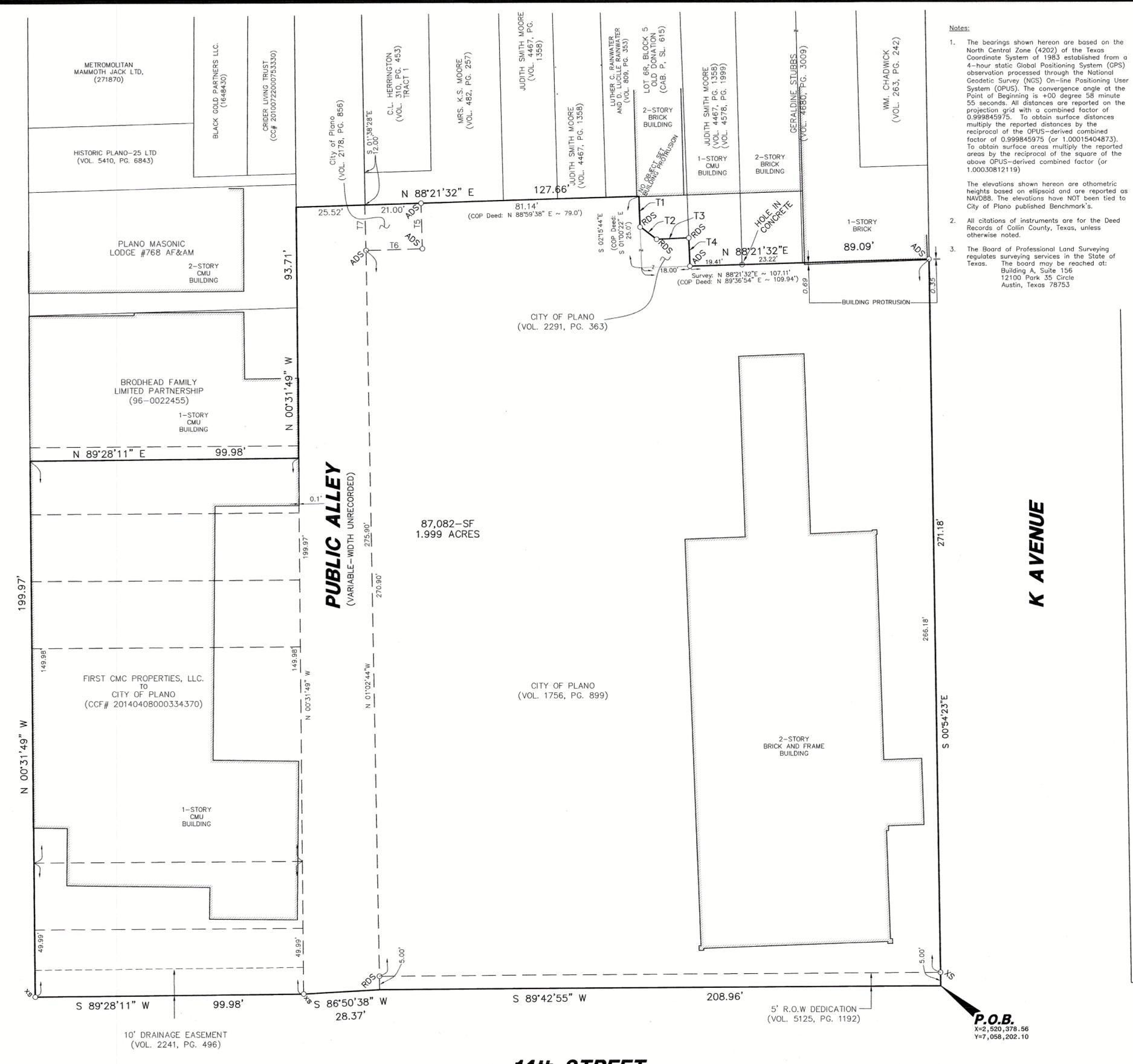
BOUNDARY SURVEY
1.999-AC TRACT
PART OF BLOCK 5 OF
ORIGINAL DONATION OF PLANO
PART OF BLOCK 13 AND 14
OF RAILROAD ADDITION

JOSEPH KLEPPER SURVEY, ABSTRACT NO. 213
 CITY OF PLANO, COLLIN COUNTY, TEXAS.

- Notes:
- The bearings shown hereon are based on the North Central Zone (4202) of the Texas Coordinate System of 1983 established from a 4-hour static Global Positioning System (GPS) observation processed through the National Geodetic Survey (NGS) On-line Positioning User System (OPUS). The convergence angle at the Point of Beginning is +00 degree 58 minute 55 seconds. All distances are reported on the projection grid with a combined factor of 0.999845975. To obtain surface distances multiply the reported distances by the reciprocal of the OPUS-derived combined factor of 0.999845975 (or 1.00015404873). To obtain surface areas multiply the reported areas by the reciprocal of the square of the above OPUS-derived combined factor (or 1.00030812119).
 - The elevations shown hereon are orthometric heights based on ellipsoid and are reported as NAVD83. The elevations have NOT been tied to City of Plano published Benchmarks.
 - All citations of instruments are for the Deed Records of Collin County, Texas, unless otherwise noted.
 - The Board of Professional Land Surveying regulates surveying services in the State of Texas. The board may be reached at: Building A, Suite 156, 12100 Park 35 Circle, Austin, Texas 78753

- LEGEND
- ADS - A 2-inch ALUMINUM DISK STAMPED "R-DELTA ENGINEERS FIRM #101550-00"
 - RDS - A 5/8-inch STEEL ROD SET WITH A 2-inch ALUMINUM DISK STAMPED "R-DELTA ENGINEERS FIRM #101550-00"
 - SRF - STEEL ROD FOUND
 - XS - "X" CUT SET
 - ★ - TRUE NORTH

T1	S 02°15'44" E	11.30'
T2	S 52°27'24" E	7.81'
T3	N 87°44'16" E	12.00'
T4	S 02°15'44" E	10.56'
T5	S 01°38'28" E	17.00'
T6	S 86°21'32" W	21.00'
T7	N 01°38'28" W	17.00'



10' DRAINAGE EASEMENT (VOL. 2241, PG. 496)

14th STREET

EXHIBIT B

DESIGN AND CONCEPT PLAN OF PRIVATE IMPROVEMENTS

14th and J, LLC will construct a mixed-use development consisting of approximately 200,000 square feet of gross floor area, including not less than 175 residential units (including live/work/flex space suitable for residential and non-residential occupancy) and a minimum of 12,800 square feet of floor space for non-residential occupancy. The development will include a parking garage containing not less than 120 spaces secured by easement for public parking purposes, of which none may be counted in meeting the parking requirements for the project. The project will be five stories above grade. The exterior of the building will be masonry, primarily brick, exterior plasters, concrete, stone and cementitious lap siding, with the exception of doors, windows and trim.

14th and J, LLC must obtain site plan and plat approval as required by the City's regulations, in addition to a Certificate of Appropriateness for the part of the development that lies within the Downtown Plano Heritage District.

EXHIBIT C

LIST OF PUBLIC IMPROVEMENTS

Demolition and Abatement of existing structures
Storm sewer and drainage facilities
Water and Wastewater Utility Lines
Paving
Street Lighting
Landscaping and Street Trees in Public Rights-of-Way
Sidewalks and related hardscape
On-street Parking Spaces

EXHIBIT D

**CONTRACTOR'S AFFIDAVIT
CLAIMS AGAINST THE CITY OF PLANO**

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me the undersigned authority, on this day personally appeared _____ ("Affiant") who, after being duly sworn by me, deposes and says:

I am the _____ (Title) of _____ (name of business), a _____ (State) _____ (i.e. corporation/sole proprietorship/limited partnership/limited liability company) of _____ (county), _____ (city), Texas (hereinafter "Contractor"). Contractor was awarded the contract dated the _____ day of _____, _____, by the City of Plano for the construction of the project designated as _____ (hereinafter "Contract"). All work under such contract has been satisfactorily completed and Contractor certifies that Contractor has not received notice, whether verbally or in writing, of any outstanding claim(s) or potential claim(s) for damages, including but not limited to claims for personal injury or property damage, against the Contractor, or its subcontractors, agents, or assigns, or the City of Plano arising out of, resulting from, or related to the Contract. If any such claims or potential claims are pending, they are identified as follows:

Name of Claimant	Date of Claim	Nature of Claim

All claims not listed above have been resolved and a full release has been executed thereby releasing the City of Plano of all liability as required by Section 1.24.3 of the City of Plano Special Provisions to North Central Texas Council of Governments Standard Specification for Public Works Construction, as amended. An original of any and all such release(s) is attached hereto.

Signature and Title

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

Notary Public, State of Texas

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of _____,
20____.

(Notary Seal)

Notary Public, State of Texas

EXHIBIT E

PARKING EASEMENT AGREEMENT

This PARKING EASEMENT AGREEMENT ("Agreement") is made and entered into as of _____, 2016, by and between 14TH AND J, LLC, a Delaware limited liability corporation ("Grantor") and the CITY OF PLANO, TEXAS ("Grantee").

RECITALS

WHEREAS, Grantor is the owner of the land described on Exhibit "A" attached hereto and incorporated herein by reference (the "Development Tract"); and

WHEREAS, on _____, Grantee conveyed the Development Tract to Grantor in connection with a Development Agreement dated _____ and attached hereto as Exhibit "B" and incorporated herein by reference (the "Development Agreement") requiring Grantor's development of the Development Tract, including construction of a parking garage; and

WHEREAS, part of the consideration for the grant of the Development Tract to Grantor from Grantee included Grantor's agreement to grant Grantee an Easement as further described herein.

NOW, THEREFORE, for and in consideration of the mutual and dependent covenants hereby contained, and other good and valuable consideration, the receipt of sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Definitions. When used in this Agreement, the following terms shall have the meanings set forth below for such terms:

"Parking Spaces" shall mean 120 parking spaces in the location designated by Grantor, which, after construction of the Parking Structure, will be located in the Parking Structure, will begin with the first space(s) in the lowest level of the Parking Structure, and will be outside of any security gates delineating parking for the Development's tenants.

"Parking Structure" shall mean the parking garage constructed by Grantor on the Development Tract in connection with the execution of the Development Agreement.

"Parties" shall mean Grantor, and its successors in fee simple ownership of any portion of the Development Tract, and Grantee, each being sometimes referred to individually as a "Party".

2. Easement. Grantor hereby grants and conveys to Grantee, for the exclusive use of Grantee, a perpetual easement (the "Easement") for (a) the parking of motor vehicles within the Parking Spaces, and (b) non-exclusive pedestrian and motor vehicle ingress and egress to and from the Parking Spaces, over and across the driveways, parking ramps, walkways, elevators and stairways from time to time constructed (as the same may be relocated by Grantor from time to time) on the Development Tract that are reasonably necessary to permit vehicular and pedestrian access to and from the Parking Spaces, subject to the terms and conditions of this Agreement. The easements granted herein shall not take effect until

the substantial completion of construction of the Parking Structure in accordance with the Development Agreement.

3. Limited Purpose. Nothing contained herein is intended nor shall it be construed as creating any rights in or for the benefit of the general public. Notwithstanding the foregoing, the Easement may be used by Grantee for general public parking and municipal purposes and for no other use whatsoever without the prior written consent of Grantor, which consent may be withheld in Grantor's sole and absolute discretion. Grantee shall have the right to enact and enforce time restrictions or other regulations for the Parking Spaces. Grantee may not lease or assign the Parking Spaces for a commercial enterprise.
4. Maintenance Obligations. Upon completion of the Parking Structure, Grantor shall maintain the Parking Structure for its intended purpose in good condition and repair, in accordance with the standards necessary to comply with all applicable laws, codes, and ordinances. Such responsibilities shall include, without limitation, sweeping, cleaning, repairing, restriping and lighting the parking and drive areas of the Parking Structure, providing sump pump and other storm water drainage systems, maintenance of the Parking Structure's electrical components, and payment of all utilities and other charges related to the operation of the Parking Structure. During any time period that the Parking Spaces consist of alternative parking spaces on the Development Tract or in proximity thereto, as otherwise described herein, Grantor shall have the above-described repair and maintenance responsibilities with respect to provided parking spaces; provided, however, that if the alternative parking spaces are located on property not owned by Grantor, then Grantor's repair and maintenance obligations will be pursuant to any agreement between Grantor and the owner or controller of such property.
5. Easement Runs with the Land. The covenants of Grantor contained herein shall run with and follow the land with regard to the fee simple ownership of the land contained within the Development Tract and shall be binding upon the heirs, executors, successors and assigns of Grantor. The Easement may be assigned by Grantor or its heirs, executors, successors and assigns only with the prior written consent of the Parties. The Easement is personal to Grantee and may not be further assigned by Grantee without Grantor's prior written consent.
6. Casualty, Renovations, Repairs and Rebuilding. If at any time the Parking Structure (or any part thereof) shall be (i) destroyed, in whole or in part, (ii) damaged by fire or other casualty, (iii) closed for renovations for a period in excess of sixty (60) days, or (iv) rebuilt, at Grantor's election, the following shall be required of Grantor:
 - A. In the event of damage or casualty, if Grantor reconstructs or repairs the Parking Structure, the Parking Structure shall be reconstructed or repaired to substantially the same condition as existed immediately before the damage or destruction and otherwise in accordance with the terms of the Development Agreement, provided, however, Grantor may alter the plan of the replacement Parking Structure to meet then current building methods and specific development needs and uses, and even change the configuration and access to the Parking Structure, so long as the Grantee's practical utilization of the Parking Spaces is not unreasonably impaired. Subject to availability of casualty insurance proceeds and the approval of the

applicable lender, Grantor shall commence reconstruction or repair of the Parking Structure within twelve (12) months of the destruction and shall complete the Parking Structure and obtain a Certificate of Occupancy within twenty-four (24) months of the date of commencement of the reconstruction or repair, unless an extension of time is requested by Grantor for good cause and agreed to by the Grantee in writing, such agreement not to be unreasonably withheld. Beginning from the date of destruction and until the date of restoration of full and complete use of the Parking Spaces or until Grantor makes payment or dedicates property to Grantee pursuant to the provisions of the Development Agreement, Grantor shall pay to the Grantee a monthly fee equal to one percent (1%) of the appraised value of the real property as described in Exhibit "A" of the Development Agreement, excluding the value of any improvements thereon (minus the real property dedicated to the Grantee as provided in the terms of the Development Agreement), as valued on the date of destruction to compensate Grantee for loss or impairment of use of its parking and/or lease space at the Property. Provision of one hundred twenty (120) surface parking spaces shall alleviate the requirement to pay a monthly one percent (1%) fee but only on an interim basis, not to exceed thirty six (36) months to allow time for the Parking Structure to be reconstructed or repaired.

- B. If Grantor decides against reconstruction or repair of the Parking Structure or to raze the Parking Structure, or is unable to reconstruct the Parking Structure due to lack of insurance proceeds or lender consent, Grantor shall pay Grantee, within thirty (30) days of such determination, an amount equal to the appraised value of the real property described in Exhibit A to the Development Agreement as valued at the time of destruction of the Parking Structure, excluding the value of any improvements thereon (minus the real property dedicated to Grantee as part of the Public Improvements pursuant to the terms of the Development Agreement), plus interest at the Wall Street Journal prime rate plus one percent (1%) from the date of the decision until paid. Upon payment of the appraised value of the real property to Grantee, Grantee shall terminate the Easement and this Agreement. In lieu of reimbursement of the appraised value of the real property pursuant to this subsection, Grantor shall have the option of conveying the title to the real property described in Exhibit A to Grantee provided that it is free and clear of all liens and encumbrances and returned to (or remains in) the condition it was in at the time Grantee conveyed it to Grantor.
- C. In the event it is necessary for Grantor to close the Parking Structure in excess of sixty (60) days for renovations or repairs, or in the event Grantor elects to rebuild the Parking Structure, the Parking Structure shall be renovated, repaired or rebuilt in accordance with the terms of the Development Agreement, provided, however, Grantor may alter the plan of the renovated, repaired or rebuilt Parking Structure to meet then current building methods and specific development needs and uses, and even change the configuration and access to the Parking Structure, so long as the Grantee's practical utilization of the Parking Spaces is not unreasonably impaired. Grantor shall complete any renovations, repairs or rebuilding of the Parking Structure and obtain a Certificate of Occupancy within twenty-four (24) months of the date of commencement of the renovations, repairs or rebuilding, unless an extension of time is requested by Grantor for good cause and agreed to by the

Grantee in writing, such agreement not to be unreasonably withheld. Beginning thirty (30) days after the date Grantee is unable to use the Easement because of renovations, repairs or rebuilding of the Parking Structure by Grantor, and until the date of restoration of full and complete use of the Parking Spaces or until Grantor makes payment or dedicates property to Grantee pursuant to the provisions of the Development Agreement, Grantor shall pay to the Grantee a monthly fee equal to one percent (1%) of the appraised value of the real property as described in Exhibit "A" of the Development Agreement, excluding the value of any improvements thereon (minus the real property dedicated to the Grantee as provided in the terms of the Development Agreement), as valued on the date Grantor commenced renovations, repairs or rebuilding of the Parking Structure, to compensate Grantee for loss or impairment of use of its parking and/or lease space at the Property. Provision of one hundred twenty (120) surface parking spaces shall alleviate the requirement to pay a monthly one percent (1%) fee but only on an interim basis, not to exceed thirty six (36) months to allow time for the Parking Structure to be renovated, repaired or rebuilt.

7. Rules and Regulations. Grantor reserves the right to ticket, demobilize, or tow at the owner's expense any vehicle parked on the Development Tract, other than in the Parking Spaces, in violation of the terms hereof or in violation of the rules and regulations imposed by Grantor upon other parkers on the Development Tract.
8. Non-Exclusive Rights. The easements and other rights and benefits herein created are not exclusive, except to the extent of the parking rights with respect to the Parking Spaces, and Grantor expressly reserves the right, without the need to obtain the consent of Grantee, to grant such other easements, rights, benefits, or privileges to such persons and for such purposes as Grantor, in its sole and absolute discretion, may elect, so long as such grant does not unreasonably interfere with the easements and other rights and benefits granted herein.
9. Subordination. This Agreement and the easements contained herein shall be deemed automatically subordinated to any mortgage or deed of trust now or hereafter granted or entered into with respect to construction financing or permanent financing by the original Grantor herein in connection with the Development Tract, subject to Grantee's right to compensation in Section 6 of this Agreement in the event of damage, destruction or failure of performance. This Agreement, as well as the easements, rights, benefits and obligations created thereby, is not subordinated to any other mortgage or deed of trust absent a separate written agreement memorializing same, and the easements, rights, benefits and obligations created by this Agreement shall not be otherwise extinguished or impaired. Grantee agrees to promptly execute any additional agreements reasonably required in order to effect or confirm such subordination subject to Grantee's right to compensation in Section 6 of this Agreement in the event of damage, destruction or failure of performance.
10. Notices. All notices, demands, or other communications of any type (herein collectively referred to as "Notices") given under this Agreement shall be void and of no effect unless given in accordance with the provisions of this Section 10. All notices shall be in writing and delivered to the person to whom the notice is directed, either in person (provided that such deliver is confirmed by the courier delivery service), or by nationally recognized expedited

delivery services, with proof of delivery, or by United States Mail, postage prepaid, as a Registered or Certified item, Return Receipt Requested. Notices delivered by personal delivery shall be deemed to have been given at the time of such delivery, notices delivered by mail shall be effective when deposited in a Post Office or other depository under the care or custody of the United States Postal Service, enclosed in a wrapper with proper postage affixed, and notice by expedited delivery service shall be deemed to have been given on the day deposited with such delivery service, and addressed as provided below. Notice may additionally be provided by facsimile transmission or by digital scan so long as a copy of such notice is simultaneously forwarded by one of the other means described above.

The proper address for Grantor is as follows:

14th and J, LLC
c/o Southern Land Company, LLC
1550 W. McEwen Drive, Suite 200
Franklin, Tennessee 37067
Attention: President

The proper address for Grantee is as follows:

The City of Plano
1520 K Avenue
Plano, TX 75074
Attention: City Manager

Any Party hereto may change the address for notice specified above by giving the other party ten (10) days advance written notice of such change of address in the manner provided above. In the event that any Party to this Agreement should sell, convey, or otherwise assign its rights under this Agreement or its fee ownership interest in any part of the Development Tract, it must provide the other Party ten (10) days advance written notice of such change and provide the address of the individual or entity to whom such sale, conveyance, or other assignment is to be made.

11. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
12. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained within.
13. Entire Agreement. This Agreement embodies the entire agreement between the parties relating to the subject matter hereof, supersedes all prior agreements and understandings, if any, relating to the subject matter hereof.
14. Amendment; Termination. This Agreement and the easements granted hereunder may be terminated or amended by an instrument in writing executed jointly by all of the owner(s) of

the Development Tract and Grantee and recorded in the Real Property Records of Collin County, Texas.

15. Miscellaneous. A waiver or breach or breaches, default or defaults hereunder shall not be construed to be a continuing waiver of any such breach or default, nor as a waiver of or permission, express or implied, for any subsequent breach or default.

IN WITNESS WHEREOF, this Agreement has been executed and delivered effective as of the day and year first above written.

GRANTOR:

14th and J, LLC
a Delaware limited liability corporation

By: Southern Land Company, LLC,
Its Manager

By: _____

Name: _____

Title: _____

STATE OF TENNESSEE
COUNTY OF WILLIAMSON

Before me, _____, a Notary Public in and for the State and County aforesaid, personally appeared Brian S. Sewell, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of Southern Land Company, LLC, the Manager of 14th and J, LLC, a Delaware limited liability company, the within named bargainor, a limited liability company, and that he as such President, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as such President.

Notary Public – State of Tennessee

My Commission Expires:

Printed Name of Notary Public

GRANTEE:

THE CITY OF PLANO, TEXAS

By: _____

Name: _____

Title: _____

This instrument was ACKNOWLEDGED before me on the ____ day of _____, 20__,
by Bruce D. Glasscock, City Manager, of **CITY OF PLANO, TEXAS**, a home rule municipal corporation, on
behalf of said city.

Notary Public – State of Texas

My Commission Expires:

Printed Name of Notary Public

EXHIBIT F
CITY OF PLANO
GENERAL CONTRACTUAL INSURANCE REQUIREMENTS

Vendors/Contractors performing work on City property for the City of Plano shall provide the City a certificate of insurance evidencing the coverage's and coverage provisions identified herein. Vendors/Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of insurance as required herein or that the subcontractors are included under the vendors/contractor's policy. The City, at its discretion, may require a certified copy of the policies, including all relevant endorsements.

All insurance companies must be authorized by the Texas Department of Insurance to transact business in the State of Texas, must be acceptable to the City of Plano and be placed with an insurer possessing an A-VII A. M. Best rating or better.

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

1. The following insurance requirements, coverage's and limits apply to most minor construction (Non-CIP), renovation, service provider, installation and maintenance services, work on City property and professional service contracts.
2. Purchases of non-hazardous commodities, equipment, materials and products from distributors and retailers do not require any specific insurance.
3. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment or property may require customized insurance requirements in addition to the general requirements listed.

Commercial General Liability Insurance—(Required for all minor construction, renovation, service provider contracts involving installation, maintenance or work on City property)

Commercial general liability insurance shall be written on an ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-complete operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the commercial general liability policy, including coverage for City with respect to liability arising out of the completed operations.

\$1,000,000 Limit per Occurrence/Aggregate

\$1,000,000 Limit for Personal/Advertising Injury and Products/Completed Operations

Commercial Automobile Liability—(Required for all contracts involving the use of vendor/contractor owned, non-owned or hired automobiles)

Vendor/contractor shall maintain business automobile liability insurance with a limit of not less than \$500,000 each accident or Combined Single Limit.

Such automobile liability insurance shall cover liability arising out of any auto (including owned, hired, and non-owned automobiles). Vendor/contractor waives all rights against City and its agents, officers, directors and employees for recovery by the commercial automobile liability obtained by vendor/contractor pursuant to this section or under any applicable automobile physical damage coverage.

Workers' Compensation & Employer Liability—(Required for all vendors/contractors with employees who perform work or contract services on City property)

Vendor/contractor shall maintain workers' compensation insurance in the amounts required by appropriate state workers compensation statutes. The employer's liability limit shall not be less than \$500,000.

Vendor/contractor waives all rights against City, the City Council and its members, the City's agents, officers, directors and employees for recovery of damages under vendors/contractor's workers' compensation and employer's liability. Vendor/contractor must cause a waiver of subrogation to be effected under its workers' compensation coverage.

Sole Proprietors and companies with no employees may be exempt from this requirement.

Professional Liability (E&O) Insurance--(Required for all Professional Service contracts including but not limited to: architects, engineers, consultants, counselors, medical professionals, attorneys, accountants, etc.)

Professional Liability Coverage (E&O) may be written on a claims made basis but must include an extended reporting period of at least three years after contract completion.

City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the E&O policy, including coverage for City with respect to liability arising out of all errors and omissions of vendor/contractor.

Minimum Limit of \$1,000,000 Each Claim and \$1,000,000 Aggregate

General Requirements Applicable to All Insurance

1. The vendor/contractor shall obtain and maintain the minimum insurance coverage set forth in this section during the entire contract period.
2. The vendor/contractor agrees that the insurance requirements specified herein do not reduce the liability vendor/contractor has assumed in any indemnification/hold harmless section of the contract.
3. Coverage shall be on a primary basis and non-contributory with any other insurance coverage and/or self-insurance carried by City.
4. Vendor/contractor is responsible for providing the City a minimum of 30 days' notice of a material change or voluntary cancellation of insurance coverage required under this contract and notice within 10 days of any notice of termination no matter the cause.

Evidence of Insurance Required

Prior to commencement of work, and thereafter upon renewal or replacement of coverage required by this contract, vendor/contractor shall furnish City a Certificate(s) of Insurance (COI) on a form approved by the Texas Department of Insurance and signed by an authorized representative of each insurer.

The COI shall List each insurer's NAIC Number or FEIN and list the City of Plano, Risk Management Division, 1520 K Avenue, Suite 117, Plano, Texas, 75074 in the Certificate Holder Section.

INSURANCE REQUIREMENT AFFIDAVIT

(SUPPLEMENTAL INFORMATION RFP# _____)

(To be completed by appropriate Vendor/Contractor Insurance Agent)

I, the undersigned agent, certify that the insurance requirements contained in this proposal document have been reviewed by me with the below identified vendor/contractor. If the below identified vendor/contractor is awarded this contract by the City of Plano, I will be able, within ten (10) working days after being notified of such potential award or at contract renewal, to furnish a valid Certificate of Insurance to the City meeting all of the requirements contained in this proposal.

Agent's Printed Name

Agent's Signature

Name of Insurance Agency

Address of Agency

City, State, Zip

Phone number where Agent may be contacted

E-Mail address of Agent

Vendor/Contractor Name:

SUBSCRIBED AND SWORN to before me by the above named _____

on this the _____ day of _____, 20____.

Notary Public in and for the State of _____

NOTE TO INSURANCE AGENT:
IF THIS TIME REQUIREMENT IS NOT MET, THE CITY HAS THE RIGHT TO DECLARE THIS VENDOR NON-RESPONSIVE AND AWARD THE CONTRACT TO THE NEXT LOWEST PROPOSER MEETING THE SPECIFICATIONS. IF YOU HAVE ANY QUESTIONS CONCERNING THESE REQUIREMENTS, PLEASE CONTACT THE CITY OF PLANO PURCHASING DIVISION AT 972-941-7557.

EXHIBIT G

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.

EXHIBIT H

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: _____

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.

EXHIBIT I
MAINTENANCE 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 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 amount of _____ **DOLLARS** (\$_____), in lawful money of the United States, to be paid in Plano, Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors and assigns, jointly and severally, and 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 Principal will maintain and keep in good repair the work herein contracted to be done for a period of one (1) year from the date of final acceptance and do and perform all necessary work and repair any defective condition, it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal; then this obligation shall be void, otherwise it shall remain in full force and effect; and in case Principal shall fail to do so it is agreed that the City may do such work and supply such materials and charge the same against Principal and Surety on this obligation.

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

PROVIDED FURTHER, that 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 performed thereunder, or the plans, specifications, drawings, etc. accompanying same shall in any way 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.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed on 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 Maintenance Bond must be **same date that City Council awarded Contract.** Date on **Page 2** of Maintenance Bond must be **after date of Contract.** If Resident Agent is not a corporation, give a person's name.

EXHIBIT J

AFFIDAVIT OF NO PROHIBITED INTEREST AND COMPLIANCE WITH CITY OF PLANO'S EQUAL RIGHTS ORDINANCE

A. No Prohibited Interest

I, the undersigned, declare that I am authorized to make this statement on behalf of _____, a _____ organized under the laws of the State of _____, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of _____, is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

B. Equal Rights Compliance

1. Section 2-11(F) of the City Code of Ordinances reads as follows:

"It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;
- (j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the

- admission to, or employment in, any program established to provide apprenticeship or other training;
- (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
 - (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
 - (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

2. I am aware that my company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies, as indicated below. Further, I understand that if Section 2-11(F) applies, I am entitled to apply to the City Manager for a waiver from signing this section of the affidavit based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, I affirm that my company, its directors, officers and employees agree to comply with Section 2-11(F); **or** my company is excluded from this Ordinance based on the following: **[PLEASE CHECK BELOW, IF APPLICABLE]**

_____ A religious organization.

_____ A political organization.

_____ An educational institution.

_____ A branch or division of the United States government or any of its departments or agencies.

_____ A branch or division of the State of Texas or any of its departments, agencies or political subdivisions.

_____ A private club that is restricted to members of the club and guests and not open to the general public.

_____ Is not an “employer” under Section 2-11(F) because it has not had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

[THIS SPACE INTENTIONALLY LEFT BLANK]

