City Council Agenda

MAY 24, 2016

(For General Information and Rules of Courtesy, please see opposite side.)
(La Información General y las Reglas de Cortesía que Deben Observarse Durante las Asambleas del Consejo Municipal Aparecen en el Lado Opuesto. Por Favor, Leerlas.)

I. General Information

The Arlington City Council is comprised of a Mayor and eight City Council members. Elections are conducted every spring in May.

Arlington City Council meetings are broadcast live on the Arlington Government Channel (A.G.C.)and replayed throughout the week. Visit the City's Web site for the A.G.C. broadcast schedule.
www.arlingtontx.gov

CITY COUNCIL SCHEDULE-2016

MONTH	SCHEDULED
January	12, 26
February	9, 23
March	1,22
April	12, 26
May	10, 17*, 24***
June	7, 14.28**
July	Break
August	2, 9**, 23
September	6, 15**, 20
October	11, 25
November	1, 29
December	6, 13

* Special Meeting – Official Canvass of Votes
**Special Meeting - Budget Related Items Only
*** Swear in newly elected Council members

II. Support or Opposition on Agenda Items

Anyone wishing to speak or register their support or opposition on a given matter should fill out a card available at the entrance and give it to a staff member at the main table before the opening of the meeting. If you've signed up that you wish to speak, and your name is called:

- Please come to the microphone at the podium and state your name and address before you begin your presentation.
- To the extent possible, please refrain from repeating testimony which has already been given.
- Speakers in support or in opposition of an item will be given **two** minutes to make their statements.
- Public Hearings: an applicant has **five** minutes for their presentation and **two** minutes for any rebuttal.
- A bell will signal at the end of the speaker's time. Please wrap up your comments promptly.
- We ask that you address your comments to the Mayor and Council.

III. Citizen Participation

Citizen participation gives the public an opportunity to make comments or address concerns that are not posted on the evening's agenda. Please understand that the Mayor and Council are not permitted by law to respond to or address your concerns at this time, as these items are not included on the posted Council Agenda for this evening. The Mayor and Council may only ask clarifying questions and/or direct staff to take appropriate action.

IV. Rules of Courtesy

We ask that citizens and other visitors in attendance assist in preserving the order and decorum of this meeting. Any person making personal, profane, slanderous, or threatening remarks or who becomes disruptive while addressing the Mayor and the City Council or while attending the City Council meeting may be removed from the Council Chambers.

I. Información General

El Ayuntamiento de la Ciudad de Arlington consiste de un Alcalde y ocho miembros del concilio municipal. Las elecciones se llevan acabo cada Mayo en la primavera.

Las reuniones del Ayuntamiento de la Ciudad de Arlington se transmiten en vivo en el canal del Gobierno de Arlington (A.G.C.) y se repiten durante la semana. Visita la página web de la Ciudad para el horario del programa. www.arlingtontx.gov

EL HORARIO DEL AYUNTAMIENTO-2016

EL MES	PROGRAMADO
Enero	12, 26
Febrero	9, 23
Marzo	1, 22
Abril	12, 26
Mayo	10, 17*, 24***
Junio	7, 14, 28**
Julio	Descanso
Agosto	2, 9**, 23
Septiembre	6, 15**, 20
Octubre	11, 25
Noviembre	1, 29
Diciembre	6, 13

* Reunion especial – sólo para aprobar los votos officials de eleccion
** Reunions especial - sólo los artículos relacionados con el presupuesto de la cuidad
*** Jurar los nuevos miembros electos del Ayuntamiento municipal

II. Apoya u Opone los Artículos del Orden del Día

Alguno que desea hablar o registrar su apoyo u oposición en un asunto dado debe llenar una tarjeta disponible en la entrada y darlo a un empleado localizado en la mesa principal antes de la apertura de la reunión. Si usted se ha inscrito que desea hablar y tu nombre es llamado:

- Venga por favor al micrófono en el podio e indique su nombre y la dirección antes que empiece su presentación.
- Hasta el punto possible, por favor de abstenerse de repetir testimonio que ya ha sido dado.
- Los oradores en apoyo u oposición de un articulo sera dado **dos** minutos de hacer sus declaraciones.
- Las Audiciones Publicas: un solicitante tiene **cinco** minutos para su presentación y **dos** minutos para cualquier refutación.
- Una campana señalara a fines del tiempo del orador. Por favor, concluye tus comentarios inmediatamente.
- Pedimos que dirige sus comentarios al Alcalde y el Concilio.

III. Participación de los Ciudadanos

La participación del ciudadano da el publicó una oportunidad a hacer comentarios o dirigir preocupaciones que no son anunciados en el orden del día o agenda. Comprenda por favor que el Alcalde y el concilio no son permitidos por ley a responder o abordar tus preocupaciones en este tiempo, porque estos artículos no son incluidos en los anunciados del orden del día del Ayuntamiento para esta tarde. El Alcalde y el Concejo sólo pueden pedir clarificacion a preguntas y/o dirigen el personal a tomar accion apropiada.

IV. Reglas de Cortesía

Pedimos que los ciudadanos y otros visitantes presente asisten en la preservación del orden y el decoro de esta junta. Cualquier persona que haga comentarios personales, profanos, difamatorios o intimidatorios, o alguien que lo haga en forma disruptivo durante dirigirse el Alcalde y el Ayuntamiento, o cuando está asistiendo la reunión del Ayuntamiento puede ser quitado de la Sala del Ayuntamiento.

Agenda

Arlington City Council Meeting

City Hall Council Chamber
101 W. Abram St.

Tuesday, May 24, 2016
6:30 PM

I. CALL TO ORDER

II. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

III. SPECIAL PRESENTATIONS

IV. APPOINTMENTS TO BOARDS AND COMMISSIONS

V. SPEAKER GUIDELINES AND GENERAL DECORUM

VI. APPROVAL OF ITEMS FROM EXECUTIVE SESSION

1. **Storm Water Mitigation Project – All Cash Contract of Sale – Jay B. Atman - 2701 and 2703 Parkchester Drive**
   A resolution authorizing the City Manager or his designee to execute an all cash contract of sale with Jay B. Atman for the purchase of fee simple property rights in land being Block 2, Lot 16, Westchester West Addition; with a physical address being 2701 and 2703 Parkchester Drive, City of Arlington, Tarrant County, Texas, and authorizing acceptance of the conveyance of fee simple property rights.

- The Arlington City Hall is wheelchair accessible. For accommodations or sign interpretive services, please call 817-459-6100 no later than 24 hours in advance.
- Council meetings are broadcast live on Arlington's Government Channel, and rebroadcast throughout the week at the following times:

	Afternoon meetings	Evening Meetings
Sunday	1:00 p.m.	6:00 p.m.
Wednesday	1:30 p.m.	6:30 a.m.
Saturday	6:00 p.m.	6:30 a.m.

The Council agenda can be viewed on the City's website at www.ArlingtonTX.gov

- For a complete Arlington Government Channel program schedule, please visit www.ArlingtonTX.gov/Broadcast

VII. APPROVAL OF MINUTES

Afternoon Meeting, May 10, 2016
Evening Meeting, May 10, 2016
Special Meeting, May 17, 2016

VIII. APPROVAL OF CONSENT AGENDA

Approval of the Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations and all votes on final reading will be recorded as reflected on first reading unless otherwise indicated. Public comment will be accepted on items, with the exception of those items on which a public hearing has been held and closed by Council, which will be indicated as ***(CLOSED)*** on the agenda.

A. Minute Orders

1. **Negotiate and Execute Banking Professional Services Contract for Depository, Custody, and Merchant Payment Processing Services, RFQ-16-0056**

   a. Authorize the City Manager or his designee to negotiate and execute a bank depository contract with JP Morgan Chase Bank N.A. of Fort Worth, Texas effective October 1, 2016. **(MO#05242016-001)**

   b. Authorize the City Manager or his designee to negotiate and execute a custody contract with Wells Fargo Bank of Dallas, Texas; and a Merchant Payment Processing contract with Elavon/US Bank Payment Solutions of Arlington, Texas effective October 1, 2016. **(MO#05242016-002)**

   The depository and custody contract term is three years with a two year renewal option. The merchant payment processing contract term is two years with the option to renew each year thereafter for an additional 12 month term until the contract is terminated.

2. **FY17 Tarrant County Tax Assessment/Collection Agreement (MO#05242016-003)**

   Authorize the City Manager or his designee to execute an Agreement for the Collection of Taxes with Tarrant County Tax Assessor-Collector and Tarrant County relative to assessment and collection services of ad valorem taxes for the City of Arlington, in the estimated amount of $366,394, which represents a $39,652 increase over FY16 due to an increased number of accounts. The funding sources for this contract will be the Treasury Division Account 140401-61002 in the amount of approximately $323,644 for the non-Mineral accounts, and the General Gas Lease Fund 3095 in the amount of approximately $42,750 for the Mineral accounts.

3. **FY17 Tarrant County BID Assessment Collection Agreement (MO#05242016-004)**

   Authorize the City Manager or his designee to execute an Agreement for the Collection of Business Improvement District (BID) assessments with Tarrant County Tax Assessor-Collector and Tarrant County relative to assessment and collection services of special assessments for the Arlington Downtown BID, in the estimated amount of $380 for the 2016 Tax Year. Funding is available in Arlington Downtown BID Account No. 3028-480701-61002, subject to FY17 BID adoption and budget approval.

4. **Renewal and Extension of Professional Services Contract for Employee Benefit Plan Administration and Insurance (MO#05242016-005)**
Authorize the City Manager or his designee to exercise the option to renew and extend the professional services contract for employee benefit plan administration and insurance with United HealthCare Group of Plano, Texas, in the estimated annual amount of $1,055,822 and execute any and all documents necessary to carry out such contract. Funds are budgeted in Group Health Fund Account No. 520101-64008.

5. **Renewal of Annual Requirements Contract for Security Guard Services for the City Tower, Bid Project 15-0080(MO#05242016-006)**
Authorize the City Manager or his designee to exercise the first of four, one-year renewal options in the contract for security guard services with Tex 1 Security, Inc., dba Texas Star Security of Waco, Texas in the estimated amount of $77,700, and execute any and all documents necessary to carry out such renewal. Funds are budgeted in Police Department Operations Account No. 810901-61006.

6. **Annual Requirements Contract for Law Enforcement Uniforms, Bid Project 16-0082 (MO#05242016-007)**
Authorize the City Manager or his designee to execute an annual requirements contract for law enforcement uniforms with Miller Uniforms & Emblems, Inc. of Austin, Texas through the Texas Local Government Purchasing Program in the estimated amount of $125,000, and execute any and all documents necessary to carry out such contract. Funds are budgeted in Police Department Operations Account No. 810301-60003.

7. **Annual Requirements Contract for Portable Toilet Rental & Maintenance, Bid Project 16-0109 (MO#05242016-008)**
Authorize the City Manager or his designee to execute an annual requirements contract for portable toilet rental and maintenance with MMG Building & Construction Services of Forest Hill, Texas in the estimated amount of $51,227, and execute any and all documents necessary to carry out such contract. Funds are budgeted in various departmental accounts.

8. **Annual Requirements Contract for Trenchless Water Main Improvements, Bid Project 16-0124 (MO#05242016-009)**
Authorize the City Manager or his designee to approve an annual requirements contract for trenchless water main improvements with Murphy Pipeline Contractors, Inc., of Jacksonville, Florida through an interlocal cooperative purchasing agreement with the Allied States Cooperative in the estimated amount of $2,900,000, and execute any and all documents necessary to carry out such contract. Funds are budgeted in Water Bond Fund 658502-18141205-68252.

9. **Annual Requirements Contract for the Fuel Card Services Program, Bid Project 16-0125 (MO#05242016-010)**
Authorize the City Manager or his designee to approve a contract for Wright Express Universal Fleet fuel card services with Mansfield Oil Company of Gainesville, Georgia, through the Interlocal Agreement with the City of Plano in an estimated amount of $1,110,000, and execute any and all documents necessary to carry out such contract. Funds are budgeted in Fleet Services Account No. 790101-60018.

10. **Annual Requirements Contract for LED Streetlights, Bid Project 16-0121 (MO#05242016-011)**
Authorize the City Manager or his designee to execute an annual requirements contract for the purchase of LED Streetlights with Graybar Electrical Company, Inc. of Fort Worth, Texas, through the U.S. Communities Government Purchasing Alliance (U.S. Communities) in the estimated amount of $200,000, and execute any and all documents necessary to carry out such contract. Funds are budgeted in Maintenance of Parking and Streetlights Account No. 720106-63119.

11. **Engineering Services Contract for Sanitary Sewer Flow Monitoring, Project No. WUEN16001 (MO#05242016-012)**
Authorizing the City Manager or his designee to execute an Engineering Services Contract with Burgess & Niple, Inc. of Austin, Texas, for Sanitary Sewer Flow Monitoring in the amount not to exceed $197,779. Funding is available in the Sanitary Sewer Bond Fund Account No. 648502-18130205-61043.

12. **Engineering Services Contract for Eden Road (U.S. Highway 287 to Calender Road); Project No. PWST16008 (MO#05242016-013)**
Authorizing the City Manager or his designee to execute an Engineering Services Contract with Wier & Associates, Inc. of Arlington, Texas, for the design of the Eden Road (U.S. Highway 287 to Calender Road) in an amount not to exceed $877,300. Funding is available in the Street Bond Fund Account No. 358504-61043-65840698 [$851,500] and Water Bond Fund Account No. 658502-61043-18135205 [$25,800].

13. **Engineering Services Contract for 2014 Residential Street Rebuilds (Phase III); Project No. PWST16001 (MO#05242016-014)**
Authorizing the City Manager or his designee to execute an Engineering Services Contract with Dunaway Associates L.P. of Fort Worth, Texas, for the design of the 2014 Residential Street Rebuilds (Phase III) in an amount not to exceed $305,217. Funding is available in the following accounts: Street Bond Fund Account No. 358504-61043-65870698 [$275,517], Water Bond Fund Account No. 658502-61043-18137205 [$20,000], and Sanitary Sewer Bond Fund Account No. 648502-61043-17969204 [$9,700].

14. **Engineering Services Contract for 2016 Residential Street Rebuilds (Phase I); Project No. PWST16004 (MO#05242016-015)**
Authorizing the City Manager or his designee to execute an Engineering Services Contract with Elder Engineering, Inc., of Mansfield, Texas, for the design of the 2016 Residential Street Rebuilds, Phase I, in an amount not to exceed $174,430. Funding is available in the Street Bond Fund Account No. 358504-61043-65790698 [$138,800] and Sanitary Sewer Bond Fund Account No. 648502-61042-17965204 [$35,630].

15. **Professional Services Contract for the New Central Library, Council Chambers/Community Room Facility; Project No. CMLI14004 (MO#05242016-016)**
Authorizing the City Manager or his designee to execute a Professional Services Contract with Fugro Consultants Inc., of Dallas, Texas, for Construction Materials Testing Services for the new Central Library, Council Chambers, and Community Room Facility in an amount not to exceed $137,394. Funding is available in the Library Capital Bond Account No. 968501-61002-89501199 [$120,907] and Library Capital Bond Fund Account No. 968501-61002-89511199 [$16,487].

16. **Rush Creek at Bowen Road Erosion and Scour Protection; Project No. PWDR16001 (MO#05242016-017)**
Authorizing the City Manager or his designee to execute an Engineering Services contract with Huitt-Zollars, Inc., of Fort Worth, Texas, for the Rush Creek and Bowen Road Erosion and Scour Investigation in an amount not to exceed $121,769.78. Funding is available in the Storm Water Utility Fund Account No. 308501-61043-11130199.

17. **Purchase of 13 Chevrolet Tahoes, Bid Project 16-0126 (MO#05242016-018)**
Authorize the City Manager or his designee to purchase 13 Chevrolet Tahoes with Caldwell Country Chevrolet of Caldwell, Texas, through the Texas Local Government Purchasing Cooperative (TLGPC) in the estimated amount of $471,185, and execute any and all documents necessary to carry out such purchase. Funds are budgeted in Fleet Services Administration Account No. 790101-68200.

18. **Purchase and Installation of New Surface Material for Miracle Field, Bid Project 16-0129 (MO#05242016-019)**
Authorize the City Manager or his designee to purchase and install specialized surface material at Miracle Field from Landscape Structures, Inc. of Delano, Minnesota through the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program in the estimated amount of $151,427.25, and execute any and all documents necessary to carry out such purchase. Funds are available in Field Enhancement Account No. 508503-68101-53550599.

B. Consent Agenda Ordinances – Final Readings

Public comment will be accepted on items, with the exception of those items on which a public hearing has been held and closed by Council, which will be indicated as ***(CLOSED)*** on the agenda.

1. **Zoning Case PD15-13 (Dial Independent Living - 131 and 175 East Bardin Road) *(CLOSED)***
Consider a request for a change in the zoning of property to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan on approximately 9.089 acres zoned Community Commercial (CC) and generally located north of East Bardin Road and east of Matlock Road. Final reading of an ordinance changing the zoning classification on certain property known as 131 and 175 East Bardin Road to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan and amending the Zoning District Map accordingly.

C. Consent Agenda Resolutions

1. **Police Intelligence Consultant Contract**
A resolution authorizing the execution of a retroactive Consultant Contract with Michael K. Winograd relative to intelligence consultant services for the Arlington Tactical Intelligence Unit, for an amount not to exceed $36,000.

2. **Authorize the Request for Proposal (RFP) Procurement Method for Employee Wellness Clinic Services, Bid Project 16-0117**
A resolution authorizing the competitive sealed proposal (Request for Proposal) procurement method for an employee wellness clinic service.

3. **Continued Participation in the Oncor Cities Steering Committee and Payment of the Participation Fee**
A resolution authorizing continued participation with the Oncor Cities Steering Committee; and authorizing the payment of 11 cents per capita to the Steering Committee to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC.

4. **Stadium Drive (Abram Street to Division Street) – BSL, Inc. Project No. PWST09001**
A resolution authorizing the settlement of five condemnation cases for the acquisition of street easements and temporary construction easements in, under, and through land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Block 4, Hillview Addition, and generally known as 122, 118, 114, 110, and 134 Stadium Drive in the City of Arlington, Tarrant County, Texas, for the Stadium Drive (Abram Street to Division Street) street reconstruction project.

5. **Loan Forgiveness Agreement with the Texas Water Development Board relative to the Issuance of Water and Wastewater Revenue Bonds, Series 2016**
A resolution by the City Council of the City of Arlington, Texas approving a loan forgiveness agreement with the Texas Water Development Board and Authorizing the Mayor as the designated representative of the City to execute the loan forgiveness agreement for funding in the amount of $359,700; and approving other matters related thereto.

END OF CONSENT AGENDA

IX. ITEMS TO BE WITHDRAWN FROM THE CONSENT AGENDA

X. CONSIDER AND VOTE ON WITHDRAWN ITEMS

XI. PUBLIC HEARINGS: ORDINANCES FIRST READING

Speaker Regulations: Anyone wishing to speak for or against a Public Hearing must fill out a card at the entrance to the Council Chamber.

A. Public Hearing – Ordinances First Reading

1. **(CONTINUED) Zoning Case PD14-9R (Legends Express Car Wash - 5521, 5523 and 5525 South Cooper Street)**
Following the public hearing, consider a request to revise the zoning of property to Planned Development (PD) for Community Commercial (CC) uses plus a Car Wash and a commercial kennel with an outside run, with a Development Plan on approximately 3.002 acres zoned Planned Development (PD) for Community Commercial (CC) uses plus a Car Wash, with a Development Plan and generally located north of West Nathan Lowe Road and east of South Cooper Street.

ORDINANCE FIRST READING
First reading of an ordinance changing the zoning classification on certain property known as 5521, 5523 and 5525 South Cooper Street to Planned Development (PD) for Community Commercial (CC) uses plus a car wash and an outside run for a commercial kennel, with a Development Plan and amending the Zoning District Map accordingly.

XII. ORDINANCES – FIRST AND/OR FINAL READINGS

Public comment will be accepted on items, with the exception of those items on which a public hearing has been held and closed by Council, which will be indicated as ***(CLOSED)*** on the agenda.

A. Ordinances- First Reading

1. **Settlement with Atmos Energy Corp., Mid-Tex Division regarding the Atmos Mid-Tex 2016 Rate Review Mechanism filing**
First reading of an ordinance approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2016 Rate Review Mechanism filings; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel.

XIII. CONSIDERATION TO CALL A PUBLIC HEARING

Public comment will not be accepted at this time, but will be accepted at a later public hearing if the Council votes to call a public hearing.

A. Calling a Public Hearing - Resolutions:

1. **Youth Programs Standards of Care**
A resolution calling for a public hearing relative to the adoption of Standards of Care for elementary age recreation program to be operated by the City of Arlington Parks and Recreation Department.

XIV. RESOLUTIONS

Public comment will be accepted at this time on the following items.

A. Resolutions:

1. **Texas Rangers Complex Development Project**

a. Designating a Sports and Community Venue Project
A resolution designating and providing for the Texas Rangers Complex Development Project as a Sports and Community Venue Project and designating the methods of financing the Texas Rangers Complex Development Project pursuant to Chapter 334, Texas Local Government Code.

b. Master Agreement for Ballpark Complex Project
A resolution authorizing the City Manager or his designee to execute a Master Agreement by and between Rangers Baseball, LLC and the City of Arlington, Texas relative to the Ballpark Complex Project.

2. **Stonegate Improvements Agreement**
A resolution authorizing the City Manager or his designee to execute the Stonegate Improvements Agreement by and between Ballpark Parking Partners LLC and the City of Arlington, Texas.

XV. ADMINISTERING THE OATHS OF OFFICE

XVI. ANNOUNCEMENTS

XVII. CITIZEN PARTICIPATION– Recognition of visitors with items of business not on the agenda.

Minutes

Arlington City Council Meeting

Council Briefing Room
101 W. Abram St.
3rd Floor

May 10, 2016

12:45 PM

The City Council of the City of Arlington, Texas, convened in Special Session on May 10, 2016, at 12:45 pm in the Council Briefing Room, 101 W. Abram Street, 3rd Floor with the meeting being open to the public and notice of said meeting, giving the date, place and subject thereof, having been posted as prescribed by V.T.C.A., Government Code, Chapter 551, with the following members present, to-wit:

Mayor J. Williams
Councilmember C. Parker
Councilmember S. Capehart
Councilmember R. Rivera
Councilmember K. Wilemon
Councilmember L. Wolff
Councilmember R. Shepard
Councilmember J. Bennett
Councilmember M. Glaspie

Trey Yelverton, City Manager
Teris Solis, City Attorney
Mary Supino, City Secretary

I. CALL TO ORDER

Mayor J. Williams called the meeting to order at 12:51 p.m. and immediately convened in Executive Session.

II. EXECUTIVE SESSION

A. Section 551.071, CONSULTATION WITH ATTORNEY

1. Discussion of City v. BSL, Inc. lawsuits

B. Section 551.072, DELIBERATION REGARDING REAL PROPERTY

1. Discussion of gas leases on City Property

C. Section 551.087, DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

1. Offers of Incentives to Business Prospects

At 2:27 p.m., Executive Session was adjourned, and after a short break, Council reconvened in Open Session at 2:42 p.m.

III. WORK SESSION

A. Implications of Driverless Cars

Dr. Theron Bowman, Deputy City Manager, Neighborhood Services, introduced Mr. Drew Campbell, Senior Partner, Capitol-Insights, who gave a brief presentation to Council relative to autonomous vehicles.

B. Body Worn Cameras

Chief Will Johnson, Arlington Police Department, gave a brief overview of Body Worn Cameras, and introduced Os Flores, Deputy Police Chief, who presented an update on the Body Worn Cameras pilot program.

C. Erosion Program

Mandy Clark, Assistant Director, Public Works and Transportation Department, provided a brief update on the Erosion program.

IV. ISSUES SESSION

A. Discussion of informal staff reports

1. Neighborhood Program Update

Sarah Stubblefield, Senior Planner, Community Development and Planning Department, presented the Neighborhood Program Update to Council.

2. Quarterly Update FY2016 - Support Quality Education

Gilbert Perales, Deputy City Manager, Strategic Support, presented the Quarterly Update FY2016 - Support Quality Education newsletter.

B. Discussion of committee meetings

1. Community and Neighborhood Development - Food Trucks

Councilmember L. Wolff, Chair, reported on the Committee meeting.

2. Municipal Policy - Gas Wells; Code Strategies

Councilmember R. Rivera, Chair, reported on the Committee meeting.

C. Discussion of miscellaneous items

1. Appointments to boards and commissions

There will be one appointment to boards and commissions for consideration on the Evening agenda.

2. Evening Agenda items

Item Nos. VIII.A.9, VIII.A.12, VIII.C.2, VIII.C.3, XI.A.1, XII.A.1 and XII.A.2 were discussed.

3. Issues relative to City and TxDot projects

Mayor J. Williams provided a brief update on the Cooper Street/TxDot Construction Project.

4. Future Agenda Items

Mayor J. Williams requested future agenda items relative to the Small Business Administration, and to further discuss the necessity and benefits of Economic Development in the City. Councilmember C. Parker requested a future agenda item to discuss crack seal options for City streets.

There being no further business, the meeting adjourned at 4:39 p.m.

APPROVED:

W. Jeff Williams, Mayor

ATTEST:

Mary W. Supino, City Secretary

Minutes

Arlington City Council
Regular Meeting

Council Chamber
101 W. Abram St.

May 10, 2016

06:30 PM

The City Council of the City of Arlington, Texas, convened in Regular Session on May 10, 2016, at 06:30 pm in the Council Chamber of the City Hall Building, 101 West Abram Street, with the meeting being open to the public and notice of said meeting, giving the date, place and subject thereof, having been posted as prescribed by V.T.C.A., Government Code, Chapter 551, with the following members present, to-wit:

Mayor J. Williams
Councilmember C. Parker
Councilmember S. Capehart
Councilmember R. Rivera
Councilmember K. Wilemon
Councilmember L. Wolff
Councilmember R. Shepard
Councilmember J. Bennett
Councilmember M. Glaspie

Trey Yelverton, City Manager
Teris Solis, City Attorney
Mary Supino, City Secretary

I. CALL TO ORDER

Mayor J. Williams called the meeting to order at 6:34 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

Father Thomas Craig, St. Vincent de Paul Catholic Church, gave the invocation and the Pledge of Allegiance to U.S. and Texas Flags were recited.

III. SPECIAL PRESENTATIONS

Mayor J. Williams proclaimed May 10, 2016 as "Firefighter Danny Martin & Apparatus Operator Jason Adams Day". This proclamation was presented by Councilmember R. Rivera and accepted by Danny Martin and Jason Adams.

Mayor J. Williams proclaimed the week of May 15th - 21st, 2016 as "National Public Works Week". This

proclamation was presented by Councilmember J. Bennett and accepted by David Wynn, Interim Public Works and Transportation Director, and other members of the Public Works and Transportation Department staff.

Mayor J. Williams proclaimed May 2016 as "Motorcycle Safety Awareness Month". This proclamation was presented by Councilmember R. Shepard and accepted by Brandon Clark, Angel Faires and other motorcyclists.

Mayor J. Williams proclaimed May 2016 as "National Preservation Month". This proclamation was presented by Mayor J. Williams and accepted by Landmark Preservation Commission Chair, Roger Wehr and Vice Chair Cheryl Donaldson accompanied by commissioners Michelle Canton, Dorothy Rencurrel, Geraldine Mills, Glenn Day, Roxanne Thalman, Barbara Reber, and Valle Caldwell.

IV. APPOINTMENTS TO BOARDS AND COMMISSIONS

Councilmember M. Glaspie made a motion to approve the following resolution appointing membership to the following Board. Seconded by Councilmember S. Capehart, the motion carried with 9 ayes and 0 nays.

Special Transportation Advisory Board
Roy Milner, Place 8, term set to expire 06-30-2017

RESOLUTION NO. 16-074

V. SPEAKER GUIDELINES AND GENERAL DECORUM

Mary W. Supino, City Secretary, recited the speaker guidelines and general decorum.

VI. APPROVAL OF ITEMS FROM EXECUTIVE SESSION

VII. APPROVAL OF MINUTES

Afternoon Meeting, April 26, 2016
Evening Meeting, April 26, 2016

Councilmember J. Bennett made a motion to approve minutes from the April 26, 2016 Afternoon and Evening Meetings. Seconded by Councilmember R. Shepard, the motion carried with 9 ayes and 0 nays.

VIII. APPROVAL OF CONSENT AGENDA

Councilmember L. Wolff made a motion to approve all items from the Consent Agenda Seconded by Councilmember R. Rivera, the motion carried with 9 ayes and 0 nays.

A. Minute Orders

1. Annual Requirements Contract for Crack Seal Services, Bid Project 16-0071
(MO#05102016-001)
Authorize the City Manager or his designee to approve an annual requirements contract for crack seal services with Curtco, Inc., of Kerrville, Texas, through an interlocal cooperative purchasing agreement with the City of Grand Prairie in the estimated amount of $286,000,

and execute any and all documents necessary to carry out such contract. Funds are budgeted in Contract Street Maintenance Account No. 728501-63132-61480695.

2. Annual Requirements Contract for Cleaning, Inspection and Repair of Bunker Gear for the Fire Department, Bid Project 16-0087 **(MO#05102016-002)**
Authorize the City Manager or his designee to execute an annual requirements contract for the cleaning, inspection and repair of bunker gear for the Fire Department with Gear Cleaning Solutions of Dallas, Texas through the Collin County Purchasing Cooperative in the estimated amount of $80,000, and execute any and all documents necessary to carry out such contract. Funds are budgeted in Fire Department Operational Account No. 220601-63116.

3. Annual Requirements Contract for City-wide Janitorial Services, Bid Project 16-0075 **(MO#05102016-003)**
Authorize the City Manager or his designee to execute an annual requirements contract for city-wide janitorial services with Oriental Building Services, Inc. of Dallas, Texas, in the estimated amount of $461,688.96, and execute any and all documents necessary to carry out such contract. Funds are budgeted in Public Works Account No. 350407-61002.

4. Renewal of Annual Requirements Contract for Janitorial Services for Parks & Recreation Facilities, Bid Project 13-0112**(MO#05102016-004)**
Authorize the City Manager or his designee to exercise the third of four, one-year renewal options in the contract for janitorial services for parks & recreation facilities with Member's Building Maintenance, LLC of Dallas, Texas in an estimated amount of $134,607.96, and execute any and all documents necessary to carry out such renewal. Funds are budgeted in Parks and Recreation Asset Management/Special Services Account No. 502704-61002.

5. Renewal of Annual Requirements Contract for Tree Trimming Services, Bid Project 14-0137 **(MO#05102016-005)**
Authorize the City Manager or his designee to exercise the second of four, one-year renewal options in the contract for tree trimming services with Arbor Master Service, Inc. of Grapevine, Texas, in the estimated amount of $350,000, and execute any all documents necessary to carry out such renewal. Funds are budgeted in various Parks and Recreation Department accounts.

6. Renewal of Annual Requirements Contract for Sanitary Sewer Covers and Rings, Bid Project 13-0140 **(MO#05102016-006)**
Authorize the City Manager or his designee to exercise the third of four, one-year renewal options in the contract for sanitary sewer covers and rings with HD Supply Waterworks of Richland Hills, Texas in the estimated amount of $116,525, and execute any and all documents necessary to carry out such renewal. Funds are budgeted in Water Utilities Department/Water Utilities Inventory Account No. 5000-16000.

7. Amendment No.1 to the Construction Manager-at-Risk Contract for New Central Library/Council Chamber; Project No. CMLI14001 **(MO#05102016-007)**
Authorize the execution of Amendment No. 1 to the Construction Manager-At-Risk contract with Byrne Construction Services, of Fort Worth, Texas, establishing the Guaranteed Maximum Price (GMP) for the New Central Library and Council Chambers/Community Room Facility construction and associated infrastructure in the amount of $26,353,944. Funding is available in the following accounts: Library Facility Account No. 968501-68100-

89501199 [$16,531,834], Library Facility and Plaza Account No. 968502-61002-88291199 [$5,367,000], Library Facility and Community Building Account Nos. 938502-61002-85000998 [$291,010] and 190601-63101 [$1,596,000], Public Broadcast Space and Technology Account No. 890102-68100 [$2,400,000], Main Street Repaving Account No. 728501-63132 [$78,100], and Main Street Water Line Replacement Account No. 658502-68252-16392205 [$90,000].

8. Light Up Arlington Fireworks **(MO#05102016-008)**
Authorize the City Manager or his designee to execute a contract with Pyrotex Inc. of Leonard, Texas, for services to provide a firework show at Light Up Arlington located at City Hall and Founders Plaza in the amount of $26,000.00. Funding is available in Parks and Recreation Special Account No. 121201-125042-61002 and is fully offset by sponsorships.

9. Construction Contract for Miracle Field Turf Replacement Project No. PKPL-16001 **(MO#05102016-009)**
Authorize the City Manager or his designee to execute a construction contract with Gibson Oilfield/dba Gibson Earthworks of Granbury, Texas for construction of Miracle League Field Turf Replacement at Randol Mill Park in the amount of $140,682.30. Funding is available in Parks and Recreation Bond Account No. 508503-68101-53550599.

10. Engineering Services Contract for 2014 Residential Street Rebuilds (Phase IV); Project No. PWST16002 **(MO#05102016-010)**
Authorizing the City Manager or his designee to execute an Engineering Services Contract with Westra Consultants, LLC, of Arlington, Texas, for the design of the 2014 Residential Street Rebuilds, Phase IV, in an amount not to exceed $175,960. Funding is available in the following accounts: Street Bond Fund Account No. 358504-65830698-61043 [$166,600] and Sanitary Sewer Bond Fund Account No. 648502-61002-17968204 [$9,360].

11. Engineering Services Contract for 2016 Residential Street Rebuilds (Phase II); Project No. PWST16005 **(MO#05102016-011)**
Authorizing the City Manager or his designee to execute an Engineering Services Contract with Stream Water Group, Inc., of Fort Worth, Texas, for the design of the 2016 Residential Street Rebuilds, Phase II, in an amount not to exceed $289,772. Funding is available in the following accounts: Street Bond Fund Account No. 358504-61043-65820698 [$257,322] and Sanitary Sewer Bond Fund Account No. 648502-61043-17970204 [$32,450].

12. Engineering Services Contract for Mayfield and Wimbledon Drainage Improvements; Project No. PWDR14011 **(MO#05102016-012)**
Authorizing the City Manager or his designee to execute an Engineering Services contract with Hayden Consultants, Inc., of Dallas, Texas, for the Mayfield and Wimbledon Drainage Improvements in an amount not to exceed $103,180. Funding is available in the Storm Water Utility Fund Account No. 308501-61043-10970199.

Steven Julias, 2417 Wimbledon Dr., 76017, spoke in reference to this minute order.

13. Contract Modification No. 1 to the Design-Build Contract for the California Lane Police Service Center Site Security Improvements; Project No. CMPD16001 **(MO#05102016-013)**
Authorize the execution of Contract Modification No. 1 to the Design-Build Contract with I.S. Construction Group, LLC, of Fort Worth, Texas, establishing the Guaranteed Maximum Price (GMP) for construction and associated infrastructure in the amount of $273,061.

Funding is available in the UASI (Urban Area Security Initiative) Grant Account No. 228601-68100-228944. Execution of the contract is contingent on final grant approval by the State.

14. Contract Modification No. 1 to the Design-Build Contract for the East Arlington Police Service Center Site Security Improvements; Project No. CMPD16001 **(MO#05102016-014)**
Authorize the execution of Contract Modification No. 1 to the Design-Build Contract with I.S. Construction Group, LLC, of Fort Worth, Texas, establishing the Guaranteed Maximum Price (GMP) for construction and associated infrastructure in the amount of $247,091. Funding is available in UASI (Urban Area Security Initiative) Account No. 228601-68100-22894. Execution of the contract is contingent on final grant approval by the State.

15. Professional Services Contract for Arlington Landfill **(MO#05102016-015)**
Authorizing the City Manager or his designee to execute a consultant services contract with Gershman, Brickner & Bratton, Inc. (GBB), of Fairfax, Virginia, to assist with the existing agreements for the operation and maintenance of the Arlington Landfill in the amount not to exceed $134,000. Funding is available in Solid Waste Operations Account No. 350207-61043.

16. Additional Repair Services for Pierce Burch Water Treatment Plant - Pump Engine Drive, Bid Project 16-0028 **(MO#05102016-016)**
Authorizing the City Manager or his designee to approve the purchase of additional repair services for the renovation of Pierce Burch Water Treatment Plant (PBWTP) Pump Engine Drive with Holt CAT, Irving, Texas in the estimated amount of $61,264.10. Funding is available in Water Fund Account No. 658502-68900-18108205.

17. Modification No. 1 - Engineering Services Contract for Water Treatment Ozone System Improvements and Upgrade, Project No. WUTR15002
(MO#05102016-017)
Authorizing the City Manager or his designee to execute Modification No. 1 to the Engineering Services Contract with CDM Smith Inc., of Fort Worth, Texas for additional services in an amount not to exceed $90,098. Funding is available in Water Bond Fund Account No. 678501-20126205-61043.

B. Consent Agenda Ordinances - Final Readings

1. Zoning Case PD16-1 (Residential Homes at Legacy Heights - 2418 North Fielder Road)
Consider a request for a change in the zoning of property to Planned Development (PD) for all Residential Single-Family 7.2 (RS-7.2) uses, with a Development Plan on approximately 1.02 acres zoned Planned Development (PD) for all Neighborhood Commercial (NC) uses plus convenience store with four gasoline pumps and generally located west of North Fielder Road and south of Northwest Green Oaks Boulevard. Final reading of an ordinance changing the zoning classification on certain property known as 2418 North Fielder Road to Planned Development (PD) for Residential Single-Family 7.2 (RS-7.2) uses, with a Development Plan and amending the Zoning District Map accordingly.

ORDINANCE NO. 16-022

2. Zoning Case ZA16-3 (Dean Berube - State Farm Insurance - 1215 and 1217 Bell Street)
Consider a request to change the zoning of property to Limited Office (LO) on approximately 0.514 acres zoned Residential Estate (RE) and generally located north of Bell Street and

east of South Cooper Street. Final reading of an ordinance changing the zoning classification on certain property known as 1215 and 1217 Bell Street to Limited Office (LO) and amending the Zoning District Map accordingly.

ORDINANCE NO. 16-023

C. Consent Agenda Resolutions

1. City of Arlington's Retirement Committee Appointment
   A resolution appointing Lemuel Randolph, Director of Parks and Recreation, to the City of Arlington's Retirement Committee.

RESOLUTION NO. 16-075

2. Update to Local and Minority Women-Owned Business Enterprise (MWBE) Policy, Bid Project 14-0052
   A resolution adopting the revised Local and Minority Women-Owned Business Enterprise Policy.

Andre McEwing, 3301 Chancellorsville, 76140; Chaplain Rich Stoglin, P.O. Box 171687, 76003; and, Devoyd Jennings, 1150 South Freeway, Fort Worth, Texas, 76102, appeared in support of this proposed resolution. Three individuals registered in support of this proposed resolution.

RESOLUTION NO. 16-076

3. Al Rollins Park Naming
   A resolution naming the park located at 3311 Southwest Green Oaks Boulevard as "Al Rollins Park".

RESOLUTION NO. 16-077

4. Tarrant Regional Auto Crimes Task Force Interlocal Assistance Agreement
   A resolution authorizing the City Manager or his designee to execute the Tarrant Regional Auto Crimes Task Force Interlocal Assistance Agreement with Tarrant County relative to participation in the Tarrant Regional Auto Crimes Task Force which includes a grant award of $221,347 and requires a cash match of approximately $52,837.

RESOLUTION NO. 16-078

5. Bulletproof Vest Partnership Grant
   A resolution authorizing the acceptance of a grant, if awarded, from the United States Department of Justice, Office of Justice Programs' Bureau of Justice Assistance, in the amount of $129,260 through the Bulletproof Vest Partnership Program for the purchase of bulletproof vests and authorizing the execution of contracts and other documents relative to the grant.

RESOLUTION NO. 16-079

6. Fee Authorization for Community Development and Planning Department, and for Public Works and Transportation Department
   A resolution authorizing various fees relative to administration, construction, electrical,

electronic scanning, gas drilling and production, health, irrigation, mechanical, municipal setting designation, plumbing, platting, special event parking, transportation, and zoning activities of the City of Arlington, Texas.

RESOLUTION NO. 16-080

IX. ITEMS TO BE WITHDRAWN FROM THE CONSENT AGENDA

X. CONSIDER AND VOTE ON WITHDRAWN ITEMS

XI. PUBLIC HEARINGS: ORDINANCES FIRST READING

A. Public Hearing - Ordinances First Reading

1. Zoning Case PD14-9R (Legends Express Car Wash - 5521, 5523, and 5525 South Cooper Street)
Following the public hearing, consider a request to change the zoning of property to Planned Development (PD) for Community Commercial (CC) uses plus a Car Wash and a commercial kennel with an outside run, with a Development Plan on approximately 3.002 acres zoned Planned Development (PD) for Community Commercial (CC) uses plus a Car Wash, with a Development Plan and generally located north of West Nathan Lowe Road and east of South Cooper Street.

ORDINANCE FIRST READING
First reading of an ordinance changing the zoning classification on certain property known as 5521, 5523 and 5525 South Cooper Street to Planned Development (PD) for Community Commercial (CC) uses plus a car wash and an outside run for a commercial kennel, with a Development Plan and amending the Zoning District Map accordingly.

The public hearing regarding Zoning Case PD14-9R (Legends Express Car Wash - 5521, 5523, and 5525 South Cooper Street) opened at 7:10 p.m. Jim Parajon, Deputy City Manager, Economic Development/Capital Investment, presented the proposed ordinance to Council. The public hearing was continued at the applicant's request.

Councilmember R. Shepard made a motion to continue first reading of an ordinance changing the zoning classification on certain property known as 5521, 5523 and 5525 South Cooper Street to Planned Development (PD) for Community Commercial (CC) uses plus a car wash and an outside run for a commercial kennel, with a Development Plan and amending the Zoning District Map accordingly. Seconded by Councilmember R. Rivera, the motion carried with 9 ayes and 0 nays.

CONTINUED

2. Zoning Case PD15-13 (Dial Independent Living - 131 and 175 East Bardin Road)Following the public hearing, consider a request for a change in the zoning of property to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan on approximately 9.089 acres zoned Community Commercial (CC) and generally located north of East Bardin Road and east of Matlock Road.

ORDINANCE FIRST READING

First reading of an ordinance changing the zoning classification on certain property known as 131 and 175 East Bardin Road to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan and amending the Zoning District Map accordingly.

The public hearing regarding Zoning Case PD15-13 (Dial Independent Living - 131 and 175 East Bardin Road) opened at 7:11 p.m. Jim Parajon, Deputy City Manager, Economic Development/Capital Investment, presented the proposed ordinance to Council. Cliff Mycoskie, 200 E. Abram, 76010, appeared in support of the proposed ordinance. Three individuals registered in support of this proposed resolution. There being no others, the public hearing closed at 7:21 p.m.

PUBLIC HEARING CLOSED

Councilmember R. Rivera made a motion to approve first reading of an ordinance changing the zoning classification on certain property known as 131 and 175 East Bardin Road to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan and amending the Zoning District Map accordingly. Seconded by Councilmember K. Wilemon, the motion carried with 9 ayes and 0 nays.

FIRST READING

XII. ORDINANCES - FIRST AND/OR FINAL READINGS

A. Ordinances - First and Final Readings

1. Ordinances Authorizing the Sale of City of Arlington, Texas Series 2016A Permanent Improvement Bonds in the amount of $36,165,000, Texas Series 2016B Combination Tax and Revenue Certificates of Obligation in the amount of $16,875,000

   a. An Ordinance providing for the issuance of City of Arlington, Texas, Permanent Improvement Bonds, Series 2016A; Awarding the sale thereof; Levying a tax in payment thereof; Authorizing the execution and delivery of a Paying Agent/Registrar Agreement approving the Official Statement; And enacting provisions incident and relating to the subject and purposes of this ordinance;

   b. An ordinance providing for the issuance of City of Arlington, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2016B; Levying a tax in payment thereof; Prescribing the form of said certificates; Approving and awarding the sale of the certificates; Authorizing the execution and delivery of a Paying Agent/ Registrar Agreement; Approving the Official Statement; And enacting provisions incident and related to the subject and purposes of this ordinance.

Ethan Klos, City Treasurer, Finance Department, introduced David Gordon, Managing Director, Estrada Hinojosa, who presented the proposed ordinances to Council.

Councilmember R. Shepard made a motion to approve first and final readings of an ordinance providing for the issuance of City of Arlington, Texas, Permanent Improvement Bonds, Series 2016A; Awarding the sale thereof; Levying a tax in payment thereof; Authorizing the execution and delivery of a Paying Agent/Registrar Agreement approving the Official Statement; and enacting provisions incident and relating to the subject and purposes of this ordinance.

Seconded by Councilmember M. Glaspie, the motion carried with the following vote:

AYES:	Mayor J. Williams , Councilmember C. Parker, Councilmember S. Capehart, Councilmember K. Wilemon, Councilmember L. Wolff, Councilmember R. Shepard, Councilmember J. Bennett and Councilmember M. Glaspie
NAYS:	None
ABSTAIN:	Councilmember R. Rivera

Councilmember J. Bennett made a motion to approve first and final reading of an ordinance providing for the issuance of City of Arlington, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2016B; Levying a tax in payment thereof; Prescribing the form of said certificates; Approving and awarding the sale of the certificates; Authorizing the execution and delivery of a Paying Agent/ Registrar Agreement; Approving the Official Statement; and enacting provisions incident and related to the subject and purposes of this ordinance. Seconded by Councilmember S. Capehart, the motion carried with the following vote:

AYES:	Mayor J. Williams , Councilmember C. Parker, Councilmember S. Capehart, Councilmember K. Wilemon, Councilmember L. Wolff, Councilmember J. Bennett and Councilmember M. Glaspie
NAYS:	None
ABSTAIN:	Councilmember R. Rivera and Councilmember R. Shepard

ORDINANCE NO. 16-024

ORDINANCE NO. 16-025

2. Ordinance providing for the issuance of $2,080,000 Water and Wastewater System Revenue Bonds, Series 2016
An ordinance awarding the Sale and providing for the issuance of City of Arlington, Texas, Water and Wastewater system revenue bonds, Series 2016; Approving an Escrow Agreement and a Paying Agent/Registrar Agreement; Approving the form of said bonds; And enacting other provisions relating thereto.

Ethan Klos, City Treasurer, Finance Department, presented the proposed ordinance to Council.

Councilmember S. Capehart made a motion to approve first and final reading of an ordinance awarding the Sale and providing for the issuance of City of Arlington, Texas, Water and Wastewater system revenue bonds, Series 2016; Approving an Escrow Agreement and a Paying Agent/Registrar Agreement; Approving the form of said bonds; And enacting other provisions relating thereto. Seconded by Councilmember K. Wilemon, the motion carried with the following vote:

AYES:	Mayor J. Williams , Councilmember C. Parker, Councilmember S. Capehart, Councilmember K. Wilemon, Councilmember L. Wolff, Councilmember R. Shepard, Councilmember J. Bennett and Councilmember M. Glaspie

NAYS: None

ABSTAIN: Councilmember R. Rivera

ORDINANCE NO. 16-026

XIII. ANNOUNCEMENTS

XIV. CITIZEN PARTICIPATION

There being no further business, the meeting adjourned at 7:30 p.m.

APPROVED:

W. Jeff Williams, Mayor

ATTEST:

Mary W. Supino, City Secretary

Minutes

Arlington City Council Special Meeting

101 W. Abram St. 1st Floor

May 17, 2016

5:30 PM

The City Council of the City of Arlington, Texas, convened in Special Session on May 17, 2016, at 5:30 pm in the 101 W. Abram St. 1st Floor, with the meeting being open to the public and notice of said meeting, giving the date, place and subject thereof, having been posted as prescribed by V.T.C.A., Government Code, Chapter 551, with the following members present, to-wit:

Mayor J. Williams
Councilmember C. Parker
Councilmember K. Wilemon
Councilmember L. Wolff
Councilmember M. Glaspie

Absent:
Councilmember S. Capehart
Councilmember R. Rivera
Councilmember R. Shepard
Councilmember J. Bennett

Trey Yelverton, City Manager
Teris Solis, City Attorney
Mary W. Supino, City Secretary

I. CALL TO ORDER

Mayor J. Williams called the meeting to order at 5:32 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

Councilmember M. Glaspie gave the invocation and the Pledge of Allegiance to U.S. and Texas Flags were recited.

III. RESOLUTIONS

A.

Canvassing General Election Results of May 7, 2016
A resolution canvassing the election returns and declaring election results in the general election held in the City of Arlington on May 7, 2016 for the purpose of electing Council Members for Districts 1, 2, 6 and 7.

Mary Supino, City Secretary, presented the proposed resolution to Council.

Councilmember K. Wilemon made a motion to approve a resolution canvassing the election returns and declaring election results in the general election held in the City of Arlington on May 7, 2016 for the purpose of electing Council Members for Districts 1, 2, 6 and 7. Seconded by Councilmember L. Wolff, the motion carried with 5 ayes and 0 nays.

RESOLUTION NO. 16-081

IV. ADJOURN

There being no further business, the meeting was adjourned at 5:35 p.m.

APPROVED:

W. Jeff Williams, Mayor

ATTEST:

Mary W. Supino, City Secretary

Staff Report

Negotiate and Execute Banking Professional Services Contract for Depository, Custody, and Merchant Payment Processing Services, Banking RFQ-16-0056	
City Council Meeting Date: 05-24-16	Document Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to negotiate and execute a bank depository contract with JP Morgan Chase Bank N.A.

Authorize the City Manager or his designee to negotiate and execute a custody contract with Wells Fargo Bank; and a Merchant Payment Processing contract with Elavon/US Bank Payment Solutions effective October 1, 2016.

The depository and custody contract term is three years with a two year renewal option. The merchant payment processing contract term is two years with the option to renew each year thereafter for an additional 12 month term until the contract is terminated.

PRIOR BOARD OR COUNCIL ACTION

On September 27, 2011, Resolution 11-362 was passed by City Council, authorizing staff to enter into a Banking Service Contract with JP Morgan Chase Bank N.A.

On October 14, 2014, Resolution 14-256 was passed that exercised the two year renewal with JP Morgan Chase Bank N.A.

ANALYSIS

The City is required under Texas Local Government Code Chapter 105 to request applications for depository services a minimum of every five years. Since the City's last depository contract was effective October 1, 2011, it was necessary to take applications for depository services effective October 1, 2016.

In early March, Treasury staff compiled a list of financial institutions with the resources and an interest to perform the necessary banking services the City requires. On March 11, 2016, Requests for Qualifications (RFQ's) were sent to the 15 requesting financial institutions. In addition to the direct contact, a legal notice was published on March 11, 2016, in accordance with state law, as well as listed on the City's Supplier Portal.

The City received three proposals for banking depository services on April 7, 2016 from Frost National Bank, JPMorgan Chase Bank N.A., and Wells Fargo Bank. An analysis of the applications showed JP Morgan Chase Bank N.A. with the most advantageous application to the City. The selection criteria were lowest aggregate cost (including implementation costs), ability to meet service and automation requirements, financial condition, and ability to meet the City's contractual requirements.

The costs for each bank for the three-year contract term were determined using historical banking service activity levels. The estimated bank depository costs for the three year contract term are presented below:

Bank	Estimated Fees (3 Years)	Credit (3 Years)	One-Time Fee Credit / Cash Payment	Estimated Implementation Cost	Net Estimated Cost
JPMorgan Chase	$350,676	-	-	-	$350,676
Wells Fargo	$369,648	($45,000)	($5,000)	$50,000	$369,648
Frost National	$505,800	-	($24,500)	$50,000	$531,300

Treasury decided to bid custody and merchant payment processing services separately from Banking Depository Services as some providers offer one service while others offer multiple services.

The City received one proposal for safekeeping custodial services on April 7, 2016 from Wells Fargo Bank. This minute order authorizes the City to contract with Wells Fargo Bank to provide custody services for safekeeping of City investments. The costs were determined using historical custody service activity levels. The estimated custody costs for the three year contract term would be approximately $18,000.

The City received five proposals for payment processing banks on April 7, 2016 from Bank of America, Elavon/US Bank, JPMorgan Chase Bank, Frost Bank and Wells Fargo Bank. An analysis of the applications showed Elavon/US Bank with the most advantageous application to the City. The selection criteria were lowest aggregate cost, ability to meet service and automation requirements, financial condition, and ability to meet the City's contractual requirements. The costs for each bank for the two-year contract term were determined using bank discount rate, average fix rate fee, and Payment Card Industry maintenance costs. The estimated payment processing bank fees are presented below:

Estimated Bank Fees (2 Years)				
JP Morgan Chase	Wells Fargo Bank	Frost Bank	Elavon - US Bank	Bank Of America
$102,888	$52,708	$80,912	$36,136	$62,552

FINANCIAL IMPACT

JP Morgan Chase Bank N.A. fees will be offset by the earnings credit the bank provides for deposits.

Wells Fargo Bank will cost the City approximately $1,500 annually in custody transaction fees over the current contract.

Elavon/US Bank Payment Solutions will save the City approximately $15,000 annually in payment processing bank fees over the current contract.

ADDITIONAL INFORMATION

Attached: None
Under separate cover: None
Available in the City Secretary's office: None

STAFF CONTACT(S)

Mike Finley
Director of Finance
817-459-6345
Mike.Finley@arlingtontx.gov

Ethan Klos
Treasurer
817-459-6303
Ethan.Klos@arlingtontx.gov

Staff Report

Tarrant County Property Tax Collection Agreement	
City Council Meeting Date: 05/24/2016	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to execute an Agreement for the Collection of Taxes with Tarrant County Tax Assessor-Collector and Tarrant County relative to assessment and collection services of ad valorem taxes for the City of Arlington, in the estimated amount of $366,394, which represents a $39,652 increase over FY16 due to an increased number of accounts.

PRIOR BOARD OR COUNCIL ACTION

On May 26, 2015, City Council authorized by Minute Order 05262015-001 the execution of a one-year agreement for the collection of ad valorem taxes with the Tarrant County Tax Assessor-Collector.

ANALYSIS

In FY 2003, the City contracted out the Tax Office operations and entered into an agreement with Tarrant County for the billing and collection of ad valorem taxes. The execution of this annual agreement between the City and the Tarrant County Tax Assessor-Collector for FY 2017 will continue the contracting of this function.

FINANCIAL IMPACT

The cost of this agreement for FY 2017 is $0.95 per tax account, for an estimated total of $366,394. The funding sources for this contract will be the Treasury Division Account 140401-61002 in the amount of approximately $323,644 for the non-Mineral accounts, and the General Gas Lease Fund 3095 in the amount of approximately $42,750 for the Mineral accounts.

ADDITIONAL INFORMATION

Attached:	Contract
Under separate cover:	None
Available in the City Secretary's Office:	None

STAFF CONTACT(S)

Mike Finley
Director of Finance
817-459-6345
Mike.finley@arlingtontx.gov

Ethan Klos
Treasurer
817-459-6303
ethan.klos@arlingtontx.gov

TARRANT COUNTY TAX OFFICE

100 E. Weatherford, Room 105 • Fort Worth, Texas 76196-0301 • 817-884-1100
taxoffice@tarrantcounty.com

RON WRIGHT
Tax Assessor-Collector

April 15, 2016

Ms Erin Clark
Treasurer
ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231
Arlington, TX 76004-3231

Dear Ms. Clark,

I am pleased to enclose our tax collection contract for the coming year. I am lowering my collection fee for the coming year for in-county accounts to $.95 the lowest collection fee of any urban county in Texas. The fee for out-of-county accounts will remain $2.60 per account. The rates will be applied to the Tax Year 2015 ending number of accounts.

State law requires that I charge taxing entities my actual costs for tax collection.

Enclosed are three original renewal contracts for the assessment and collection of your ad valorem taxes by my office for the tax year 2016. After the contracts have been signed, please return **ALL** copies to the attention of Sheila Moore, Entity Liaison. I will mail a fully executed contract to you after the Commissioner's Court has made formal approval of the contract. This will be at the end of September, so the contract will be returned in October. If you require more than one original, please make a copy of the contract and mail all four back to my office. In order to have your contract in place prior to the upcoming tax season, I would ask that you have the properly executed contract returned to me no later than **July 31, 2016.**

In addition to your 2016 contract, I am enclosing an attorney confirmation form. Please fill out the requested information, sign and return to my office along with the collection contracts.

You will be invoiced for your collection commission by January 31, 2017 with payment due no later than February 28, 2017.

The time for rate calculations is rapidly approaching and many of you are already in budget preparations. Please remember the importance of getting the rate and exemption information to us prior to the **September 16th** rate submission deadline. My office will provide more information on this requirement in the near future.

If you have questions, please contact my Entity Liaison, Sheila Moore, at 817-884-1526, or you may contact me at 817-884-1106 or by e-mail rjwright@tarrantcounty.com.

Sincerely,

Ron Wright, PCC
Tax Assessor-Collector
Tarrant County

To be Returned

- ☐ 3 contracts, signed
- ☐ Additional copies required by entity, signed
- ☐ Delinquent Attorney Confirmation:
  - ☐ Completed
  - ☐ Signed
  - ☐ Notarized
- ☐ Contact info updated (*if applicable)*
- ☐ Banking specifics updated on letterhead (*if applicable)*:
  - ☐ Mailed to: Tarrant County Tax Office
    Attn: Sheila Moore
    100 East Weatherford Street, Room 201
    Fort Worth, TX 76196
  - ☐ Faxed to: (817) 884-2858

§ *Agreement For the Collection of Taxes*

COUNTY OF TARRANT §

Agreement made this _____day of_____, 2016, by and between the Tarrant County Tax Assessor/Collector, hereinafter referred to as **ASSESSOR/COLLECTOR**, and Tarrant County, hereinafter referred to as the **COUNTY**, both of whom are addressed at 100 E. Weatherford Street, Fort Worth, Texas 76196-0301, and the City of Arlington hereinafter referred to as **City**, whose address is ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231, Arlington, TX 76004-3231.

PURPOSE OF AGREEMENT

The purpose of this Agreement is to state the terms and conditions under which the ASSESSOR/COLLECTOR will provide assessment and collection services of Ad Valorem taxes levied by the City.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

I.

SERVICES TO BE PERFORMED

The ASSESSOR/COLLECTOR agrees to bill and collect the taxes due and owing on taxable property upon which the City has imposed said taxes. The ASSESSOR/COLLECTOR shall perform the said services in the same manner and fashion as Tarrant County collects its own taxes due and owing on taxable property. The services performed are as follows: receiving the Certified Appraisal Roll from the appropriate Appraisal District and monthly changes thereto; providing mortgage companies, property owners and tax representatives, tax roll and payment data; providing all necessary assessments of taxes and Truth in Taxation calculations as required; the transmittal of tax statements via the U.S. Mail or electronic transfer of data; and payment processing. All City disbursements, made by check or by electronic transfer (ACH), for collected tax accounts will be made to the City on the day the COUNTY Depository Bank indicates the mandatory assigned "float" period has elapsed and the funds are posted to the collected balance. If any daily collection total is less than one hundred dollars ($100.00), the disbursement may be withheld until the cumulative total of taxes collected for the City equals at least one hundred dollars ($100.00), or at the close of the month.

II.

REPORTS

The ASSESSOR/COLLECTOR will provide the City the following reports, if requested:

Daily:	General Ledger Distribution Report
Weekly:	Detail Collection Report (Summary)
Monthly:	Tax Roll Summary (Totals Only)
	Year-to-Date Summary Report
	Detail Collection Report (Summary)
	Distribution Report (Summary)
	Delinquent Tax Attorney Tape
Annual:	Paid Tax Roll
	Delinquent Tax Roll
	Current Tax Roll

A selection of the above listed Reports will only be available by internet access. The ASSESSOR/COLLECTOR will provide the City the General Ledger Revenue & Expense Report monthly as required by Sec. 31.10 of the Texas Property Tax Code.

III.

COMPENSATION

In consideration of the services to be performed by the ASSESSOR/COLLECTOR, compensation for the services rendered is a rate of ninety-five cents ($0.95) per account located within Tarrant County, and two-dollars and sixty cents ($2.60) per account located outside Tarrant County. The number of accounts billed will be based on the July 25 billing roll certified to the ASSESSOR/COLLECTOR, net of subsequent account additions and deletions made by the Appraisal District. The ASSESSOR/COLLECTOR will invoice for these accounts by **January 31, 2017** with payment to be received from the City by **February 28, 2017**.

The scope of services identified in this contract does not include the administration of a rollback election. In the event of

a successful rollback election, these costs incurred by the Tarrant County Tax Office will be separately identified, billed, and paid by the entity.

IV.
AUDITS

The ASSESSOR/COLLECTOR will provide to the City auditor necessary explanations of all reports and access to ASSESSOR/COLLECTOR in-house tax system computer terminals to assist the City auditor in verifying audit samples of the financial data previously provided by the ASSESSOR/COLLECTOR during the past audit period. Additional support for entity verification or entity auditor verification is not a part of this contract. Each request for support will be reviewed individually. Costs for providing audit support will be determined by the ASSESSOR/COLLECTOR and will be charged to and must be paid by the City.

V.
TAX RATE REQUIREMENT

The City will provide the ASSESSOR/COLLECTOR, in writing, the City's newly adopted tax rate and exemption schedule to be applied for assessing purposes by Friday, September 16, 2016. Under authority of Section 31.01 (h) of the Property Tax Code, any additional cost of printing and mailing tax statements because of late reporting of the tax rate or the exemption schedule will be charged to and must be paid by the City.

The tax rate and the exemption schedule for each of the last five (5) years in which an ad valorem tax was levied, or all prior years where there remains delinquent tax, must be furnished in writing to the ASSESSOR/COLLECTOR at the time of the initial contract.

VI.
COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS

In performing the services required under this Agreement, the ASSESSOR/COLLECTOR shall comply with all applicable federal and state statutes, final Court orders and Comptroller regulations. If such compliance is impossible for reasons beyond its control, the ASSESSOR/COLLECTOR shall immediately notify the City of that fact and the reasons therefore.

VII.
DEPOSIT OF FUNDS

All funds collected by the ASSESSOR/COLLECTOR in the performance of the services stated herein for the City shall be promptly transferred to the account of the City at the City's depository bank. All payments to entities will be made electronically by the automated clearing house (ACH). The ASSESSOR/COLLECTOR has no liability for the funds after initiation of the ACH transfer of the City's funds from the COUNTY Depository to the City's designated depository.

VIII.
INVESTMENT OF FUNDS

The City hereby agrees that the COUNTY, acting through the COUNTY Auditor, may invest collected ad valorem tax funds of the City during the period between collection and payment. The COUNTY agrees that it will invest such funds in compliance with the Public Funds Investment Act. The COUNTY further agrees that it will pay to the City all interest or other earnings attributable to taxes owed to the City. All parties agree that this Agreement will not be construed to lengthen the time period during which the COUNTY or the ASSESSOR/COLLECTOR may hold such funds before payment to the City.

IX.
REFUNDS

Refunds will be made by the ASSESSOR/COLLECTOR except as set forth herein. The ASSESSOR/COLLECTOR will advise the City of changes in the tax roll which were mandated by the appropriate Appraisal District.

The ASSESSOR/COLLECTOR will not make refunds on prior year paid accounts unless the prior year paid accounts

for the past five (5) years are provided to the ASSESSOR/COLLECTOR.

All refunds of overpayments or erroneous payments due, but not requested, and as described in Section 31.11 of the Texas Property Tax Code, will after three years from the date of payment, be proportionately disbursed to those entities contracting with the ASSESSOR/COLLECTOR. The contract must have been in force, actual assessment and collection functions begun and the tax account was at the time of the over or erroneous payment within the City's jurisdiction. The proportional share is based upon the City's percent of the tax account's total levy assessed at the time of receipt of the over or erroneous payment.

In the event any lawsuit regarding the collection of taxes provided for in this agreement to which the City is a party, is settled or a final judgment rendered, and which final judgment is not appealed, and the terms of such settlement agreement or final judgment require that a refund be issued by the City to the taxpayer, such refund shall be made by ASSESSOR/COLLECTOR by debiting funds collected by ASSESSOR/COLLECTOR on behalf of the City and remitting such refund to the taxpayer in conformity with the terms of the settlement agreement or final judgment.

X.
DELINQUENT COLLECTIONS

The ASSESSOR/COLLECTOR will assess and collect the collection fee pursuant to Sections, 33.07, 33.08, 33.11 and 33.48 of the Property Tax Code, when allowed. The ASSESSOR/COLLECTOR will collect attorney fees that are specified by the City through written agreement with a delinquent collection Attorney. The ASSESSOR/COLLECTOR will disburse the amount directly to the City for compensation to a Firm under contract to the City.

If the delinquent collection Attorney contracted by the City requires attendance of ASSESSOR/COLLECTOR personnel at a court other than the District Courts in downtown Fort Worth, and the COUNTY is not a party, the employee's expenses and proportionate salary will be the responsibility of the City and will be added to the collection expenses and charged to the City.

The ASSESSOR/COLLECTOR will not be responsible for the collection of prior year delinquent accounts unless all delinquent accounts information is provided to the ASSESSOR/COLLECTOR.

XI.
TERM OF AGREEMENT

This Agreement shall become effective as of the date hereinabove set out, and shall continue in effect during the 2016 tax year, unless sooner terminated by providing sixty (60) day written notice, as outlined in paragraph XII.

XII.
NOTICES

Any notices to be given hereunder by either party to the other may be effected, in writing, either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the address of the parties as they appear in the introductory paragraph of this Agreement, but each party may change this address by written notice in accordance with this paragraph.

XIII.

MISCELLANEOUS PROVISIONS

This instrument hereto contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives and successors.

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 enforceability 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.

This Agreement and the attachments hereto constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Executed on the day and year first above written, Tarrant County, Texas.

BY: _____ _____

RON WRIGHT, ***DATE***
TAX ASSESSOR/COLLECTOR
TARRANT COUNTY

FOR City of Arlington

BY: _____ _____

DATE

TITLE: _____

FOR TARRANT COUNTY:

BY: _____ _____

B. GLEN WHITLEY ***DATE***
TARRANT COUNTY JUDGE

APPROVED AS TO FORM:

BY: _____ _____

*CRIMINAL DISTRICT ATTORNEY'S OFFICE** ***DATE***

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

COUNTY OF TARRANT § § *Agreement For the Collection of Taxes*

Agreement made this _____day of_____, 2016, by and between the Tarrant County Tax Assessor/Collector, hereinafter referred to as **ASSESSOR/COLLECTOR**, and Tarrant County, hereinafter referred to as the **COUNTY**, both of whom are addressed at 100 E. Weatherford Street, Fort Worth, Texas 76196-0301, and the City of Arlington hereinafter referred to as **City**, whose address is ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231, Arlington, TX 76004-3231.

PURPOSE OF AGREEMENT

The purpose of this Agreement is to state the terms and conditions under which the ASSESSOR/COLLECTOR will provide assessment and collection services of Ad Valorem taxes levied by the City.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

I.
SERVICES TO BE PERFORMED

The ASSESSOR/COLLECTOR agrees to bill and collect the taxes due and owing on taxable property upon which the City has imposed said taxes. The ASSESSOR/COLLECTOR shall perform the said services in the same manner and fashion as Tarrant County collects its own taxes due and owing on taxable property. The services performed are as follows: receiving the Certified Appraisal Roll from the appropriate Appraisal District and monthly changes thereto; providing mortgage companies, property owners and tax representatives, tax roll and payment data; providing all necessary assessments of taxes and Truth in Taxation calculations as required; the transmittal of tax statements via the U.S. Mail or electronic transfer of data; and payment processing. All City disbursements, made by check or by electronic transfer (ACH), for collected tax accounts will be made to the City on the day the COUNTY Depository Bank indicates the mandatory assigned "float" period has elapsed and the funds are posted to the collected balance. If any daily collection total is less than one hundred dollars ($100.00), the disbursement may be withheld until the cumulative total of taxes collected for the City equals at least one hundred dollars ($100.00), or at the close of the month.

II.
REPORTS

The ASSESSOR/COLLECTOR will provide the City the following reports, if requested:

Daily:	General Ledger Distribution Report
Weekly:	Detail Collection Report (Summary)
Monthly:	Tax Roll Summary (Totals Only)
	Year-to-Date Summary Report
	Detail Collection Report (Summary)
	Distribution Report (Summary)
	Delinquent Tax Attorney Tape
Annual:	Paid Tax Roll
	Delinquent Tax Roll
	Current Tax Roll

A selection of the above listed Reports will only be available by internet access. The ASSESSOR/COLLECTOR will provide the City the General Ledger Revenue & Expense Report monthly as required by Sec. 31.10 of the Texas Property Tax Code.

III.
COMPENSATION

In consideration of the services to be performed by the ASSESSOR/COLLECTOR, compensation for the services rendered is a rate of ninety-five cents ($0.95) per account located within Tarrant County, and two-dollars and sixty cents ($2.60) per account located outside Tarrant County. The number of accounts billed will be based on the July 25 billing roll certified to the ASSESSOR/COLLECTOR, net of subsequent account additions and deletions made by the Appraisal District. The ASSESSOR/COLLECTOR will invoice for these accounts by **January 31, 2017** with payment to be received from the City by **February 28, 2017**.

The scope of services identified in this contract does not include the administration of a rollback election. In the event of

a successful rollback election, these costs incurred by the Tarrant County Tax Office will be separately identified, billed, and paid by the entity.

IV.
AUDITS

The ASSESSOR/COLLECTOR will provide to the City auditor necessary explanations of all reports and access to ASSESSOR/COLLECTOR in-house tax system computer terminals to assist the City auditor in verifying audit samples of the financial data previously provided by the ASSESSOR/COLLECTOR during the past audit period. Additional support for entity verification or entity auditor verification is not a part of this contract. Each request for support will be reviewed individually. Costs for providing audit support will be determined by the ASSESSOR/COLLECTOR and will be charged to and must be paid by the City.

V.
TAX RATE REQUIREMENT

The City will provide the ASSESSOR/COLLECTOR, in writing, the City's newly adopted tax rate and exemption schedule to be applied for assessing purposes by Friday, September 16, 2016. Under authority of Section 31.01 (h) of the Property Tax Code, any additional cost of printing and mailing tax statements because of late reporting of the tax rate or the exemption schedule will be charged to and must be paid by the City.

The tax rate and the exemption schedule for each of the last five (5) years in which an ad valorem tax was levied, or all prior years where there remains delinquent tax, must be furnished in writing to the ASSESSOR/COLLECTOR at the time of the initial contract.

VI.
COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS

In performing the services required under this Agreement, the ASSESSOR/COLLECTOR shall comply with all applicable federal and state statutes, final Court orders and Comptroller regulations. If such compliance is impossible for reasons beyond its control, the ASSESSOR/COLLECTOR shall immediately notify the City of that fact and the reasons therefore.

VII.
DEPOSIT OF FUNDS

All funds collected by the ASSESSOR/COLLECTOR in the performance of the services stated herein for the City shall be promptly transferred to the account of the City at the City's depository bank. All payments to entities will be made electronically by the automated clearing house (ACH). The ASSESSOR/COLLECTOR has no liability for the funds after initiation of the ACH transfer of the City's funds from the COUNTY Depository to the City's designated depository.

VIII.
INVESTMENT OF FUNDS

The City hereby agrees that the COUNTY, acting through the COUNTY Auditor, may invest collected ad valorem tax funds of the City during the period between collection and payment. The COUNTY agrees that it will invest such funds in compliance with the Public Funds Investment Act. The COUNTY further agrees that it will pay to the City all interest or other earnings attributable to taxes owed to the City. All parties agree that this Agreement will not be construed to lengthen the time period during which the COUNTY or the ASSESSOR/COLLECTOR may hold such funds before payment to the City.

IX.
REFUNDS

Refunds will be made by the ASSESSOR/COLLECTOR except as set forth herein. The ASSESSOR/COLLECTOR will advise the City of changes in the tax roll which were mandated by the appropriate Appraisal District.

The ASSESSOR/COLLECTOR will not make refunds on prior year paid accounts unless the prior year paid accounts

for the past five (5) years are provided to the ASSESSOR/COLLECTOR.

All refunds of overpayments or erroneous payments due, but not requested, and as described in Section 31.11 of the Texas Property Tax Code, will after three years from the date of payment, be proportionately disbursed to those entities contracting with the ASSESSOR/COLLECTOR. The contract must have been in force, actual assessment and collection functions begun and the tax account was at the time of the over or erroneous payment within the City's jurisdiction. The proportional share is based upon the City's percent of the tax account's total levy assessed at the time of receipt of the over or erroneous payment.

In the event any lawsuit regarding the collection of taxes provided for in this agreement to which the City is a party, is settled or a final judgment rendered, and which final judgment is not appealed, and the terms of such settlement agreement or final judgment require that a refund be issued by the City to the taxpayer, such refund shall be made by ASSESSOR/COLLECTOR by debiting funds collected by ASSESSOR/COLLECTOR on behalf of the City and remitting such refund to the taxpayer in conformity with the terms of the settlement agreement or final judgment.

X.
DELINQUENT COLLECTIONS

The ASSESSOR/COLLECTOR will assess and collect the collection fee pursuant to Sections, 33.07, 33.08, 33.11 and 33.48 of the Property Tax Code, when allowed. The ASSESSOR/COLLECTOR will collect attorney fees that are specified by the City through written agreement with a delinquent collection Attorney. The ASSESSOR/COLLECTOR will disburse the amount directly to the City for compensation to a Firm under contract to the City.

If the delinquent collection Attorney contracted by the City requires attendance of ASSESSOR/COLLECTOR personnel at a court other than the District Courts in downtown Fort Worth, and the COUNTY is not a party, the employee's expenses and proportionate salary will be the responsibility of the City and will be added to the collection expenses and charged to the City.

The ASSESSOR/COLLECTOR will not be responsible for the collection of prior year delinquent accounts unless all delinquent accounts information is provided to the ASSESSOR/COLLECTOR.

XI.
TERM OF AGREEMENT

This Agreement shall become effective as of the date hereinabove set out, and shall continue in effect during the 2016 tax year, unless sooner terminated by providing sixty (60) day written notice, as outlined in paragraph XII.

XII.
NOTICES

Any notices to be given hereunder by either party to the other may be effected, in writing, either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the address of the parties as they appear in the introductory paragraph of this Agreement, but each party may change this address by written notice in accordance with this paragraph.

XIII.

MISCELLANEOUS PROVISIONS

This instrument hereto contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives and successors.

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 enforceability 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.

This Agreement and the attachments hereto constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Executed on the day and year first above written, Tarrant County, Texas.

BY: _____ _____

RON WRIGHT, ***DATE***
TAX ASSESSOR/COLLECTOR
TARRANT COUNTY

FOR City of Arlington

BY: _____ _____

DATE

TITLE: _____

FOR TARRANT COUNTY:

BY: _____ _____

B. GLEN WHITLEY ***DATE***
TARRANT COUNTY JUDGE

APPROVED AS TO FORM:

BY: _____ _____

CRIMINAL DISTRICT ATTORNEY'S OFFICE* ***DATE***

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

COUNTY OF TARRANT § § *Agreement For the Collection of Taxes*

Agreement made this _____day of_____, 2016, by and between the Tarrant County Tax Assessor/Collector, hereinafter referred to as **ASSESSOR/COLLECTOR**, and Tarrant County, hereinafter referred to as the **COUNTY**, both of whom are addressed at 100 E. Weatherford Street, Fort Worth, Texas 76196-0301, and the City of Arlington hereinafter referred to as **City**, whose address is ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231, Arlington, TX 76004-3231.

PURPOSE OF AGREEMENT

The purpose of this Agreement is to state the terms and conditions under which the ASSESSOR/COLLECTOR will provide assessment and collection services of Ad Valorem taxes levied by the City.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

I.
SERVICES TO BE PERFORMED

The ASSESSOR/COLLECTOR agrees to bill and collect the taxes due and owing on taxable property upon which the City has imposed said taxes. The ASSESSOR/COLLECTOR shall perform the said services in the same manner and fashion as Tarrant County collects its own taxes due and owing on taxable property. The services performed are as follows: receiving the Certified Appraisal Roll from the appropriate Appraisal District and monthly changes thereto; providing mortgage companies, property owners and tax representatives, tax roll and payment data; providing all necessary assessments of taxes and Truth in Taxation calculations as required; the transmittal of tax statements via the U.S. Mail or electronic transfer of data; and payment processing. All City disbursements, made by check or by electronic transfer (ACH), for collected tax accounts will be made to the City on the day the COUNTY Depository Bank indicates the mandatory assigned "float" period has elapsed and the funds are posted to the collected balance. If any daily collection total is less than one hundred dollars ($100.00), the disbursement may be withheld until the cumulative total of taxes collected for the City equals at least one hundred dollars ($100.00), or at the close of the month.

II.
REPORTS

The ASSESSOR/COLLECTOR will provide the City the following reports, if requested:

Daily:	General Ledger Distribution Report
Weekly:	Detail Collection Report (Summary)
Monthly:	Tax Roll Summary (Totals Only)
	Year-to-Date Summary Report
	Detail Collection Report (Summary)
	Distribution Report (Summary)
	Delinquent Tax Attorney Tape
Annual:	Paid Tax Roll
	Delinquent Tax Roll
	Current Tax Roll

A selection of the above listed Reports will only be available by internet access. The ASSESSOR/COLLECTOR will provide the City the General Ledger Revenue & Expense Report monthly as required by Sec. 31.10 of the Texas Property Tax Code.

III.
COMPENSATION

In consideration of the services to be performed by the ASSESSOR/COLLECTOR, compensation for the services rendered is a rate of ninety-five cents ($0.95) per account located within Tarrant County, and two-dollars and sixty cents ($2.60) per account located outside Tarrant County. The number of accounts billed will be based on the July 25 billing roll certified to the ASSESSOR/COLLECTOR, net of subsequent account additions and deletions made by the Appraisal District. The ASSESSOR/COLLECTOR will invoice for these accounts by **January 31, 2017** with payment to be received from the City by **February 28, 2017**.

The scope of services identified in this contract does not include the administration of a rollback election. In the event of

a successful rollback election, these costs incurred by the Tarrant County Tax Office will be separately identified, billed, and paid by the entity.

IV.
AUDITS

The ASSESSOR/COLLECTOR will provide to the City auditor necessary explanations of all reports and access to ASSESSOR/COLLECTOR in-house tax system computer terminals to assist the City auditor in verifying audit samples of the financial data previously provided by the ASSESSOR/COLLECTOR during the past audit period. Additional support for entity verification or entity auditor verification is not a part of this contract. Each request for support will be reviewed individually. Costs for providing audit support will be determined by the ASSESSOR/COLLECTOR and will be charged to and must be paid by the City.

V.
TAX RATE REQUIREMENT

The City will provide the ASSESSOR/COLLECTOR, in writing, the City's newly adopted tax rate and exemption schedule to be applied for assessing purposes by Friday, September 16, 2016. Under authority of Section 31.01 (h) of the Property Tax Code, any additional cost of printing and mailing tax statements because of late reporting of the tax rate or the exemption schedule will be charged to and must be paid by the City.

The tax rate and the exemption schedule for each of the last five (5) years in which an ad valorem tax was levied, or all prior years where there remains delinquent tax, must be furnished in writing to the ASSESSOR/COLLECTOR at the time of the initial contract.

VI.
COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS

In performing the services required under this Agreement, the ASSESSOR/COLLECTOR shall comply with all applicable federal and state statutes, final Court orders and Comptroller regulations. If such compliance is impossible for reasons beyond its control, the ASSESSOR/COLLECTOR shall immediately notify the City of that fact and the reasons therefore.

VII.
DEPOSIT OF FUNDS

All funds collected by the ASSESSOR/COLLECTOR in the performance of the services stated herein for the City shall be promptly transferred to the account of the City at the City's depository bank. All payments to entities will be made electronically by the automated clearing house (ACH). The ASSESSOR/COLLECTOR has no liability for the funds after initiation of the ACH transfer of the City's funds from the COUNTY Depository to the City's designated depository.

VIII.
INVESTMENT OF FUNDS

The City hereby agrees that the COUNTY, acting through the COUNTY Auditor, may invest collected ad valorem tax funds of the City during the period between collection and payment. The COUNTY agrees that it will invest such funds in compliance with the Public Funds Investment Act. The COUNTY further agrees that it will pay to the City all interest or other earnings attributable to taxes owed to the City. All parties agree that this Agreement will not be construed to lengthen the time period during which the COUNTY or the ASSESSOR/COLLECTOR may hold such funds before payment to the City.

IX.
REFUNDS

Refunds will be made by the ASSESSOR/COLLECTOR except as set forth herein. The ASSESSOR/COLLECTOR will advise the City of changes in the tax roll which were mandated by the appropriate Appraisal District.

The ASSESSOR/COLLECTOR will not make refunds on prior year paid accounts unless the prior year paid accounts

for the past five (5) years are provided to the ASSESSOR/COLLECTOR.

All refunds of overpayments or erroneous payments due, but not requested, and as described in Section 31.11 of the Texas Property Tax Code, will after three years from the date of payment, be proportionately disbursed to those entities contracting with the ASSESSOR/COLLECTOR. The contract must have been in force, actual assessment and collection functions begun and the tax account was at the time of the over or erroneous payment within the City's jurisdiction. The proportional share is based upon the City's percent of the tax account's total levy assessed at the time of receipt of the over or erroneous payment.

In the event any lawsuit regarding the collection of taxes provided for in this agreement to which the City is a party, is settled or a final judgment rendered, and which final judgment is not appealed, and the terms of such settlement agreement or final judgment require that a refund be issued by the City to the taxpayer, such refund shall be made by ASSESSOR/COLLECTOR by debiting funds collected by ASSESSOR/COLLECTOR on behalf of the City and remitting such refund to the taxpayer in conformity with the terms of the settlement agreement or final judgment.

X.
DELINQUENT COLLECTIONS

The ASSESSOR/COLLECTOR will assess and collect the collection fee pursuant to Sections, 33.07, 33.08, 33.11 and 33.48 of the Property Tax Code, when allowed. The ASSESSOR/COLLECTOR will collect attorney fees that are specified by the City through written agreement with a delinquent collection Attorney. The ASSESSOR/COLLECTOR will disburse the amount directly to the City for compensation to a Firm under contract to the City.

If the delinquent collection Attorney contracted by the City requires attendance of ASSESSOR/COLLECTOR personnel at a court other than the District Courts in downtown Fort Worth, and the COUNTY is not a party, the employee's expenses and proportionate salary will be the responsibility of the City and will be added to the collection expenses and charged to the City.

The ASSESSOR/COLLECTOR will not be responsible for the collection of prior year delinquent accounts unless all delinquent accounts information is provided to the ASSESSOR/COLLECTOR.

XI.
TERM OF AGREEMENT

This Agreement shall become effective as of the date hereinabove set out, and shall continue in effect during the 2016 tax year, unless sooner terminated by providing sixty (60) day written notice, as outlined in paragraph XII.

XII.
NOTICES

Any notices to be given hereunder by either party to the other may be effected, in writing, either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the address of the parties as they appear in the introductory paragraph of this Agreement, but each party may change this address by written notice in accordance with this paragraph.

XIII.

MISCELLANEOUS PROVISIONS

This instrument hereto contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives and successors.

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 enforceability 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.

This Agreement and the attachments hereto constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Executed on the day and year first above written, Tarrant County, Texas.

BY: _____ _____

RON WRIGHT, ***DATE***
TAX ASSESSOR/COLLECTOR
TARRANT COUNTY

FOR City of Arlington

BY: _____ _____

DATE

TITLE: _____

FOR TARRANT COUNTY:

BY: _____ _____

B. GLEN WHITLEY ***DATE***
TARRANT COUNTY JUDGE

APPROVED AS TO FORM:

BY: _____ _____

CRIMINAL DISTRICT ATTORNEY'S OFFICE* ***DATE***

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

DELINQUENT ATTORNEY CONFIRMATION
2016 TAX YEAR

Please complete the form below, have notarized and return with your entity contract.

The Delinquent Attorney Firm for _____ is
Name of Taxing Entity

_____
Name of Firm

Collection penalty % by ordinance, resolution or amendment authorizing attorney collection fees in accordance to Sections 33.07 and 33.08 Texas Property Tax Code is

_____
Percent

Collection penalty % by ordinance, resolution or amendment authorizing early turnover of this unit's business personal property in accordance to Section 33.11 Texas Property Tax Code is

_____
Percent

The effective date of the ordinance, resolution or amendment authorizing early turnover of this unit's business personal property in accordance to Section 33.11 Texas Property Tax Code is

_____ _____, _____.
Month Day Year

If you change law firms you must notify Tarrant County Tax Office in writing.

By signature below, the information contained in this form is deemed true and correct.

_____ _____
Authorized Signature Date

_____ _____
Printed Name Title

Sworn and Subscribed to before me on this the _____ day of _____, _____, to certify which witness my hand and seal of office.

_____
Notary Public in and for the
State of Texas
My commission Expires: _____

ENTITY CONTACT INFORMATION

If your entity has experienced a change in personnel, please fill out the information below so that we may update our records.

Entity: _____

Contact Name: _____

Contact Title: _____

Contact Email: _____

Contact Phone Number: _____

Entity Address: _____

_____

Commission Invoice Billing Contact:
(if different from above)

_____

Staff Report

FY17 Tarrant County BID Assessment Collection Agreement	
City Council Meeting Date: 05/24/2016	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to execute an Agreement for the Collection of Business Improvement District (BID) assessments with Tarrant County Tax Assessor-Collector and Tarrant County relative to assessment and collection services of special assessments for the Arlington Downtown BID, in the estimated amount of $380 for the 2016 Tax Year (FY17).

PRIOR BOARD OR COUNCIL ACTION

On September 15, 2015, City Council authorized by Minute Order 09152015-004 the execution of a one-year agreement for the collection of ad valorem taxes with the Tarrant County Tax Assessor-Collector.

ANALYSIS

In FY 2003, the City contracted out the Tax Office operations and entered into an agreement with Tarrant County for the billing and collection of ad valorem taxes. The County also provides assessment and collection services for special districts, including Public Improvement Districts and other special assessment districts. The execution of this annual agreement between the City of Arlington and the Tarrant County Tax Assessor-Collector for FY 2017 will authorize collection of the 2016 Downtown BID assessments on behalf of the City.

FINANCIAL IMPACT

The cost of this agreement for FY 2017 is $0.95 per tax account, for an estimated total of $380. The funding source for this contract is in the Arlington Downtown BID Account 3028-480701-61002.

ADDITIONAL INFORMATION

Attached:	Contract
Under separate cover:	None
Available in the City Secretary's Office:	None

STAFF CONTACT(S)

Bruce Payne
Economic Development Manager
817-459-6114
Bruce.Payne@arlingtontx.gov

Erin Clark
Public Finance Administrator
817-459-6265
Erin.Clark@arlingtontx.gov

TARRANT COUNTY TAX OFFICE

100 E. Weatherford, Room 105 • Fort Worth, Texas 76196-0301 • 817-884-1100
taxoffice@tarrantcounty.com

RON WRIGHT
Tax Assessor-Collector

April 15, 2016

Ms Erin Clark
ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231
Arlington, TX 76004

Dear Ms. Clark,

I am pleased to enclose our tax collection contract for the coming year. I am lowering my collection fee for the coming year for in-county accounts to $.95 the lowest collection fee of any urban county in Texas. The fee for out-of-county accounts will remain $2.60 per account. The rates will be applied to the Tax Year 2015 ending number of accounts.

State law requires that I charge taxing entities my actual costs for tax collection.

Enclosed are three original renewal contracts for the assessment and collection of your ad valorem taxes by my office for the tax year 2016. After the contracts have been signed, please return **ALL** copies to the attention of Sheila Moore, Entity Liaison. I will mail a fully executed contract to you after the Commissioner's Court has made formal approval of the contract. This will be at the end of September, so the contract will be returned in October. If you require more than one original, please make a copy of the contract and mail all four back to my office. In order to have your contract in place prior to the upcoming tax season, I would ask that you have the properly executed contract returned to me no later than **July 31, 2016.**

In addition to your 2016 contract, I am enclosing an attorney confirmation form. Please fill out the requested information, sign and return to my office along with the collection contracts.

You will be invoiced for your collection commission by January 31, 2017 with payment due no later than February 28, 2017.

The time for rate calculations is rapidly approaching and many of you are already in budget preparations. Please remember the importance of getting the rate and exemption information to us prior to the **September 16th** rate submission deadline. My office will provide more information on this requirement in the near future.

If you have questions, please contact my Entity Liaison, Sheila Moore, at 817-884-1526, or you may contact me at 817-884-1106 or by e-mail rjwright@tarrantcounty.com.

Sincerely,

Ron Wright

Ron Wright, PCC
Tax Assessor-Collector
Tarrant County

To be Returned

- ☐ 3 contracts, signed
- ☐ Additional copies required by entity, signed
- ☐ Delinquent Attorney Confirmation:
  - ☐ Completed
  - ☐ Signed
  - ☐ Notarized
- ☐ Contact info updated (*if applicable)*
- ☐ Banking specifics updated on letterhead (*if applicable)*:
  - ☐ Mailed to: Tarrant County Tax Office
    Attn: Sheila Moore
    100 East Weatherford Street, Room 201
    Fort Worth, TX 76196
  - ☐ Faxed to: (817) 884-2858

§ *Agreement For the Collection of Taxes*

COUNTY OF TARRANT §

Agreement made this _____day of_____, 2016, by and between the Tarrant County Tax Assessor/Collector, hereinafter referred to as **ASSESSOR/COLLECTOR**, and Tarrant County, hereinafter referred to as the **COUNTY**, both of whom are addressed at 100 E. Weatherford Street, Fort Worth, Texas 76196-0301, and the Arlington Business Improvement District hereinafter referred to as **District**, whose address is ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231, Arlington, TX 76004.

PURPOSE OF AGREEMENT

The purpose of this Agreement is to state the terms and conditions under which the ASSESSOR/COLLECTOR will provide assessment and collection services of Ad Valorem taxes levied by the District.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

I.
SERVICES TO BE PERFORMED

The ASSESSOR/COLLECTOR agrees to bill and collect the taxes due and owing on taxable property upon which the District has imposed said taxes. The ASSESSOR/COLLECTOR shall perform the said services in the same manner and fashion as Tarrant County collects its own taxes due and owing on taxable property. The services performed are as follows: receiving the Certified Appraisal Roll from the appropriate Appraisal District and monthly changes thereto; providing mortgage companies, property owners and tax representatives, tax roll and payment data; providing all necessary assessments of taxes and Truth in Taxation calculations as required; the transmittal of tax statements via the U.S. Mail or electronic transfer of data; and payment processing. All District disbursements, made by check or by electronic transfer (ACH), for collected tax accounts will be made to the District on the day the COUNTY Depository Bank indicates the mandatory assigned "float" period has elapsed and the funds are posted to the collected balance. If any daily collection total is less than one hundred dollars ($100.00), the disbursement may be withheld until the cumulative total of taxes collected for the District equals at least one hundred dollars ($100.00), or at the close of the month.

II.
REPORTS

The ASSESSOR/COLLECTOR will provide the District the following reports, if requested:

Daily:	General Ledger Distribution Report
Weekly:	Detail Collection Report (Summary)
Monthly:	Tax Roll Summary (Totals Only)
	Year-to-Date Summary Report
	Detail Collection Report (Summary)
	Distribution Report (Summary)
	Delinquent Tax Attorney Tape
Annual:	Paid Tax Roll
	Delinquent Tax Roll
	Current Tax Roll

A selection of the above listed Reports will only be available by internet access. The ASSESSOR/COLLECTOR will provide the District the General Ledger Revenue & Expense Report monthly as required by Sec. 31.10 of the Texas Property Tax Code.

III.
COMPENSATION

In consideration of the services to be performed by the ASSESSOR/COLLECTOR, compensation for the services rendered is a rate of ninety-five cents ($0.95) per account located within Tarrant County, and two-dollars and sixty cents ($2.60) per account located outside Tarrant County. The number of accounts billed will be based on the July 25 billing roll certified to the ASSESSOR/COLLECTOR, net of subsequent account additions and deletions made by the Appraisal District. The ASSESSOR/COLLECTOR will invoice for these accounts by **January 31, 2017** with payment to be received from the District by **February 28, 2017**.

The scope of services identified in this contract does not include the administration of a rollback election. In the event of a successful rollback election, these costs incurred by the Tarrant County Tax Office will be separately identified, billed, and paid by the entity.

IV.
AUDITS

The ASSESSOR/COLLECTOR will provide to the District auditor necessary explanations of all reports and access to ASSESSOR/COLLECTOR in-house tax system computer terminals to assist the District auditor in verifying audit samples of the financial data previously provided by the ASSESSOR/COLLECTOR during the past audit period. Additional support for entity verification or entity auditor verification is not a part of this contract. Each request for support will be reviewed individually. Costs for providing audit support will be determined by the ASSESSOR/COLLECTOR and will be charged to and must be paid by the District.

V.
TAX RATE REQUIREMENT

The District will provide the ASSESSOR/COLLECTOR, in writing, the District's newly adopted tax rate and exemption schedule to be applied for assessing purposes by Friday, September 16, 2016. Under authority of Section 31.01 (h) of the Property Tax Code, any additional cost of printing and mailing tax statements because of late reporting of the tax rate or the exemption schedule will be charged to and must be paid by the District.

The tax rate and the exemption schedule for each of the last five (5) years in which an ad valorem tax was levied, or all prior years where there remains delinquent tax, must be furnished in writing to the ASSESSOR/COLLECTOR at the time of the initial contract.

VI.
COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS

In performing the services required under this Agreement, the ASSESSOR/COLLECTOR shall comply with all applicable federal and state statutes, final Court orders and Comptroller regulations. If such compliance is impossible for reasons beyond its control, the ASSESSOR/COLLECTOR shall immediately notify the District of that fact and the reasons therefore.

VII.
DEPOSIT OF FUNDS

All funds collected by the ASSESSOR/COLLECTOR in the performance of the services stated herein for the District shall be promptly transferred to the account of the District at the District's depository bank. All payments to entities will be made electronically by the automated clearing house (ACH). The ASSESSOR/COLLECTOR has no liability for the funds after initiation of the ACH transfer of the District's funds from the COUNTY Depository to the District's designated depository.

VIII.
INVESTMENT OF FUNDS

The District hereby agrees that the COUNTY, acting through the COUNTY Auditor, may invest collected ad valorem tax funds of the District during the period between collection and payment. The COUNTY agrees that it will invest such funds in compliance with the Public Funds Investment Act. The COUNTY further agrees that it will pay to the District all interest or other earnings attributable to taxes owed to the District. All parties agree that this Agreement will not be construed to lengthen the time period during which the COUNTY or the ASSESSOR/COLLECTOR may hold such funds before payment to the District.

IX.
REFUNDS

Refunds will be made by the ASSESSOR/COLLECTOR except as set forth herein. The ASSESSOR/COLLECTOR will advise the District of changes in the tax roll which were mandated by the appropriate Appraisal District.

The ASSESSOR/COLLECTOR will not make refunds on prior year paid accounts unless the prior year paid accounts for the past five (5) years are provided to the ASSESSOR/COLLECTOR.

All refunds of overpayments or erroneous payments due, but not requested, and as described in Section 31.11 of the Texas Property Tax Code, will after three years from the date of payment, be proportionately disbursed to those entities contracting with the ASSESSOR/COLLECTOR. The contract must have been in force, actual assessment and collection functions begun and the tax account was at the time of the over or erroneous payment within the District's jurisdiction. The proportional share is based upon the District's percent of the tax account's total levy assessed at the time of receipt of the over or erroneous payment.

In the event any lawsuit regarding the collection of taxes provided for in this agreement to which the District is a party, is settled or a final judgment rendered, and which final judgment is not appealed, and the terms of such settlement agreement or final judgment require that a refund be issued by the District to the taxpayer, such refund shall be made by ASSESSOR/COLLECTOR by debiting funds collected by ASSESSOR/COLLECTOR on behalf of the District and remitting such refund to the taxpayer in conformity with the terms of the settlement agreement or final judgment.

X.
DELINQUENT COLLECTIONS

The ASSESSOR/COLLECTOR will assess and collect the collection fee pursuant to Sections, 33.07, 33.08, 33.11 and 33.48 of the Property Tax Code, when allowed. The ASSESSOR/COLLECTOR will collect attorney fees that are specified by the District through written agreement with a delinquent collection Attorney. The ASSESSOR/COLLECTOR will disburse the amount directly to the District for compensation to a Firm under contract to the District.

If the delinquent collection Attorney contracted by the District requires attendance of ASSESSOR/COLLECTOR personnel at a court other than the District Courts in downtown Fort Worth, and the COUNTY is not a party, the employee's expenses and proportionate salary will be the responsibility of the District and will be added to the collection expenses and charged to the District.

The ASSESSOR/COLLECTOR will not be responsible for the collection of prior year delinquent accounts unless all delinquent accounts information is provided to the ASSESSOR/COLLECTOR.

XI.
TERM OF AGREEMENT

This Agreement shall become effective as of the date hereinabove set out, and shall continue in effect during the 2016 tax year, unless sooner terminated by providing sixty (60) day written notice, as outlined in paragraph XII.

XII.
NOTICES

Any notices to be given hereunder by either party to the other may be effected, in writing, either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the address of the parties as they appear in the introductory paragraph of this Agreement, but each party may change this address by written notice in accordance with this paragraph.

XIII.

MISCELLANEOUS PROVISIONS

This instrument hereto contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives and successors.

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 enforceability 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.

This Agreement and the attachments hereto constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Executed on the day and year first above written, Tarrant County, Texas.

BY: _____ _____

RON WRIGHT, ***DATE***
TAX ASSESSOR/COLLECTOR
TARRANT COUNTY

FOR Arlington Business Improvement District

BY: _____ _____

DATE

TITLE: _____

FOR TARRANT COUNTY:

BY: _____ _____

B. GLEN WHITLEY ***DATE***
TARRANT COUNTY JUDGE

APPROVED AS TO FORM:

BY: _____ _____

CRIMINAL DISTRICT ATTORNEY'S OFFICE* ***DATE***

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

§ *Agreement For the Collection of Taxes*

COUNTY OF TARRANT §

Agreement made this _____day of_____, 2016, by and between the Tarrant County Tax Assessor/Collector, hereinafter referred to as **ASSESSOR/COLLECTOR**, and Tarrant County, hereinafter referred to as the **COUNTY**, both of whom are addressed at 100 E. Weatherford Street, Fort Worth, Texas 76196-0301, and the Arlington Business Improvement District hereinafter referred to as **District**, whose address is ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231, Arlington, TX 76004.

PURPOSE OF AGREEMENT

The purpose of this Agreement is to state the terms and conditions under which the ASSESSOR/COLLECTOR will provide assessment and collection services of Ad Valorem taxes levied by the District.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

I.
SERVICES TO BE PERFORMED

The ASSESSOR/COLLECTOR agrees to bill and collect the taxes due and owing on taxable property upon which the District has imposed said taxes. The ASSESSOR/COLLECTOR shall perform the said services in the same manner and fashion as Tarrant County collects its own taxes due and owing on taxable property. The services performed are as follows: receiving the Certified Appraisal Roll from the appropriate Appraisal District and monthly changes thereto; providing mortgage companies, property owners and tax representatives, tax roll and payment data; providing all necessary assessments of taxes and Truth in Taxation calculations as required; the transmittal of tax statements via the U.S. Mail or electronic transfer of data; and payment processing. All District disbursements, made by check or by electronic transfer (ACH), for collected tax accounts will be made to the District on the day the COUNTY Depository Bank indicates the mandatory assigned "float" period has elapsed and the funds are posted to the collected balance. If any daily collection total is less than one hundred dollars ($100.00), the disbursement may be withheld until the cumulative total of taxes collected for the District equals at least one hundred dollars ($100.00), or at the close of the month.

II.
REPORTS

The ASSESSOR/COLLECTOR will provide the District the following reports, if requested:

Daily:	General Ledger Distribution Report
Weekly:	Detail Collection Report (Summary)
Monthly:	Tax Roll Summary (Totals Only)
	Year-to-Date Summary Report
	Detail Collection Report (Summary)
	Distribution Report (Summary)
	Delinquent Tax Attorney Tape
Annual:	Paid Tax Roll
	Delinquent Tax Roll
	Current Tax Roll

A selection of the above listed Reports will only be available by internet access. The ASSESSOR/COLLECTOR will provide the District the General Ledger Revenue & Expense Report monthly as required by Sec. 31.10 of the Texas Property Tax Code.

III.
COMPENSATION

In consideration of the services to be performed by the ASSESSOR/COLLECTOR, compensation for the services rendered is a rate of ninety-five cents ($0.95) per account located within Tarrant County, and two-dollars and sixty cents ($2.60) per account located outside Tarrant County. The number of accounts billed will be based on the July 25 billing roll certified to the ASSESSOR/COLLECTOR, net of subsequent account additions and deletions made by the Appraisal District. The ASSESSOR/COLLECTOR will invoice for these accounts by **January 31, 2017** with payment to be received from the District by **February 28, 2017**.

The scope of services identified in this contract does not include the administration of a rollback election. In the event of a successful rollback election, these costs incurred by the Tarrant County Tax Office will be separately identified, billed, and paid by the entity.

IV.
AUDITS

The ASSESSOR/COLLECTOR will provide to the District auditor necessary explanations of all reports and access to ASSESSOR/COLLECTOR in-house tax system computer terminals to assist the District auditor in verifying audit samples of the financial data previously provided by the ASSESSOR/COLLECTOR during the past audit period. Additional support for entity verification or entity auditor verification is not a part of this contract. Each request for support will be reviewed individually. Costs for providing audit support will be determined by the ASSESSOR/COLLECTOR and will be charged to and must be paid by the District.

V.
TAX RATE REQUIREMENT

The District will provide the ASSESSOR/COLLECTOR, in writing, the District's newly adopted tax rate and exemption schedule to be applied for assessing purposes by Friday, September 16, 2016. Under authority of Section 31.01 (h) of the Property Tax Code, any additional cost of printing and mailing tax statements because of late reporting of the tax rate or the exemption schedule will be charged to and must be paid by the District.

The tax rate and the exemption schedule for each of the last five (5) years in which an ad valorem tax was levied, or all prior years where there remains delinquent tax, must be furnished in writing to the ASSESSOR/COLLECTOR at the time of the initial contract.

VI.
COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS

In performing the services required under this Agreement, the ASSESSOR/COLLECTOR shall comply with all applicable federal and state statutes, final Court orders and Comptroller regulations. If such compliance is impossible for reasons beyond its control, the ASSESSOR/COLLECTOR shall immediately notify the District of that fact and the reasons therefore.

VII.
DEPOSIT OF FUNDS

All funds collected by the ASSESSOR/COLLECTOR in the performance of the services stated herein for the District shall be promptly transferred to the account of the District at the District's depository bank. All payments to entities will be made electronically by the automated clearing house (ACH). The ASSESSOR/COLLECTOR has no liability for the funds after initiation of the ACH transfer of the District's funds from the COUNTY Depository to the District's designated depository.

VIII.
INVESTMENT OF FUNDS

The District hereby agrees that the COUNTY, acting through the COUNTY Auditor, may invest collected ad valorem tax funds of the District during the period between collection and payment. The COUNTY agrees that it will invest such funds in compliance with the Public Funds Investment Act. The COUNTY further agrees that it will pay to the District all interest or other earnings attributable to taxes owed to the District. All parties agree that this Agreement will not be construed to lengthen the time period during which the COUNTY or the ASSESSOR/COLLECTOR may hold such funds before payment to the District.

IX.
REFUNDS

Refunds will be made by the ASSESSOR/COLLECTOR except as set forth herein. The ASSESSOR/COLLECTOR will advise the District of changes in the tax roll which were mandated by the appropriate Appraisal District.

The ASSESSOR/COLLECTOR will not make refunds on prior year paid accounts unless the prior year paid accounts for the past five (5) years are provided to the ASSESSOR/COLLECTOR.

All refunds of overpayments or erroneous payments due, but not requested, and as described in Section 31.11 of the Texas Property Tax Code, will after three years from the date of payment, be proportionately disbursed to those entities contracting with the ASSESSOR/COLLECTOR. The contract must have been in force, actual assessment and collection functions begun and the tax account was at the time of the over or erroneous payment within the District's jurisdiction. The proportional share is based upon the District's percent of the tax account's total levy assessed at the time of receipt of the over or erroneous payment.

In the event any lawsuit regarding the collection of taxes provided for in this agreement to which the District is a party, is settled or a final judgment rendered, and which final judgment is not appealed, and the terms of such settlement agreement or final judgment require that a refund be issued by the District to the taxpayer, such refund shall be made by ASSESSOR/COLLECTOR by debiting funds collected by ASSESSOR/COLLECTOR on behalf of the District and remitting such refund to the taxpayer in conformity with the terms of the settlement agreement or final judgment.

X.
DELINQUENT COLLECTIONS

The ASSESSOR/COLLECTOR will assess and collect the collection fee pursuant to Sections, 33.07, 33.08, 33.11 and 33.48 of the Property Tax Code, when allowed. The ASSESSOR/COLLECTOR will collect attorney fees that are specified by the District through written agreement with a delinquent collection Attorney. The ASSESSOR/COLLECTOR will disburse the amount directly to the District for compensation to a Firm under contract to the District.

If the delinquent collection Attorney contracted by the District requires attendance of ASSESSOR/COLLECTOR personnel at a court other than the District Courts in downtown Fort Worth, and the COUNTY is not a party, the employee's expenses and proportionate salary will be the responsibility of the District and will be added to the collection expenses and charged to the District.

The ASSESSOR/COLLECTOR will not be responsible for the collection of prior year delinquent accounts unless all delinquent accounts information is provided to the ASSESSOR/COLLECTOR.

XI.
TERM OF AGREEMENT

This Agreement shall become effective as of the date hereinabove set out, and shall continue in effect during the 2016 tax year, unless sooner terminated by providing sixty (60) day written notice, as outlined in paragraph XII.

XII.
NOTICES

Any notices to be given hereunder by either party to the other may be effected, in writing, either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the address of the parties as they appear in the introductory paragraph of this Agreement, but each party may change this address by written notice in accordance with this paragraph.

XIII.

MISCELLANEOUS PROVISIONS

This instrument hereto contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives and successors.

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 enforceability 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.

This Agreement and the attachments hereto constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Executed on the day and year first above written, Tarrant County, Texas.

BY: _____ _____

RON WRIGHT, ***DATE***
TAX ASSESSOR/COLLECTOR
TARRANT COUNTY

FOR Arlington Business Improvement District

BY: _____ _____

DATE

TITLE: _____

FOR TARRANT COUNTY:

BY: _____ _____

B. GLEN WHITLEY ***DATE***
TARRANT COUNTY JUDGE

APPROVED AS TO FORM:

BY: _____ _____

CRIMINAL DISTRICT ATTORNEY'S OFFICE* ***DATE***

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

COUNTY OF TARRANT § § *Agreement For the Collection of Taxes*

Agreement made this _____day of_____, 2016, by and between the Tarrant County Tax Assessor/Collector, hereinafter referred to as **ASSESSOR/COLLECTOR**, and Tarrant County, hereinafter referred to as the **COUNTY**, both of whom are addressed at 100 E. Weatherford Street, Fort Worth, Texas 76196-0301, and the Arlington Business Improvement District hereinafter referred to as **District**, whose address is ATTN: Erin Clark-Treasury Division MS 063-0820/PO Box 90231, Arlington, TX 76004.

PURPOSE OF AGREEMENT

The purpose of this Agreement is to state the terms and conditions under which the ASSESSOR/COLLECTOR will provide assessment and collection services of Ad Valorem taxes levied by the District.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

I.
SERVICES TO BE PERFORMED

The ASSESSOR/COLLECTOR agrees to bill and collect the taxes due and owing on taxable property upon which the District has imposed said taxes. The ASSESSOR/COLLECTOR shall perform the said services in the same manner and fashion as Tarrant County collects its own taxes due and owing on taxable property. The services performed are as follows: receiving the Certified Appraisal Roll from the appropriate Appraisal District and monthly changes thereto; providing mortgage companies, property owners and tax representatives, tax roll and payment data; providing all necessary assessments of taxes and Truth in Taxation calculations as required; the transmittal of tax statements via the U.S. Mail or electronic transfer of data; and payment processing. All District disbursements, made by check or by electronic transfer (ACH), for collected tax accounts will be made to the District on the day the COUNTY Depository Bank indicates the mandatory assigned "float" period has elapsed and the funds are posted to the collected balance. If any daily collection total is less than one hundred dollars ($100.00), the disbursement may be withheld until the cumulative total of taxes collected for the District equals at least one hundred dollars ($100.00), or at the close of the month.

II.
REPORTS

The ASSESSOR/COLLECTOR will provide the District the following reports, if requested:

Daily:	General Ledger Distribution Report
Weekly:	Detail Collection Report (Summary)
Monthly:	Tax Roll Summary (Totals Only)
	Year-to-Date Summary Report
	Detail Collection Report (Summary)
	Distribution Report (Summary)
	Delinquent Tax Attorney Tape
Annual:	Paid Tax Roll
	Delinquent Tax Roll
	Current Tax Roll

A selection of the above listed Reports will only be available by internet access. The ASSESSOR/COLLECTOR will provide the District the General Ledger Revenue & Expense Report monthly as required by Sec. 31.10 of the Texas Property Tax Code.

III.
COMPENSATION

In consideration of the services to be performed by the ASSESSOR/COLLECTOR, compensation for the services rendered is a rate of ninety-five cents ($0.95) per account located within Tarrant County, and two-dollars and sixty cents ($2.60) per account located outside Tarrant County. The number of accounts billed will be based on the July 25 billing roll certified to the ASSESSOR/COLLECTOR, net of subsequent account additions and deletions made by the Appraisal District. The ASSESSOR/COLLECTOR will invoice for these accounts by **January 31, 2017** with payment to be received from the District by **February 28, 2017**.

The scope of services identified in this contract does not include the administration of a rollback election. In the event of a successful rollback election, these costs incurred by the Tarrant County Tax Office will be separately identified, billed, and paid by the entity.

IV.
AUDITS

The ASSESSOR/COLLECTOR will provide to the District auditor necessary explanations of all reports and access to ASSESSOR/COLLECTOR in-house tax system computer terminals to assist the District auditor in verifying audit samples of the financial data previously provided by the ASSESSOR/COLLECTOR during the past audit period. Additional support for entity verification or entity auditor verification is not a part of this contract. Each request for support will be reviewed individually. Costs for providing audit support will be determined by the ASSESSOR/COLLECTOR and will be charged to and must be paid by the District.

V.
TAX RATE REQUIREMENT

The District will provide the ASSESSOR/COLLECTOR, in writing, the District's newly adopted tax rate and exemption schedule to be applied for assessing purposes by Friday, September 16, 2016. Under authority of Section 31.01 (h) of the Property Tax Code, any additional cost of printing and mailing tax statements because of late reporting of the tax rate or the exemption schedule will be charged to and must be paid by the District.

The tax rate and the exemption schedule for each of the last five (5) years in which an ad valorem tax was levied, or all prior years where there remains delinquent tax, must be furnished in writing to the ASSESSOR/COLLECTOR at the time of the initial contract.

VI.
COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS

In performing the services required under this Agreement, the ASSESSOR/COLLECTOR shall comply with all applicable federal and state statutes, final Court orders and Comptroller regulations. If such compliance is impossible for reasons beyond its control, the ASSESSOR/COLLECTOR shall immediately notify the District of that fact and the reasons therefore.

VII.
DEPOSIT OF FUNDS

All funds collected by the ASSESSOR/COLLECTOR in the performance of the services stated herein for the District shall be promptly transferred to the account of the District at the District's depository bank. All payments to entities will be made electronically by the automated clearing house (ACH). The ASSESSOR/COLLECTOR has no liability for the funds after initiation of the ACH transfer of the District's funds from the COUNTY Depository to the District's designated depository.

VIII.
INVESTMENT OF FUNDS

The District hereby agrees that the COUNTY, acting through the COUNTY Auditor, may invest collected ad valorem tax funds of the District during the period between collection and payment. The COUNTY agrees that it will invest such funds in compliance with the Public Funds Investment Act. The COUNTY further agrees that it will pay to the District all interest or other earnings attributable to taxes owed to the District. All parties agree that this Agreement will not be construed to lengthen the time period during which the COUNTY or the ASSESSOR/COLLECTOR may hold such funds before payment to the District.

IX.
REFUNDS

Refunds will be made by the ASSESSOR/COLLECTOR except as set forth herein. The ASSESSOR/COLLECTOR will advise the District of changes in the tax roll which were mandated by the appropriate Appraisal District.

The ASSESSOR/COLLECTOR will not make refunds on prior year paid accounts unless the prior year paid accounts for the past five (5) years are provided to the ASSESSOR/COLLECTOR.

All refunds of overpayments or erroneous payments due, but not requested, and as described in Section 31.11 of the Texas Property Tax Code, will after three years from the date of payment, be proportionately disbursed to those entities contracting with the ASSESSOR/COLLECTOR. The contract must have been in force, actual assessment and collection functions begun and the tax account was at the time of the over or erroneous payment within the District's jurisdiction. The proportional share is based upon the District's percent of the tax account's total levy assessed at the time of receipt of the over or erroneous payment.

In the event any lawsuit regarding the collection of taxes provided for in this agreement to which the District is a party, is settled or a final judgment rendered, and which final judgment is not appealed, and the terms of such settlement agreement or final judgment require that a refund be issued by the District to the taxpayer, such refund shall be made by ASSESSOR/COLLECTOR by debiting funds collected by ASSESSOR/COLLECTOR on behalf of the District and remitting such refund to the taxpayer in conformity with the terms of the settlement agreement or final judgment.

X.
DELINQUENT COLLECTIONS

The ASSESSOR/COLLECTOR will assess and collect the collection fee pursuant to Sections, 33.07, 33.08, 33.11 and 33.48 of the Property Tax Code, when allowed. The ASSESSOR/COLLECTOR will collect attorney fees that are specified by the District through written agreement with a delinquent collection Attorney. The ASSESSOR/COLLECTOR will disburse the amount directly to the District for compensation to a Firm under contract to the District.

If the delinquent collection Attorney contracted by the District requires attendance of ASSESSOR/COLLECTOR personnel at a court other than the District Courts in downtown Fort Worth, and the COUNTY is not a party, the employee's expenses and proportionate salary will be the responsibility of the District and will be added to the collection expenses and charged to the District.

The ASSESSOR/COLLECTOR will not be responsible for the collection of prior year delinquent accounts unless all delinquent accounts information is provided to the ASSESSOR/COLLECTOR.

XI.
TERM OF AGREEMENT

This Agreement shall become effective as of the date hereinabove set out, and shall continue in effect during the 2016 tax year, unless sooner terminated by providing sixty (60) day written notice, as outlined in paragraph XII.

XII.
NOTICES

Any notices to be given hereunder by either party to the other may be effected, in writing, either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the address of the parties as they appear in the introductory paragraph of this Agreement, but each party may change this address by written notice in accordance with this paragraph.

XIII.

MISCELLANEOUS PROVISIONS

This instrument hereto contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives and successors.

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 enforceability 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.

This Agreement and the attachments hereto constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Executed on the day and year first above written, Tarrant County, Texas.

BY: _____ _____

RON WRIGHT, ***DATE***
TAX ASSESSOR/COLLECTOR
TARRANT COUNTY

FOR Arlington Business Improvement District

BY: _____ _____

DATE

TITLE: _____

FOR TARRANT COUNTY:

BY: _____ _____

B. GLEN WHITLEY ***DATE***
TARRANT COUNTY JUDGE

APPROVED AS TO FORM:

BY: _____ _____

CRIMINAL DISTRICT ATTORNEY'S OFFICE* ***DATE***

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

DELINQUENT ATTORNEY CONFIRMATION
2016 TAX YEAR

Please complete the form below, have notarized and return with your entity contract.

The Delinquent Attorney Firm for _____ is
Name of Taxing Entity

_____
Name of Firm

Collection penalty % by ordinance, resolution or amendment authorizing attorney collection fees in accordance to Sections 33.07 and 33.08 Texas Property Tax Code is

_____
Percent

Collection penalty % by ordinance, resolution or amendment authorizing early turnover of this unit's business personal property in accordance to Section 33.11 Texas Property Tax Code is

_____
Percent

The effective date of the ordinance, resolution or amendment authorizing early turnover of this unit's business personal property in accordance to Section 33.11 Texas Property Tax Code is

_____ _____, _____.
Month Day Year

If you change law firms you must notify Tarrant County Tax Office in writing.

By signature below, the information contained in this form is deemed true and correct.

_____ _____
Authorized Signature Date

_____ _____
Printed Name Title

Sworn and Subscribed to before me on this the _____ day of _____, _____, to certify which witness my hand and seal of office.

_____
Notary Public in and for the
State of Texas
My commission Expires: _____

ENTITY CONTACT INFORMATION

If your entity has experienced a change in personnel, please fill out the information below so that we may update our records.

Entity: _____

Contact Name: _____

Contact Title: _____

Contact Email: _____

Contact Phone Number: _____

Entity Address: _____

_____

Commission Invoice Billing Contact:
(if different from above)

_____

Staff Report

Renewal and Extension of Professional Services Contract for Employee Benefit Plan Administration and Insurance	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to exercise the option to renew and extend the professional services contract for employee benefit plan administration and insurance with United HealthCare Group of Plano, Texas, in the estimated annual amount of $1,055,822.

PRIOR BOARD OR COUNCIL ACTION

On August 20, 2002, City Council approved Resolution No. 02-405 authorizing the negotiation and execution of a contract with United HealthCare Group for the provision of health care insurance coverage for regular and full-time city employees and retirees effective as of January 1, 2003.

On October 10, 2006, City Council approved Resolution No. 06-494 authorizing the negotiation and execution of a professional services contract with United HealthCare Group for administration of City employee group health benefit coverage and dental, vision and life insurance coverage in the estimated amount of $3,131,131.

On March 1, 2011, City Council approved Resolution No. 11-054 authorizing the competitive sealed proposal procurement method for employee medical plan administration and stop-loss insurance.

On September 27, 2011, City Council approved Minute Order MO09272011-006 authorizing the execution of a three-year professional services contract for employee benefit plan administration and insurance with United HealthCare Group in the estimated annual amount of $1,622,866, or $4,868,598 for the initial three-year term of the contract.

On December 16, 2014, City Council approved Minute Order MO12162014-010 exercising the first of two, one-year renewal options in the professional services contract for employee benefit plan administration and insurance with United HealthCare Group in the estimated annual amount of $1,021,679.

On November 17, 2015, City Council approved Minute Order MO11172015-002exercising the second and final, one-year renewal option in the professional services contract for employee benefit plan administration and insurance with United HealthCare Group in the estimated annual amount of $1,055,822.

ANALYSIS

This professional services contract is for employee medical plan administration, for network services and third party administration of group health benefit coverage, including claim administration, employee assistance, program administration and COBRA administration.

Previous renewals were referenced under an incorrect bid project. However, upon further analysis, it was determined that the 2003 contract with United Healthcare has been renewed annually and allows annual renewals if notice of cancellation is not received.

City staff is analyzing alternative pricing options with medical providers as a participant in the North Texas Health Coalition, which is comprised of over 25 cities throughout the Dallas Fort Worth Metroplex. Pricing and methodologies are still under review and will not be available until later in 2016. Since the existing agreement includes provisions that allow the City to renew annually, it was determined that it is necessary to extend the contract with United Healthcare Group for an additional year. As part of this additional renewal, City staff was successful in

negotiating an additional allowance of $50,000 from United Healthcare Group to be used on wellness initiatives in 2016 and 2017.

Original term: Successive one-year contract terms
Current term: January 1, 2017 – December 31, 2017

FINANCIAL IMPACT

In accordance with the contract terms, the City of Arlington is exercising the option to renew the contract with United Healthcare Group of Plano, Texas. The Human Resource Department and the Purchasing Division have determined it is in the City's best interest to renew the contract for an additional term. United Healthcare Group of Plano, Texas, will provide employee medical plan administration for the estimated amount of $1,055,822. The contract term is for one year and will be reviewed annually to determine successive renewal terms. The projected financial impact is as follows:

FY 2017	FY 2018	FY 2019
$791,867	$263,955	$0

Funds are budgeted in Group Health Fund Account No. 520101-64008.

ADDITIONAL INFORMATION

Attachments:	None
Under separate cover:	None
Available in the Purchasing Division:	Bid file
MWBE:	No

STAFF CONTACT(S)

Kari Zika, Director	Janice Hughes	Mike Finley
Human Resources	Sr. Purchasing Agent	Director of Finance
817-459-6869	817-459-6304	817-459-6345
Kari.Zika@arlingtontx.gov	Janice.Hughes@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Staff Report

Renewal of Annual Requirements Contract for Security Guard Services for the City Tower, Bid Project 15-0080	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to exercise the first of four, one-year renewal options in the contract for security guard services with Tex 1 Security, Inc., dba Texas Star Security in the estimated amount of $77,700.

PRIOR BOARD OR COUNCIL ACTION

On June 2, 2015, City Council approved MO06022015-002 executing a two-year requirements contract for security guard services with Tex 1 Security, Inc., dba Texas Star Security in the estimated amount of $77,700.

ANALYSIS

This contract is for one armed and one unarmed security guard at the City Tower. Security services will be provided during the business hours of 7am to 5:30pm for the safety of the citizens, city employees and city property.

The contract has been updated to reflect a one-year term with four one-year renewal options due to an under estimation of hours in the original bid. This is an annual requirements contract which allows the City to use services on an as-needed basis.

Original contract term:	One year/four, one-year renewal options
Current term:	First renewal (July 1, 2016 – June 30, 2017)

FINANCIAL IMPACT

The Arlington Police Department and the Purchasing Division have determined that it's in the City's best interest to renew the contract for an additional term. The contract term is for one year and will be reviewed annually to determine subsequent renewal terms.

In accordance with bid specifications, the Purchasing Division has received a letter from Tex 1 Security, Inc., dba Texas Star Security, Inc. of Waco, Texas requesting the first renewal at the current pricing. The projected financial impact for this contract term is as follows:

FY 2016	FY 2017	FY 2018
$19,425	$58,275	$0

Funds are budgeted in Police Department Operations Account No. 810901-61006.

ADDITIONAL INFORMATION

Attached:	None
Under separate cover:	None
Available in the Purchasing Division:	Bid file
Notarized Form 1295:	Yes
MWBE:	No

STAFF CONTACT(S)

Will Johnson	Janice Hughes, CPPB	Mike Finley
Police Chief	Sr. Purchasing Agent	Director of Finance
817-459-5702	817-459-6304	817-459-6345
Will.Johnson@arlingtontx.gov	Janice.Hughes@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Staff Report

Annual Requirements Contract for Law Enforcement Uniforms, Bid Project 16-0082	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to execute an annual requirements contract for law enforcement uniforms with Miller Uniforms & Emblems, Inc., through the Texas Local Government Purchasing Program in the estimated amount of $125,000.

PRIOR BOARD OR COUNCIL ACTION

On June 25, 2002, the City Council passed Resolution 02-314, authorizing the City of Arlington to participate in the TLGPC.

ANALYSIS

This contract is for the supply of law enforcement uniforms for police officers. The contract includes long and short sleeve shirts and trousers. The uniforms will be ordered on an as-needed basis for new officers and to replace uniforms that have been damaged in the line of duty.

Contract term: June 1, 2016 thru March 31, 2017

FINANCIAL IMPACT

Utilizing the contract with TLGPC was determined to be the most cost-effective method for obtaining the uniforms. Miller Uniforms & Emblems, Inc. of Austin, Texas, is under contract currently through the TLGPC and can provide the uniforms in the estimated amount of $125,000. The projected financial impact for this contract term is as follows:

FY 2016	FY 2017	FY 2018
$41,672	$83,328	$0

Funds are budgeted in Police Department Operations Account No. 810301-60003.

ADDITIONAL INFORMATION

Attached:	None
Under separate cover:	None
Available in the Purchasing Division:	Bid file
Notarized Form 1295:	Yes
MWBE:	No

STAFF CONTACT(S)

Will Johnson	Janice Hughes	Mike Finley
Police Chief	Sr. Purchasing Agent	Director of Finance
817-459-5702	817-459-6304	817-459-6345
Will.Johnson@arlingtontx.gov	Janice.Hughes@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Staff Report

Annual Requirements Contract for Portable Toilet Rental & Maintenance, Bid Project 16-0109	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to execute an annual requirements contract for portable toilet rental and maintenance with MMG Building & Construction Services in the estimated amount of $51,227.

PRIOR BOARD OR COUNCIL ACTION

None.

ANALYSIS

This contract is for rental, delivery, maintenance, and pick-up of portable toilets to city owned locations for selected special events or other events on an as-needed basis. The contract includes standard & handicap portable toilets with hand washing, restroom trailers with sinks, separate hand washing stations & hand sanitizer stands.

Bid closed:	April 21, 2016, 2:00 pm
Vendors notified through Demand Star:	16
Vendors notified through Supplier Portal:	12
Vendors responding to bid request:	2
Contract term:	One year/four one-year renewal options
Current term:	June 1, 2016 – May 31, 2017

VENDOR	MWBE	TOTAL
MMG Building & Construction Services Forest Hill, Texas	Yes*	**$51,227**
Texas Portable Restrooms, LLC Flower Mound, Texas	No	$96,302.50

* Woman Owned

FINANCIAL IMPACT

MMG Building & Construction Services of Forest Hill, Texas, returned the lowest responsive bid in the amount of $51,227. The Parks & Recreation Department and the Purchasing Division agree that MMG Building & Construction Services met the bid specification requirements. The contract term is for one year and will be reviewed annually to determine subsequent renewal terms. The projected financial impact for this contract term is as follows:

FY 2016	FY 2017	FY 2018
$17,075.66	$34,151.34	$0

Funds are budgeted in various departmental accounts.

ADDITIONAL INFORMATION

Attached:	None
Under separate cover:	None
Available in the Purchasing Division:	Bid file
Notarized Form 1295:	Yes

STAFF CONTACT(S)

Lemuel Randolph, Director
Parks & Recreation
817-459-5479
Lemuel.Randolph@arlingtontx.gov

Leisa Maas
Buyer
817-459-6337
Leisa.Maas@arlingtontx.gov

Mike Finley
Director of Finance
817-459-6345
Mike.Finley@arlingtontx.gov

Staff Report

Annual Requirements Contract for Trenchless Water Main Improvements, Bid Project 16-0124	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to approve an annual requirements contract for trenchless water main improvements with Murphy Pipeline Contractors, Inc., through an interlocal cooperative purchasing agreement with the Allied States Cooperative in the estimated amount of $2,900,000.

PRIOR BOARD OR COUNCIL ACTION

On April 28, 2015, City Council adopted Resolution 15-081 authorizing the execution of an interlocal agreement with Allied States Cooperative relative to procurement of goods and services from vendors under current and future contracts.

ANALYSIS

This contract is for trenchless water main improvements to install approximately 25,981 linear feet of 8-inch water main by method of pre-chlorinated pipe bursting. The water mains identified for renewal are included in projects approved in the 2016 Water Utilities capital budget.

This construction method involves pipebursting the existing 6-inch water main while pulling a new and larger 8-inch main through the existing pipe. The process is trenchless and requires limited excavation which minimizes construction time and disruption to customers. These improvements will replace aging infrastructure with a history of water main breaks. Replacement of the infrastructure will reduce maintenance costs and improve service, as well as reduce potential water loss with the use of joint-less pipe.

Contract Term: June 1, 2016 – May 31, 2017

FINANCIAL IMPACT

Utilizing the agreement with Murphy Pipeline Contractors, Inc., of Jacksonville, Florida, through the interlocal agreement with Allied States Cooperative was determined to be the most cost-effective method for obtaining the services in the estimated amount of $2,900,000. The projected financial impact for this contract term is as follows:

FY 2016	FY 2017	FY 2018
$2,900,000	$0	$0

Funds are budgeted in Water Bond Fund 658502-18141205-68252.

ADDITIONAL INFORMATION

Attached:	Location Maps
Under separate cover:	None
Available in the Purchasing Division:	Bid file
Notarized Form 1295:	Yes
MWBE:	No

STAFF CONTACT(S)

Walter J. Pishkur
Director of Water Utilities
817-459-6603
Buzz.Pishkur@arlingtontx.gov

Janice Hughes, CPPB
Sr. Purchasing Agent
817-459-6304
Janice.Hughes@arlingtontx.gov

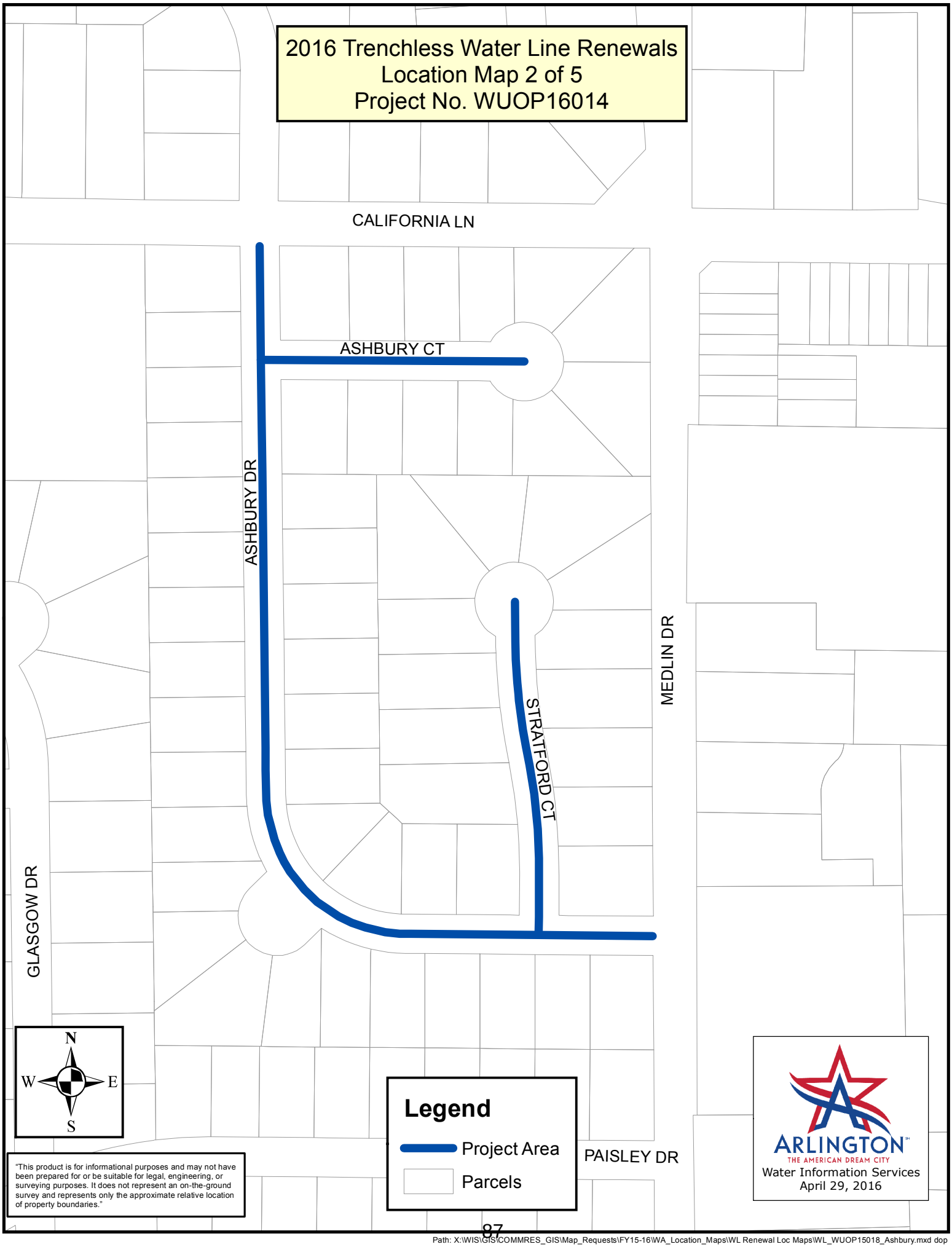
Mike Finley
Director of Finance
817-459-6345
Mike.Finley@arlingtontx.gov

2016 Trenchless Water Main Renewals
Location Map 1 of 5
Project No. WUOP16014

"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

Path: X:\WIS\GIS\COMMRES_GIS\Map_Requests\FY15-16\WA_Location_Maps\WL Renewal Loc Maps\WL_WOUP15018_Tucker.mxd dop

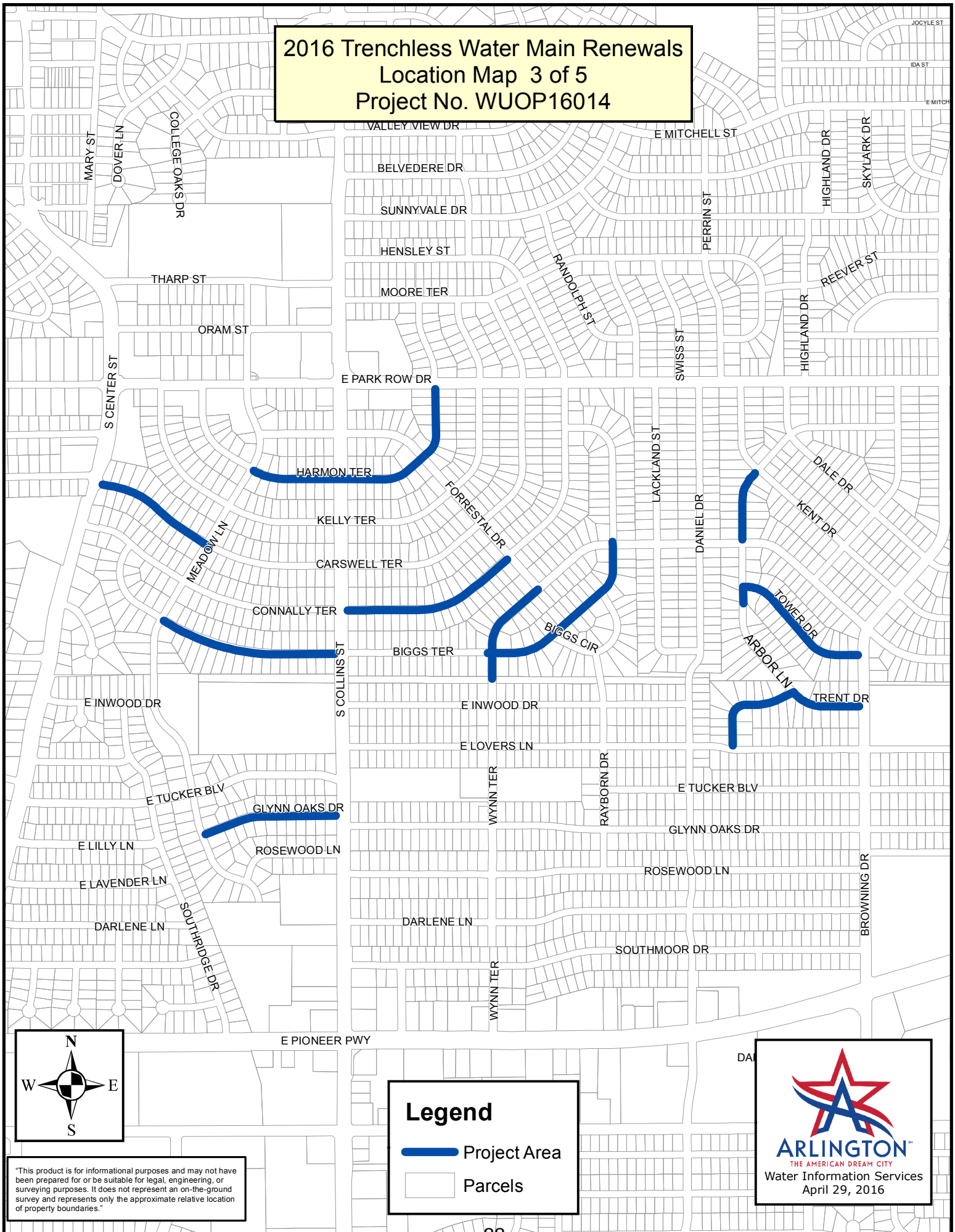
2016 Trenchless Water Line Renewals
Location Map 2 of 5
Project No. WUOP16014



"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

Path: X:\WIS\GIS\COMMRES_GIS\Map_Requests\FY15-16\WA_Location_Maps\WL Renewal Loc Maps\WL_WUOP15018_Ashbury.mxd dop

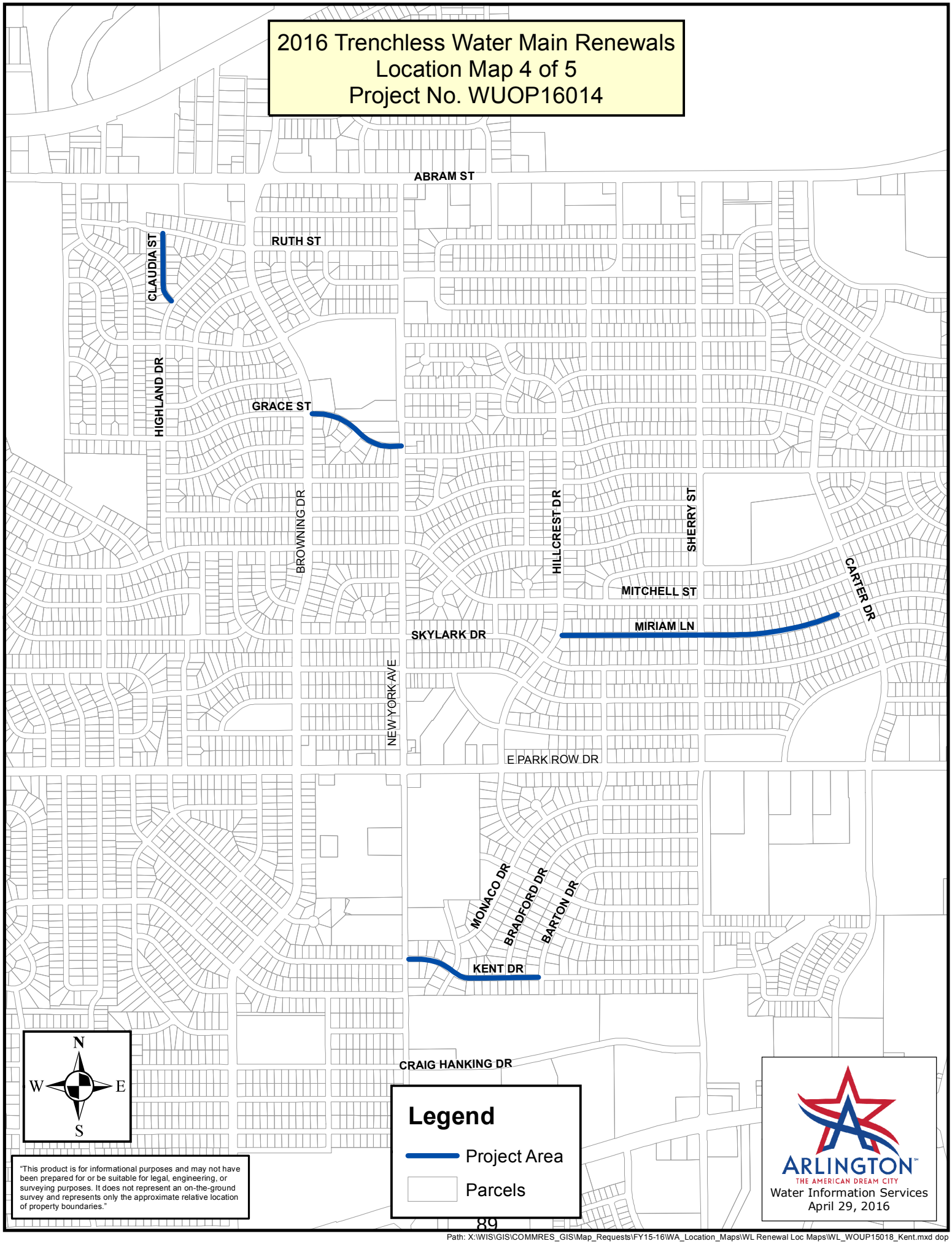
2016 Trenchless Water Main Renewals
Location Map 3 of 5
Project No. WUOP16014



"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

Path: X:\WIS\GIS\COMMRES_GIS\Map_Requests\FY15-16\WA_Location_Maps\WL Renewal Loc Maps\WL_WOUP15018_Biggs.mxd dop

2016 Trenchless Water Main Renewals
Location Map 4 of 5
Project No. WUOP16014



"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

Path: X:\WIS\GIS\COMMRES_GIS\Map_Requests\FY15-16\WA_Location_Maps\WL Renewal Loc Maps\WL_WOUP15018_Kent.mxd dop

2016 Trenchless Water Line Renewals
Location Map 5 of 5
Project No. WUOP16014

"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

Path: X:\WIS\GIS\COMMRES_GIS\Map_Requests\FY15-16\WA_Location_Maps\WL Renewal Loc Maps\WL_WUOP15018_MeadowPark.mxd om

Staff Report

Annual Requirements Contract for the Fuel Card Services Program, Bid Project 16-0125	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to approve a contract for Wright Express Universal Fleet fuel card services with Mansfield Oil Company of Gainesville, Georgia, through the Interlocal Agreement with the City of Plano in an estimated amount of $1,110,000.

PRIOR BOARD OR COUNCIL ACTION

On December 6, 2005, City Council adopted Resolution 05-725, allowing the City of Arlington to participate in purchasing through the Interlocal Agreement with the City of Plano.

ANALYSIS

This contract is for a fuel card services program used primarily by the Police and Fire Departments. Fuel card use will be available to other departments if the need is identified by the Fleet Manager.

The program serves as a refueling alternative when an employee driving a City-owned vehicle is unable to use a City fleet refueling center. Additional benefits include reduced fire/emergency response times, as fire trucks will be able to refuel in their districts, lessening time away from assigned areas. There are currently more than 700 locations in Tarrant County that accept fuel cards.

Contract term: June 1, 2016 – May 31, 2017

FINANCIAL IMPACT

By utilizing the interlocal agreement with the City of Plano, the City of Arlington will be able to purchase fuel on an as-needed basis using Wright Express Universal Fleet cards with Mansfield Oil Company of Gainesville, Georgia, in the estimated amount of $1,110,000. The projected financial impact for this contract term is as follows:

FY 2016	FY 2017	FY 2018
$370,000	$740,000	$0

Funds are budgeted in Fleet Services Account No. 790101-60018.

ADDITIONAL INFORMATION

Attached:	None
Under separate cover:	None
Available in the Purchasing office:	Bid file
Notarized 1295 Form:	Yes
MWBE:	No

STAFF CONTACT(S)

David Wynn, P.E., Interim Director	Will Velasco, CPPB	Mike Finley
Public Works & Transportation	Purchasing Agent	Director of Finance
817-459-6560	817-459-6302	817-459-6345
David.Wynn@arlingtontx.gov	Will.Velasco@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Staff Report

Annual Requirements Contract for LED Streetlights, Bid Project 16-0121	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to execute an annual requirements contract for the purchase of LED Streetlights with Graybar Electrical Company, Inc. through the U.S. Communities Government Purchasing Alliance (U.S. Communities) in the estimated amount of $200,000.

PRIOR BOARD OR COUNCIL ACTION

On August 13, 2002, the City Council adopted Resolution No. 02-390, allowing the City of Arlington to participate in the U.S. Communities interlocal purchasing program.

ANALYSIS

This contract is for medium volt and high volt LED streetlights. Purchases will be made on an as-needed basis and will be used to replace knocked down streetlights that are no longer operational.

Contract term: May 24, 2016 – May 31, 2017

FINANCIAL IMPACT

Utilizing the agreement with U.S. Communities was determined to be the most cost-effective method for obtaining the LED streetlights. Graybar Electrical Company, Inc. of Fort Worth, Texas, is currently under contract with U.S. Communities and can provide the LED lights in the estimated amount of $200,000. The projected financial impact for this contract term is as follows:

FY 2016	FY 2017	FY 2018
$66,667	$133,333	$0

Funds are budgeted in Maintenance of Parking and Streetlights account 720106-63119

ADDITIONAL INFORMATION

Attached:	None
Under separate cover:	None
Available in the Purchasing Division:	Bid file
Notarized Form 1295:	Yes
MWBE:	No

STAFF CONTACT(S)

David Wynn, Interim Director	Will Velasco, CPPB	Mike Finley
Public Works & Transportation	Purchasing Agent	Director of Finance
817-459-6560	817-459-6302	817-459-6345
David Wynn@arlingtontx.gov	Will.Velasco@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Staff Report

Engineering Services Contract for Sanitary Sewer Flow Monitoring, Project No. WUEN16001	
City Council Meeting Date: 05-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to execute an Engineering Services Contract with Burgess & Niple, Inc. of Austin, Texas, for Sanitary Sewer Flow Monitoring in the amount not to exceed $197,779.

PRIOR BOARD OR COUNCIL ACTION

None

ANALYSIS

The scope includes installing 22 flow meters and 5 rain gauges at critical locations within the City of Arlington sanitary sewer collection system, and collecting rainfall data and sanitary sewer flow rates for a 60-day period.

The data collected will assist the City of Arlington in-house Water Utilities Planning team in determining the amount and location of storm water infiltration and inflow that is entering the sanitary sewer collection system. Once identified, staff can plan solutions to reduce or eliminate infiltration and inflow into the sanitary sewer system. The effects of this project will be reducing sanitary sewer overflows, retaining sanitary sewer main capacity for future development, validating the sanitary sewer hydraulic model and validating billed sanitary sewer flows to Trinity River Authority.

FINANCIAL IMPACT

Funding Sources:

Sanitary Sewer Bond Fund	648502-18130205-61043	$197,779

FY 2016	FY 2017	FY 2018
$197,779	$0	$0

ADDITIONAL INFORMATION

Attached:	Engineering Services Contract
Under separate cover:	None
Available in the City Secretary's Office:	None

STAFF CONTACT(S)

Walter J. Pishkur
Director of Water Utilities
817-459-6603
Buzz.Pishkur@arlingtontx.gov

Brad Franklin, P.E.
Assistant Director of Water Utilities
817-459-6632
Brad.Franklin@arlingtontx.gov

THE STATE OF TEXAS §

ENGINEERING SERVICES CONTRACT

COUNTY OF TARRANT §

THIS CONTRACT is made and entered into this _____ day of _____, 20___, by and between the City of Arlington, Tarrant County, Texas, a municipal corporation, hereinafter called "City," and Burgess & Niple, Inc. hereinafter called "Engineer," whose address is 4029 S. Capital of Texas Highway, Suite 220 Austin, Texas 78704.

WITNESSETH:

That in consideration of the terms and conditions contained herein the parties do mutually agree as follows:

Sanitary Sewer Flow Monitoring (2016)
City of Arlington Project No. WUEN16001

I.
Employment of Engineer

Engineer shall perform all services under this contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If Engineer is representing that he/she has special expertise in one or more areas to be utilized in this contract, then Engineer agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards.

II.
Compensation to Engineer

A. BASE COMPENSATION: City agrees to pay Engineer for all services outlined in Section I and Section III a total compensation in an amount not to exceed $ 197,779.00. Payments shall be made on a not to exceed per task basis per the work plan enumerated in Attachment "A" as part of this Contract. This compensation also includes printing, reproduction expense, communication expense, travel, transportation and any subsistence that is directly related to the Project. Attachment "A" is hereby incorporated as if written word for word.

B. Payment for services rendered by Engineer shall be made as follows:

1. Engineer will be paid on a monthly basis. Final payment will be due and payable upon delivery to City of final products as outlined in Attachement "A" and approval by City.

2. City shall be invoiced in a form satisfactory to the City.

III.
Services

ENGINEER shall perform the tasks enumerated in Attachment "A" to this contract. Attachment "A" is incorporated herein by reference and made a part hereof as if written word for word. However, in the event of any discrepancy or conflict in the language of Attachment "A" and this Contract, the terms and conditions of the Contract shall be given priority as to interpretation and effect.

IV.
Time for Completion

Engineer agrees to complete and submit all work required by City as indicated in Attachment "A" for a total of 150 calendar days from the date of written notice to proceed.

Calendar days shall commence when Engineer is notified to proceed and shall terminate when City has accepted the deliverables as being final. No extensions of time shall be granted unless a written request is submitted by Engineer, and such request is approved in writing by City.

V.
Engineer's Coordination with Owner

Engineer shall be available for conferences with City so that Project can be completed with the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with current policies. City shall make available to Engineer all existing plans, maps, field notes, and other data in its possession relative to the Project. City shall make the final decision as to any changes after appropriate request by Engineer.

VI.
Contract Termination Provision

This contract may be terminated at any time by City for any cause without penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by City, Engineer shall immediately discontinue all services and Engineer shall immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this contract. As soon as practicable after receipt of notice of termination, Engineer shall submit a statement showing in detail the services performed but not paid for under

this contract to the date of termination. City shall then pay Engineer promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by City.

This contract may be terminated by Engineer with mutual consent of City at any time for any cause without penalty or liability except as may otherwise be specified herein. Engineer shall submit written notice to terminate contract and shall submit to City all plans and documents relative to the design of Project. City shall then ascertain cost to complete the balance of the work under this contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, City shall retain all unpaid balances and, in addition, Engineer shall pay directly to City the difference in the unpaid balance and the cost to complete the work. In no case shall City pay Engineer any additional monies other than those previously paid under the contract.

VII.
Ownership of Documents

All information and documents prepared or assembled by Engineer under this contract shall become the sole property of City and shall be delivered to City, without restriction on future use. Engineer shall retain in his files all pertinent information for the work. Engineer shall have no liability for changes made to the information and documents by others subsequent to the completion of the contract.

VIII.
Insurance

A. Engineer shall at Engineer's own expense, purchase, maintain and keep in force during the term of this contract such insurance as set forth below. Engineer shall not commence work under this contract until Engineer has obtained all the insurance required under this contract and such insurance has been approved by City, nor shall Engineer allow any subcontractor to commence work on his or her own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this contract shall be written on an "occurrence" basis, except for professional liability. The insurance requirements shall remain in effect throughout the term of this Contract. The policy limits stated below are at a minimum.

1. Workers' Compensation as required by law, Employers Liability Insurance of not less than $1,000,000.00 for each accident, $1,000,000.00 disease-each employee, $1,000,000.00 disease-policy limit.

2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this contract, fully insuring Engineer's liability for injury to or death of employees of City 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 $1,00,000.00 per occurrence and a $2,000,000 aggregate.

3. Commercial Automobile and Truck Liability Insurance, covering any auto or hired and non-owned vehicles, with a combined bodily injury and property damage limit of $1,000,000.00 per occurrence.

4. Professional Liability Insurance: Engineer shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be $1,000,000.00 per claim and $2,000,000.00 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, Engineer must maintain this policy for a period of four (4) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

5. Umbrella Liability Insurance of not less than $2,000,000.00 per occurrence, following form and drop down provisions included.

B. Each insurance policy to be furnished by Engineer shall include the following conditions by endorsement to the policy:

1. Except for Worker's Compensation and professional liability insurance, the policy shall name City as an additional insured as to all applicable coverage;

2. Each policy will require that thirty (30) days prior to the expiration in coverage, a notice thereof shall be given to City to:

City of Arlington
Risk Management - Mail Stop 63-0790
PO Box 90231
Arlington, Texas 76004-3231

If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required. Engineer shall also notify CITY within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

3. The term "Owner" or "City" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of City and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of City.

4. The policy phrase "other insurance" shall not apply to City where city is an additional insured on the policy; and

5. All provisions of the contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by Engineer, it is a condition precedent to acceptability thereof that:

1. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

2. Insurance is to be placed with carriers with an A.M. Best rating of A:VII, or as otherwise acceptable to the City.

D. Engineer agrees to the following:

1. Except for professional liability, Engineer hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against City, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies.

2. Companies issuing the insurance policies and Engineer shall have no recourse against City for payment of any premiums or assessments for any deductible, as all such premiums and deductibles are the sole responsibility and risk of Engineer.

3. Approval, disapproval or failure to act by City regarding any insurance supplied by Engineer (or any subcontractors) shall not relieve Engineer of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate Engineer from liability.

4. Engineer shall provide one (1) copy of a Certificates of Insurance completed on an Acord form or other State-approved form, and endorsements effecting coverage required by this section to the City by forwarding to:

City of Arlington
Water Utilities Department - Mail Stop 01-0200
Attn: Assistant Director – Engineering and Support
PO Box 90231
Arlington, Texas 76004-3231

E. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.
Monies Withheld

When City has reasonable grounds for believing that:

A. Engineer will be unable to perform this contract fully and satisfactorily within the time fixed for performance; or

B. A claim exists or will exist against Engineer or City arising out of the negligence of the Engineer or the Engineer's breach of any provision of this contract; then

City may withhold payment of any amount otherwise due and payable to Engineer under this contract. Any amount so withheld may be retained by City for that period of time as it may deem advisable to protect City against any loss and may, after written notice to Engineer, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of City, and no other person or entity shall have any right or claim against City by reason of City's failure or refusal to withhold monies. No interest shall be payable by City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of City.

X.
No Damages for Delays

Notwithstanding any other provision of this contract, Engineer shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

XI.
Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this contract, Engineer agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to City of Arlington projects and procurements, City of Arlington also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this contract, Engineer agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this contract.

The Engineer agrees to provide information about its minority status at time of contract execution. Engineer will also be required to submit cost information towards minority/woman owned businesses. The information submitted is for reporting purposes only and shall include the engineer and any other firms performing work as a part of this contract such as surveying services. See the sample Prime and Subs & Minority/Women Business Enterprise (MWBE) Report form at the end of this contract. Submitted form shall be accompanied by copy of certification(s) for Engineer and any applicable firms. Engineer will be required to submit anticipated dollar amounts towards these businesses (if applicable) upon execution of the contract for this project and actual dollar amounts spent with the monthly pay estimate. It will be the Engineer's responsibility to ensure submitted certification(s) are up-to-date, including for any applicable firms.

XII.
Right to Inspect Records

Engineer agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Engineer involving transactions relating to this contract. Engineer agrees that City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Engineer reasonable advance notice of intended audits.

Engineer further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give the consultant or subcontractor reasonable advance notice of intended audits.

XIII.
No Third Party Beneficiary

For purposes of this contract, including its intended operation and effect, the parties (City and Engineer) specifically agree and contract that: (1) the contract only affects matters/disputes between the parties to this contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Engineer or both; and (2) the terms of this contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Engineer.

XIV.
Successors and Assigns

City and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this contract. Neither City nor Engineer shall assign or transfer its interest herein without the prior written consent of the other.

XV.
Engineer's Liability

Acceptance of the final information and documents by City shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the designs, working drawings, specifications, or other documents prepared by said Engineer, its employees, subcontractor, agents and consultants.

XVI.
Indemnification

ENGINEER does hereby covenant and contract to indemnify and hold harmless CITY and all of its officials, officers, agents, employees and invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including reasonable attorney fees of litigation and/or settlement, that may arise by reason of death of or injury to persons or damage to or loss of use of property occasioned by any wrongful intentional act or omission of ENGINEER as well as any negligent omission, act or error of ENGINEER, its officials, officers, agents, employees and invitees, or other persons for whom ENGINEER is legally liable with regard to the performance of this Contract, whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence or any other form of negligence. In the event of joint or concurrent negligence of ENGINEER and CITY, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas. Nothing in this paragraph is intended to waive any governmental immunity available to CITY under Texas law or waive any defenses of ENGINEER or CITY under Texas law. This paragraph shall not be construed for the benefit of any third party, nor does it create or grant any right or cause of action in favor of any third party against CITY or ENGINEER.

ENGINEER warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by ENGINEER unless ENGINEER has obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. ENGINEER covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any related statutory, common law or other right of any person or entity in performing this Contract. ENGINEER will indemnify and hold CITY and its officers, agents and

employees harmless from all claims, losses and damages (including reasonable attorney's fees) with respect to such copyright, royalty or trademark rights to the extent caused by ENGINEER or for whom ENGINEER is legally liable.

The provisions of this section are intended to only provide indemnification to the extent allowed by Texas Local Gov't Code Sec. 271.094 and shall be construed to that effect. The ENGINEER as allowed by Texas Local Gov't Code Sec. 271.084 will still name CITY as additional insured in its General Liability Policy and provide any defense as allowed by the policy.

XVII.
Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XVIII.
Independent Contractor

Engineer covenants and agrees that he/she 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 liable 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 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.

XIX.
Disclosure

By signing this contract, Engineer acknowledges to City that he/she has made a full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed project and business relationships with abutting property owners. Engineer further agrees that he shall make disclosure in writing of any conflicts of interests which develop subsequent to the signing of this contract and prior to final payment under the contract.

XX.
Venue

The parties to this contract agree and covenant that this contract shall be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this contract, exclusive venue shall lie in Tarrant County, Texas.

XXI.
Entire Agreement

This contract 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.

XXII.
Applicable Law

This contract is entered into subject to the Charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

XXIII.
Default

If at any time during the term of this contract, Engineer shall fail to commence the work in accordance with the provisions of this contract or fail to diligently provide services in an efficient, timely, and careful manner and in strict accordance with the provisions of this contract or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this contract, then City shall have the right, if Engineer does not cure any such default after thirty (30) days written notice thereof, to terminate this contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy, the cost to City of the performance of the balance of the work is in excess of that part of the contract sum which has not therefore been paid to Engineer hereunder, Engineer shall be liable for and shall reimburse City for such excess.

XXIV.
Headings

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

XXV.
Non-Waiver

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

XXVI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this contract 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 contract.

XXVII.
Equal Employment Opportunity

Engineer shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. Engineer shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include, but not be limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXVIII.
Construction of Contract

Both parties have participated fully in the review and revision of this contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this contract.

XXIX.
Notices

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:

Michael T. Mosier, P.E.
Water/Wastewater Modeling Engineer
City of Arlington
P.O. Box 90231, MS 01-0200

Arlington, Texas 76004-3231

If intended for Engineer, to:

David Koberlein, P.E.
Burgess & Niple, Inc.
4029 S. Capital of Texas Highway, Suite 220
Austin, Texas 78704
(512) 306-9266
David.Koberlein@burgessniple.com

XXX.
Warranty

To the extent allowed by law, Engineer warrants that all work will be performed to the professional services standard indicated in Section I. of this contract.

XXXI.
USDOT Standard Title VI Assurances

The City of Arlington, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all vendors that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Vendor will abide and ensure compliance with all terms of Appendix A of the USDOT Standard Title VI Assurances as listed below.

Appendix A of the USDOT Standard Title VI Assurances

During the performance of this contract, the Engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

(1) Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-Assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Arlington shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Engineer shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Engineer shall take such action with respect to any subcontract or procurement as the City of Arlington or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Arlington to enter into such litigation to protect the interests of the City of Arlington, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties enter into this contract on the date first written above.

WITNESS:

_____

ENGINEER:

BY: _____

DAVID KOBERLEIN
Printed or Typed Name

VICE PRESIDENT
Printed or Typed Title

31-0885550
Tax Identification No.

ATTEST:

_____
Mary W. Supino, City Secretary

CITY OF ARLINGTON, TEXAS:

BY: _____

Walter J. Pishkur
Printed or Typed Name

Director of Water Utilities
Printed or Typed Title

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY: _____

THE STATE OF TEXAS §

Engineer Acknowledgment

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared DAVID KOBERLEIN, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act of EXECUTING A CONTRACT, a corporation of FRANKLIN County, Ohio, and as VICE PRESIDENT thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 18th day of April, 2016

(SEAL)

LEIGH CERDA
Notary Public, State of Texas
Comm. Expires 02-26-2020
Notary ID 130556986

Notary Public in and for the State of Texas

Leigh Cerda
Notary's Printed Name

My Commission Expires: 2/26/2020

THE STATE OF TEXAS §

Municipal Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Walter J. Pishkur, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as the Director of Water Utilities thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

(SEAL)

Notary Public in and for the State of Texas

Notary's Printed Name

My Commission Expires: _____

PRIME AND SUBS &
MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE) REPORT

Please complete this form, include copy of certification(s) and return with executed contracts

Project Name: _____

Project No: _____ Date: _____

LEGEND

* Answer with "YES" or "NO"

AI - Native American (AI)
NW - Native American, Women-Owned (NW)
AS - Asian (AS)
AW - Asian, Women-Owned (AW)
BL - Black (BL)
BW - Black, Women-Owned (BW)
HI - Hispanic (HI)
HW - Hispanic, Women-Owned (HW)
WO - Women-Owned (WO)
Other _____

PRIME CONTRACTOR	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

LIST **ALL** SUBS:

Name of Company	Description of Primary Work Type (For prequalification verification purposes)	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

City of Arlington, Texas
Flow and Rainfall Monitoring Plan
Proposed Work Plan
Attachment "A"

This project is a wastewater flow monitoring program for portions of the collection system serving the City of Arlington, Texas. The goal of the project is to install, maintain, and remove temporary flow monitors and rainfall gauges at identified locations in the collection system for sixty (60) days. The data collected from the flow monitors and rainfall gauges will be analyzed to develop standard flow parameters. The goals of the project shall be accomplished through the performance of various tasks listed below:

Task 100 – Mobilization

This task provides for the deployment of equipment and personnel to the project area and development of formal communication channels and data security protocols. This task also includes the following items:

- Attend scheduled Project Startup Meeting
- Develop and organize field task efforts
- Develop project status reporting formats
- Develop formal communication channels
- Develop field task maps and data collection formats
- Develop format for preparing and submitting invoices
- Develop channels for communication of City Action Items

Assumptions: None.

Required from Others: None

Deliverables: Attendance of the appropriate B&N personnel at the Project Startup Meeting and development of the items listed above for B&N interface with the City of Arlington.

Task 110 – Review of Existing Data and Information

All available reports and historical data regarding flow monitoring, on-going and proposed construction projects, master planning, hydraulic modeling, and lift station pumping data will be reviewed during this task. This information will be requested at the Startup Meeting in order to obtain the data early in the project.

- The following data will be reviewed, if available
  - Overflow reports
  - Lift station data
  - Historical wastewater flow data
  - Hydraulic modeling data
  - Planning documents
  - Historical Map Update Information
  - Current and planned wastewater collection system construction projects
  - Wastewater master planning documents

Assumptions: None.

Required from Others: The City will make the above materials available to B&N within two weeks of the project startup meeting (unless otherwise noted) at no cost to B&N.

Deliverables: Status report and incorporation of the historical data into any engineering analysis and/or reporting performed for this project.

Task 200 – Mapping, Temporary Flow Monitoring and Rainfall Gauge Site Selection, and Basin Verification

This task provides for the development of accurate maps necessary for the delineation of the flow monitoring sub areas. Proper delineation of drainage sub areas is critical for the proper analysis of measured flow data. B&N will prepare and present this information to the City in ArcGIS format to ensure compatibility with existing City systems. Field confirmation of the collection system configuration will be performed as required to aid in this process. The field confirmation may include dyed water testing and smoke testing as required to trace out and locate interceptor mains and interbasin connections.

B&N will present a basin-specific preliminary temporary flow-monitoring plan. Upon review and approval of the plan by City staff, B&N will perform the necessary field reconnaissance and investigations to determine the actual site condition of the proposed metering locations with respect to site access, site hydraulics, and appropriateness for monitoring the system. A final temporary flow-monitoring plan will be presented that depicts the final configuration of the flow monitoring and rain gage network and the final flow monitoring sub area configuration. This report will incorporate the results of the field site investigations. B&N will request approval of the final flow-monitoring plan prior to installation of the temporary equipment.

Assumptions: The City will provide current versions of the Wastewater Collection System maps in ArcGIS format. Dyed water testing and smoke testing will be limited to 20 line segments without additional compensation. Above ground reconnaissance will be performed as required.

Required from Others: Review and input of the preliminary and final flow monitoring plans.

Deliverables: A preliminary and final flow-monitoring plan for temporary flow monitoring as related to the study areas. Updated sanitary sewer collection maps showing the results of the limited field investigations. ArcGIS files of the resulting flow monitor and rain gage locations and the meter sub areas. One (1) hardcopy and one (1) digital copy of the documents will be provided to the City.

Task 210 – Temporary Flow Metering

This task provides for the installation and removal, periodic calibration, scheduled maintenance of temporary flow metering equipment, and the collection of flow metering data. Field crews will perform a preliminary investigation of proposed flow metering sites to insure their suitability for temporary flow metering as outlined in Task 200. The installation of the flow metering equipment shall be optimized to take advantage of local weather patterns in collecting dry and wet weather flow data. The meters will be capable of recording flow under surcharged conditions and will be synchronized to the same clock used for the rain gages. The following data will be provided for each metering site, as a function of Task 230 – Temporary Flow Data Analysis:

- Average daily flow for dry weather
- Peak dry weather flow (1 and 2 hour)
- Average daily flow for wet weather
- Peak wet weather flow (1 and 2 hour)
- Dry weather ratio (Peak Dry to Average Dry)
- Peak wet weather ratio (Peak Wet to Average Dry)
- Gallons of I/I per acre of service area
- Gallons of I/I per linear foot of pipe
- Total estimated quantity of inflow and infiltration
- Flow meter basin I/I ranking

Each monitoring site will be located in such a way that portions of the collection system upstream of the meter can be isolated for the purpose of determining inflow/infiltration rates. Twenty-two (22) temporary flow meters will be necessary to obtain flow data for the flow analysis.

The goal is to obtain two to four non-surcharge events that cause a system response. The City will have an option to extend the metering beyond the basic 60-day metering period to obtain adequate rainfall, if desired. In the event that extended flow metering is requested, an extension charge will apply.

Each meter will be field calibrated prior to installation. Calibration of each meter will consist of an independent verification of the flow depth and velocity. Each sensor will be secured to a mounting band that fits snugly within the pipeline. The data logger for each site will then be installed and secured in the top of each manhole. The sampling interval for the data loggers shall be two (2) minutes and the data shall be stored in 15-minute increments. Routine maintenance and service will be undertaken throughout the monitoring period. Remote telemetry will be utilized for the flow monitors wherever feasible. The remotely telemetered data will be made available to the City during the monitoring period. Detailed written logs of each site visit will be maintained and will be used to record the following information:

- Date and time of visit
- Meter velocity and depth reading
- Corresponding independent velocity and depth reading
- Calibration information and adjustments made to the equipment
- Maintenance items such as battery voltage, debris removal from probes, etc.

Data integrity checks shall be performed to ensure that the flow meters are operating within manufacturer's specified tolerances.

Assumptions: B&N will install and maintain at total of twenty-two (22) temporary flow meters in the City wastewater collection system for a period of 60 days. Each metering site shall be visited on a seven-day cycle during the first 30 days of monitoring and every 14 days after that to perform meter maintenance and data integrity checks. Data from all flow meter sites will be made available to the project team via a secure internet website. B&N will not request compensation for periods where meter data is not collected due to meter equipment failure (ie the metering equipment is not collecting data). Notification of the public for work performed under this task shall consist of "letters of introduction" to be carried by field crews during the performance of the work. Any traffic control required as a function of the work will be coordinated through the City. The cost of any traffic control equipment and/or traffic control plans will be included in the cost of the flow monitoring. In the event that sewer main cleaning is required to facilitate flow meter installation, the City will either perform the cleaning or allow B&N to perform this service at additional cost to this contract.

Required from Others: The City shall provide access to the proposed flow metering sites.

Deliverables: Report outlining the results of this task and Task 230 as included in Task 410.

Task 220 – Temporary Rainfall Gauges

This task provides for the installation and maintenance of rainfall gages and the collection of data from the equipment. The installation of the rainfall gauge equipment shall be optimized to take advantage of local weather patterns. The devices will be capable of recording rainfall with an accuracy of at least 0.1-inches/unit time. The locations of the rainfall gauges shall be proposed and approved in the same manner as the temporary flow metering equipment, as described in

Task 200. The rainfall gauge equipment is a Texas Electronics Model 525 continuous reading tipping bucket device. The data collected at each site is stored electronically in a data logger unit.

Assumptions: B&N will install and maintain five (5) temporary rainfall gauges at various locations in the City of Arlington. Each site shall be visited for equipment maintenance and data upload on the same cycle as the flow monitoring equipment.

Required from Others: The City shall provide access to the proposed rain gage sites.

Deliverables: Report outlining the results of this task as included in Task 410. The report will provide the following information:

- Summary tables of recorded rain events
- Rainfall storm analysis
- Location map depicting the location of the rainfall gages in the study area
- Equipment maintenance logs

Task 225 – Existing Flow Measurement System Evaluation – Kennedale Flume

The existing flow measurement system (flume and meter) will be evaluated in accordance with industry standards for the application of Parshall flumes and ultrasonic sensors. The metering manhole will be entered by B&N staff to obtain video, pictures and dimensions of the flume interior, where accessible. Each accessible surface of the flume will be verified level through the application of a level measurement device. This information will be utilized in conjunction with other existing information to be provided by the City of Arlington. The goal of the evaluation is to provide the City with an expert opinion regarding the current operation of the Kennedale Parshall Flume metering system and to provide information regarding the true nature of the erroneous recorded wastewater flow data during wet weather events.

Collected data will be evaluated and analyzed with the results presented in the form of a Technical Memorandum and shall include the following items:

- Analysis of findings and comparison to industry standards for the application of the existing flow measurement system (flume and ultrasonic meter) including:
    - Flume dimensions vs. industry standards
    - Industry recommended for existing Parshall Flume
    - Minimum and maximum recommended flow range for flume size
    - Minimum and maximum recommended head (depth of flow) range for flume size
    - Velocity profile data analysis.
    - Required velocities at the flume convergence (approach)
    - Existing ultrasonic installed location vs. industry standard for depth measurement in Parshall flumes (of like size)
- Identification of existing issues that are causing the flume based metering system to report erroneous data during wet weather periods.
- Recommendations improvements/modifications to the existing flow measurement system, as required.

Deliverables: A Technical Memorandum outlining the results of this task and all video, pictures, dimensions/measurements and level verification data recorded by B&N staff.

Task 230 – Temporary Flow Data Analysis

This task includes the engineering evaluation of system flows and rainfall data and development of the following information:

- Development of discrete flow data for each metering site
- Development of the volume of inflow/infiltration estimates
- Development of scattergraphs for each meter site
- Development of site hydraulic coefficient curves
- Detailed descriptions of field procedures used to calibrate and maintain the flow monitoring and rainfall gage equipment
- Ranking of each sub basin by severity of inflow/infiltration. I/I will be determined on the basis of the following criteria:
    - Wet weather versus dry weather peaking factors
    - Peak Inflow
    - Gallons of I/I per acre of sewered area
    - Gallons of I/I per linear foot of pipe
- Other statistical analyses as may be required to confirm the precision and accuracy of the collected data

Assumptions: At least 60 days of flow and rainfall data will be available for analysis. If after the initial 60-day metering period has expired, sufficient data has not been collected, the City may exercise its option to extend the metering period. B&N will provide one hardcopy of this technical memorandum and one electronic copy.

Required from Others: The project team shall provide input and review of the format used to present the tabular and graphical flow and rainfall data

Deliverables: Report outlining the results of this task as included in Task 410. The report will provide the following information:

- Hydrographs and tabular listings of the flow and rainfall data
- Locations of flow metering stations
- Location of rainfall gages
- Monitored rainfall data by gage location by storm event
- Discrete flow analysis by flow meter basin for dry and wet weather periods
- Standard wastewater flow parameters by flow meter basin (See Task 210)
- Hydrographs for each flow meter site (Metering period and weekly dry and wet weather analysis)
- Electronic copies of the flow data in MS Office format
- Ranking of flow meter basins based on severity of I/I

One (1) hardcopy and one (1) digital copy of the technical memorandum will be provided.

Task 400 – Project Management and Administration

This task consists of project administration and management, scheduling of field tasks, and general management and supervision of field personnel. It also includes the quality assurance/control of all fieldwork, data management, data collection activities, engineering evaluations, and report preparation.

Assumptions: B&N will prepare and submit for approval, the following items:

- Monthly invoices
- All project technical memorandums and task deliverables
- All field data shall be submitted to the City in Microsoft Office 2010 format

B&N will provide management, supervision, and coordination of all engineering and field tasks.

Required from Others: The City shall provide input and review regarding the overall progress of the project and information regarding any potential changes in scope of the project or other changes to the nature of the project.

Deliverables: B&N will provide all project schedules, updates, status reports, and invoicing

Task 405 – Project Meetings

This task provides for monthly project meetings to exchange information with the City Project Team. Preliminary data, technical memorandums, and reports will be submitted to the City for review and comment.

Assumptions: B&N will host a monthly project status meeting that will provide a forum for discussion of the following items:

- Project strategy
- City and B&N project input regarding project schedules and deliverables
- Report and technical memorandum presentations
- Status of all monitoring and inspection work
- Status of identified system defects
- Status of all reporting and technical tasks

B&N will provide all meeting agendas, handouts, and presentation materials. B&N will provide facilities for the meetings or meetings shall be held at a specified City facility.

Required from Others: The City's project representatives shall attend each status meeting and provide input and review regarding the overall progress of the project, and review and input for the materials presented in the meeting. The City shall provide meeting space, if the status meetings are held at City facilities.

Deliverables: B&N will provide meeting minutes, agendas, handouts, and presentation materials.

Task 410 - Engineering Data Analysis and Draft Report

This task consists of evaluating and analyzing the data collected and presenting the results in the form of a Wastewater Flow Monitoring Report. The report shall include the following items:

- Executive Summary
- General
- Conclusions and Recommendations
  - Flow Data Analysis and Conclusions
    - Dry Weather Average Daily Flow and Peak Flow
    - Wet Weather Peak (2-hr and average 24-hour) Flow
    - Ratio of Wet Weather Peak Flow to Dry Weather Average Daily Flow
    - Gallons of I/I per acre of sewered area
    - Gallons of I/I per linear foot of pipe
    - Flow Meter Basin Ranking and Prioritization based on I/I analysis
    - Discrete Flow Analysis by Flow Meter Basin
- Graphical summaries of collected flow and rainfall data
- Tabular listings for all data acquired in the following categories:
  - Location of temporary flow metering stations
  - Location of rain gage station locations
  - Measured rainfall data by rain gage per event
  - Measured flow monitoring data

- Updated GIS files for the collection system showing the locations of flow monitor and rainfall gauge sites and monitored basins.

Comments from this draft report to be submitted to the City of Arlington Project Team for comments to be incorporated in the final report. One (1) hardcopy and one (1) digital copy of the draft report will be provided.

Assumptions: All data and conclusions presented in the draft plan/report will subject to finalization based on comments from the City of Arlington Project Team.

Required from Others: The City shall provide input regarding preferred rehabilitation methods and current local construction cost information, if available. The City shall provide review and input regarding the draft report.

Deliverables: B&N will provide one (1) hardcopy and one (1) digital copy of all related files, data, and a final report (See Task 440) incorporating or addressing all of the City's comments from the draft report.

Task 440 – Final Report

This task provides for the development of a Final Report, which incorporates comments from the City of Arlington Project Team stemming from the presentation of the draft report. The final report shall include the provisions for the following items:

- Review and evaluate City comments, and incorporate as appropriate
- Provide two (2) bound copies in three ring binders of the final report
- Provide one (1) digital copy of the report in a format suitable for reproduction

Assumptions: None.

Required from Others: None.

Deliverables: Two (2) bound copies in three ring binders of the final report document and one (1) electronic copy of the report in Adobe Acrobat format. In addition, the following electronic deliverables will be provided:

- All updated ArcGIS data and related data
- All flow metering and rain gage data
- All report text, exhibits, and graphics

All digital deliverables will be provided on compact disk.

Staff Report

Engineering Services Contract for Eden Road (U.S. Highway 287 to Calender Road); Project No. PWST16008	
City Council Meeting Date: 05/24/16	Action Being Considered: Minute Order

RECOMMENDATION

Authorizing the City Manager or his designee to execute an Engineering Services Contract with Wier & Associates, Inc. of Arlington, Texas, for the design of the Eden Road (U.S. Highway 287 to Calender Road) in an amount not to exceed $877,300.

PRIOR BOARD OR COUNCIL ACTION

None

ANALYSIS

The 2014 Bond Election included funding for design and construction of Eden Road from U.S. Highway 287 to Calender Road.

This contract provides for the preparation of construction drawings of Eden Road which will be rebuilt to a two lane roadway, including water and sanitary sewer facilities, storm drainage improvements, street lights, pavement markings, street signs, sidewalks, hike and bike trail, fiber conduit, and various roundabouts with landscaping and irrigation.

	Not to Exceed
Base Design Fee:	$435,200
Field Survey Work Fee:	$100,000
Right-of-way Acquisition:	$87,500
Water and Sanitary Sewer Design Fee:	$25,800
404 Permitting:	$23,300
FEMA coordination for CLOMR:	$50,000
FEMA coordination for LOMR:	$20,500
Geotech Study:	$12,500
Subsurface Utility Engineering:	$40,500
TxDOT Permitting:	$10,000
Roundabout third party reviewer:	$41,500
US287 Roundabout Feasibility Study:	$30,500
Total:	**$877,300**

FINANCIAL IMPACT

Funding is available in the following accounts:

Street Bond Fund Account No. 358504-61043-65840698	$851,500
Water Bond Fund Account No. 658502-61043-18135205	$25,800

FY 2016	FY 2017	FY 2018
$300,000	$577,300	$0

ADDITIONAL INFORMATION

Attached:	Engineering Services Contract Location Map
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACT(S)

David Wynn, P.E., Interim Director
Public Works & Transportation
817-459-6553
David.Wynn@arlingtontx.gov

Walter J. Pishkur
Director of Water Utilities
817-459-6603
Buzz.Pishkur@arlingtontx.gov

THE STATE OF TEXAS §

ENGINEERING SERVICES CONTRACT

COUNTY OF TARRANT §

THIS CONTRACT is made and entered into this 24th day of May, 2016, by and between the City of Arlington, Tarrant County, Texas, a municipal corporation, hereinafter called "City" and Wier & Associates, Inc., hereinafter called "Engineer," whose address is 2101 E. Lamar Boulevard, Suite 200E, Arlington, Texas 76006.

W I T N E S S E T H:

That in consideration of the terms and conditions contained herein the parties do mutually agree as follows:

I.
Employment of Engineer

Engineer will perform all services under this contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If Engineer is representing that he/she has special expertise in one or more areas to be utilized in this contract, then Engineer agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards. Engineer will provide services necessary for the construction of improvements to City's infrastructure, the location and extent of which is known as: **Eden Road (U.S. Highway 287 to Calender Road), City of Arlington Project No. PWST16008,** being located within the City of Arlington, Tarrant County, Texas, and hereinafter referred to as the "Project." The services to be performed by Engineer under this Contract include but are not limited to the services described in attached Scope of Services/Exhibit "A" which is attached and referenced herein as if written word for word.

II.
Compensation to Engineer

A. City agrees to pay to Engineer for all services outlined in Section III, a base design fee in an amount not to exceed $**435,200.00**. The following services are not included in this base fee:

1. Services required by Section III.A., Additional Services, for which cost is set out in III.A.

2. Work necessary to perform the design field survey as described in III.B., Field Survey Work, for which cost is set out in II.B.

3. Work necessary for the preparation of right-of-way and/or easement acquisition data as described by Section III.F., Right-of-Way Determination, for which cost is set out in II.C.

4. Work necessary to design the water and sanitary sewer improvements as described by Section III.G., for which cost is set out in II.E.

B. All costs associated with performing the design field survey as outlined in III.B. shall be paid to Engineer by City in an amount not to exceed $**100,000.00**.

C. All costs associated with right-of-way acquisition data, as outlined in III.F., shall be paid to Engineer by City on an hourly fee basis as shown in Attachment "A" in an amount not to exceed $**87,500.00** unless mutually agreed to in writing by the parties hereto. Attachment "A" is hereby incorporated within this contract as if written word for word. In no case shall more than seventy-five percent (75%) of this amount be paid until all right-of-way acquisition data is accepted by City.

D. Direct expenses shall include subcontract charges for surveying, contract labor, computer time, printing, reproduction expense, communication expense, travel, transportation, and subsistence out of Tarrant and Dallas Counties directly related to the work. Direct costs are included in the base design fee and shall not exceed the rates indicated in Attachment "A" (for an amount not to exceed $4,950.00). Attachment "A" is hereby incorporated within this contract as if written word for word and shall contain the result of the rates for direct costs multiplied by the factor of 1.1. Evidence of cost incurred for direct expenses shall be submitted with each billing.

E. All costs associated with design of the water and sanitary sewer improvements, as outlined in III.G., shall be paid to Engineer by City on an hourly fee basis as shown on Attachment "A" in an amount not to exceed $**25,800.00**.

F. Written request for payment for services rendered by Engineer may be made on a monthly basis. City will pay to the Engineer as follows:

1. An amount not to exceed the amount set out in II.B until satisfactory completion of the design survey as set forth herein.

2. An amount not to exceed forty percent (40%) of the total base design fee until satisfactory completion of the conceptual design plans.

3. An amount not to exceed eighty-five percent (85%) of the base design fee until satisfactory completion of the preliminary construction plans and right-of-way documents.

4. An amount not to exceed ninety-five percent (95%) of the base design fee until satisfactory completion of the final construction plans and specifications, and right-of-way documents.

5. An amount equal to five percent (5%) shall be retained until such time as City requests and receives one (1) set of reproducibles of the final design construction plans and other documents described herein.

6. No interest shall accrue for late payments. CITY shall not be required to pay any amount in excess of the original amount unless CITY shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts. If at any time it becomes evident that the cost estimates provided to CITY will not be sufficient to complete the authorized work, Engineer will immediately notify CITY in writing of said fact.

III.

Services

A. Additional Services – Engineer will also perform the following additional services. For each individual service the maximum fee is indicated in parenthesis. The fee shall be on an hourly basis, as shown in Attachment "A". In no case shall more than seventy-five percent (75%) of the amounts indicated below be paid until such services are accepted by City.

1. Engineer shall coordinate this Project with the U.S. Army Corps of Engineers and shall obtain the necessary Section 404 Permit required for construction of the Project (hourly fee not to exceed $**23,300.00**).

2. Engineer shall coordinate this Project with FEMA and obtain a Conditional Letter of Map Revision (hourly fee not to exceed $**50,000.00**).

3. Engineer shall coordinate this Project with FEMA and obtain a Letter of Map Revision post project construction (hourly fee not to exceed $**20,500.00**).

4. Engineer will establish the scope of and arrange for the soil and foundation investigations (hourly fee not to exceed $**12,500.00**).

5. In addition to the required services outlined in III.B., Engineer will perform Subsurface Utility Engineering (SUE) in accordance with CI/ASCE Standard 38-02 “Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data”, Quality Level A for area(s) defined by the City (hourly fee not to exceed $**40,500.00**).

6. Engineer shall prepare plans and/or paperwork necessary to obtain any permits required by franchised utilities, pipeline companies, railroad companies, TxDOT, or any other entity requiring permits relative to construction of Project (hourly rate not to exceed $**10,000.00**).

7. Engineer shall establish the scope and arrange for a qualified third party construction plan review of the proposed traffic roundabouts at the Russell-Curry Road, Ledbetter Road and Calender Road intersections. The third party shall be a vendor approved by the City. City reserves the right to require additional documentation of qualification. (hourly fee not to exceed $**41,500.00**)

8. Engineer shall establish the scope and arrange for a qualified third party feasibility study, plan review and presentation to TxDOT of a proposed traffic roundabout(s) at the intersection of Eden Road and the U.S. Highway 287 frontage road. The third party shall be a vendor approved by the City. City reserves the right to require additional documentation of qualification. (hourly fee not to exceed $**30,500.00**)

B. Field Survey Work - Engineer shall furnish a survey field party to collect all field information necessary to prepare complete and detailed plans, specifications, and contract documents consistent with prevailing engineering standards. This field information shall be based on NAD-83 or the latest version of the City's GPS Monument Manual located on Public Works & Transportation web page. Before the survey party is engaged in surveying on private property, City shall send letters to all adjacent property owners and other affected property owners notifying them of the survey party's intent to survey on private property. Engineer shall provide City with the legal description and address of the affected property(s). Permission to survey on private property shall be obtained from the property owners before surveying commences. The letter of permission will include permission for Engineer to set iron pins and control monuments for future right-of-way and/or easements to be acquired by City at a later date. Engineer shall direct the field party in the following:

1. Establishing the proposed centerline or a suitable reference base line on the ground as required by City.

2. Making complete and accurate cross-section field notes.

3. Making a complete topographic survey of all existing features above and below ground level that would or could affect proposed construction. These features shall include, but are not limited to, telephone poles, power poles, all other utilities or other structures located on or above or below the surface, fences, retaining walls, water meters, detector check valves, manholes, vaults, sprinkler heads, structures, culverts, pipes and all other facilities in close proximity to the construction. Also, all buildings, trees, steps, and other topographical features which would be of interest to the property owner in discussing the plans with City engineers must be shown accurately and drawn to scale. Engineer shall also show street numbers for all existing houses and structures.

4. Determining horizontal and vertical location of all underground utilities or other underground structures based upon information obtained in accordance with Section III where they cross any part of the proposed storm drainage system or

street system or may affect the proposed Project. The Engineer shall not be responsible for the cost of exposing these utilities or repairing damage caused by such exposure unless due to omission or other negligence by Engineer.

5. Making of all surveys necessary to determine limits of any existing right-of-way.

C. General Requirements

1. Each time Engineer submits plans and specifications to City, eight (8) copies (four {4} full size {22”x34”}, four {4} half scaled {11x17}) and a .pdf of each shall be submitted to the Department of Public Works and Transportation. These shall be reviewed and checked by City and returned to Engineer for corrections. When the corrected copies of the plans and specifications are returned to City, the original and reviewed hard copies of the plans and specifications shall also be returned to City. All plans, specifications, documents, provisions, attachments, and correspondence provided in accordance with this contract shall be dated. The City will supply plans for Project to other parties, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project.

2. Specific design requirements shall be obtained from the City of Arlington *Design Criteria Manual*. Landscaping materials shall be in accordance with the latest approved plant list posted by the Parks and Recreation Department. Irrigation shall be in accordance with the latest ordinances.

   Bike lanes, if required, shall be designed in accordance with the *Bicycle and Pedestrian Facilities Planning and Design Guidelines* developed by the North Central Texas Council of Governments Guide for the Development of Bicycle Facilities by the American Association of State Highway and Transportation Officials for the design of bikeway lanes.

3. Each set of plans shall be stamped "Review," and each sheet of the plans shall be signed and dated with license number noted by Engineer until approval of the final design construction plans by City, whereupon the word "Review" shall be omitted and the plans shall be stamped "Final" on the cover sheet. Each sheet of the final plans shall include the Engineer's seal, signature and date.

4. City will coordinate with the utility companies, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project. Coordination shall include any and all exposure, removal, relocation and any proposed improvements necessary for implementation of Project. Engineer shall attend utility coordination meeting(s) for Project, as requested by the City. Engineer shall indicate on the final plans all existing utilities and proposed improvements both on plan and profile sheets.

5. Engineer shall accompany City representatives on Project observation visits prior to commencing design of Project and prior to final design of Project.

6. Upon completion of the final design construction plans, special provisions and specifications, and contract documents, Engineer shall submit a letter of notification to City stating completion of design of Project.

7. Review by City does not relieve Engineer of responsibility to prepare construction plans and specifications in accordance with prevailing engineering standards.

8. Engineer shall attend the pre-bid meeting and assist with inquiries pertaining to the final design of Project.

D. Conceptual Design Plans - Conceptual plans for this project shall be prepared to such detail as is necessary to resolve all conceptual issues. Conceptual plans must be approved by City prior to Engineer commencing with the preparation of preliminary design construction plans. The requirements for conceptual plans are included in the City of Arlington *Design Criteria Manual*.

E. Preliminary Design Construction Plans - At such time as Engineer is directed by City, Engineer shall prepare preliminary plans, including a title sheet, quantity sheets, and details. The requirements for preliminary plans are included in the City of Arlington *Design Criteria Manual* and shall include any applicable items as described in Section III.A.

F. Right-of-Way/Easement Determination – In conformance with City standards, Engineer shall survey, render field notes, and prepare detailed plans (right-of-way strip maps) and individual parcel exhibits for any additional right-of-way and/or easements, including temporary construction easements, needed. Engineer shall also set control points, which shall be based on NAD-83 and the latest version of the City's GPS Monument Manual (located on Public Works & Transportation web page), approximately every 600 feet on both sides of the road. Before setting the control points, Engineer shall obtain approved sketches and specifications from City for the placing of control points. The requirements for right-of-way and easement submission are included in the City of Arlington *Design Criteria Manual*. The required items are necessary for the acquisition of right-of-way required to construct Project. This information shall be required prior to acceptance of final construction plans.

Upon notification by City of acceptance of the right-of-way plans, exhibits and instruments, and as directed by City, Engineer's surveyor shall set all corners and points of curvature for the proposed right-of-way and/or easements and submit final sealed plans and exhibits.

G. Water and Sanitary Sewer Design – Engineer shall provide the water and/or sanitary sewer design with the plans. The water and sanitary sewer design requirements are included in the City of Arlington *Design Criteria Manual*.

H. Final Design Construction Plans - Upon acceptance of preliminary plans by the City, the Engineer shall prepare final plans. Final plans shall be consistent with previous sections and shall include:

1. Right-of-way plans and documents.

2. Construction plans.

3. Bid proposal.

4. Special specifications as required.

I. Miscellaneous Requirements - Engineer shall furnish, upon request by City electronic files in .pdf format (one formatted to 34”x22” full scaled and one formatted to 11”x17” half scaled) of the "Final" approved, sealed and dated plans. If electronic files are not feasible, City may accept one (1) set of film reproducibles. Engineer shall also submit an electronic file of the “Final” drawings in .dwg format.

In performing the services outlined above, Engineer will protect City to the extent reasonably possible against defects and deficiencies in the work of contractors. Engineer will report any observed deficiencies to City and Engineer will take any other appropriate actions; however, it is understood that Engineer does not guarantee the contractor’s performance, nor is Engineer responsible for supervision of the contractor’s operation and employees except to the extent defects, omissions or negligence is reasonably discoverable by Engineer. Engineer shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractor, or the safety precautions and programs incident to the work of the contractor.

IV.
Time for Completion

Engineer agrees to complete and submit all work required by City as follows:

1. Conceptual design plans in 120 calendar days from the date of written notice to proceed.

2. Preliminary design construction plans in 150 calendar days from acceptance of the conceptual plans and written notice to proceed with preliminary plans.

3. Final design construction plans and specifications in 45 calendar days from acceptance of preliminary plans and written notice to proceed with final plans.

Subsequent submittals of final plans shall be returned to the City within six (6) weeks of the date of the previous review letter.

Calendar days for each design phase shall commence when Engineer is notified to proceed and shall terminate when Engineer has submitted plans to the City. No extensions of time shall be granted unless a written request is submitted by Engineer, and such request is approved in writing by City.

V.
Revisions of Plans and Specifications

City reserves the right to direct substantial revision of the plans, special provisions, and specifications after acceptance by City as City may deem necessary, but in such event, City shall pay Engineer equitable compensation for services rendered in making such revisions. In any event, when Engineer is directed to make substantial revisions under this Section of the contract, Engineer shall provide to City a written proposal for the entire costs involved in providing City a completed set of plans, specifications and special provisions, and the completion time involved in the revisions. Prior to Engineer undertaking any substantial revisions as directed by City, City must authorize in writing the nature and scope of the revisions and accept the method and amount of compensation and the time involved in all phases of the work.

If revisions of the final plans, special provisions, and specifications, or drawings are required by reason of Engineer's error or omission, then such revisions will be made by Engineer without additional compensation to the fees herein specified, and in a time frame as directed by City.

It is expressly understood and agreed by Engineer that any compensation not specified in Section II., "Compensation to Engineer" may require Arlington City Council approval and is subject to the funding limitations.

VI.
Engineer's Coordination with Owner

Engineer shall be available for conferences with City so that Project can be designed with the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. City shall make available to Engineer all existing plans, maps, field notes, and other data in its possession relative to the Project. Engineer may show justification to City for changes in design from City standards due to the judgment of said Engineer of a cost savings to City and/or due to the surrounding topographic conditions. City shall make the final decision as to any changes after appropriate request by Engineer.

VII.
Contract Termination Provision

This contract may be terminated at any time by City for any with or without cause without

any penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by City, Engineer shall immediately discontinue all services and Engineer will immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this contract. As soon as practicable after receipt of notice of termination, the Engineer shall submit a statement, showing in detail the services performed but not paid for under this contract to the date of termination. City shall then pay Engineer promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by City.

This contract may be terminated by Engineer with mutual consent of City at any time for any cause without penalty or liability except as may otherwise be specified herein. Engineer shall submit written notice to terminate contract and shall submit to City all plans and documents relative to the design of Project. City shall then ascertain cost to complete the balance of the work under this contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, City shall retain all unpaid balances and, in addition, Engineer shall pay directly to City the difference in the unpaid balance and the cost to complete the work. In no case shall City pay Engineer any additional monies other than those previously paid under the contract.

VIII.
Ownership of Documents

All drawings and specifications prepared or assembled by Engineer under this contract shall become the sole property of City and shall be delivered to City, without restriction on future use. Engineer shall retain in his files all original drawings, specifications and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers subsequent to the completion of the contract. City shall require that any such change be sealed, dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

IX.
Insurance

A. Engineer shall at Engineer's own expense, purchase, maintain and keep in force during the term of this contract such insurance as set forth below. Engineer shall not commence work under this contract until Engineer has obtained all the insurance required under this contract and such insurance has been approved by City, nor shall Engineer allow any subcontractor to commence work on his or her own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this contract shall be written on an "occurrence" basis, except for professional liability. The insurance requirements shall remain in effect throughout the term of this Contract. The policy limits stated below are at a minimum.

1. Workers' Compensation as required by law, Employers Liability Insurance of not less than $1,000,000 for each accident, $1,000,000 disease-each employee, $1,000,000 disease-policy limit.

2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this contract, fully insuring Engineer's liability for injury to or death of employees of City 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 $1,000,000 per occurrence and a $2,000,000 aggregate.

3. Commercial Automobile and Truck Liability Insurance, covering any auto or hired and non-owned vehicles, with a combined bodily injury and property damage limit of $1,000,000 per occurrence.

4. Professional Liability Insurance: Engineer shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be $1,000,000 per claim and $2,000,000 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, Engineer must maintain this policy for a period of four (4) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

5. Umbrella Liability Insurance of not less than $2,000,000 per occurrence, following form and drop down provisions included.

B. Each insurance policy to be furnished by Engineer shall include the following conditions by endorsement to the policy:

1. Except for Worker's Compensation and Professional Liability insurance, the policy shall name City as an additional insured as to all applicable coverage;

2. Each policy will require that thirty (30) days prior to the expiration in coverage, a notice thereof shall be given to City to:

City of Arlington
Risk Management - Mail Stop 63-0790
PO Box 90231
Arlington, Texas 76004-3231

If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required. Engineer shall also notify CITY within twenty-

four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

3. The term "Owner" or "City" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of City and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of City.

4. The policy phrase "other insurance" shall not apply to City where city is an additional insured on the policy; and

5. All provisions of the contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by Engineer, it is a condition precedent to acceptability thereof that:

1. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

2. Insurance is to be placed with carriers with an A.M. Best rating of A:VII, or as otherwise acceptable to the City.

D. Engineer agrees to the following:

1. Except for Professional Liability, Engineer hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against City, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies.

2. Companies issuing the insurance policies and Engineer shall have no recourse against City for payment of any premiums or assessments for any deductible, as all such premiums and deductibles are the sole responsibility and risk of Engineer.

3. Approval, disapproval or failure to act by City regarding any insurance supplied by Engineer (or any subcontractors) shall not relieve Engineer of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate Engineer from liability.

4. Engineer shall provide one (1) copy of a Certificates of Insurance completed on an Acord form or other State-approved form, and endorsements effecting coverage required by this section to the City by forwarding to:

City of Arlington
Department of Public Works and Transportation - Mail Stop 01-0220
Attn: Jenette T. Hull, Engineering Coordinator
PO Box 90231
Arlington, Texas 76004-3231

E. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

X.
Monies Withheld

When City has reasonable grounds for believing that:

A. Engineer will be unable to perform this contract fully and satisfactorily within the time fixed for performance; or

B. A claim exists or will exist against Engineer or City arising out of the negligence of the Engineer or the Engineer's breach of any provision of this contract; then

City may withhold payment of any amount otherwise due and payable to Engineer under this contract. Any amount so withheld may be retained by City for that period of time as it may deem advisable to protect City against any loss and may, after written notice to Engineer, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of City, and no other person or entity shall have any right or claim against City by reason of City's failure or refusal to withhold monies. No interest shall be payable by City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of City.

XI.
No Damages for Delays

Notwithstanding any other provision of this contract, Engineer shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

XII.
Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this contract, Engineer agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to City of Arlington projects and procurements, City of Arlington also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this contract, Engineer agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this contract.

The Engineer agrees to provide information about its minority status at time of contract execution. Engineer will also be required to submit cost information towards minority/woman owned businesses. The information submitted is for reporting purposes only and shall include the engineer and any other firms performing work as a part of this contract such as surveying services. See attached sample Prime and Subs & Minority/Women Business Enterprise (MWBE) Report form. Submitted form shall be accompanied by copy of certification(s) for Engineer and any applicable firms. Engineer will be required to submit anticipated dollar amounts towards these businesses (if applicable) upon execution of the contract for this project and actual dollar amounts spent with the monthly pay estimate. It will be the Engineer's responsibility to ensure submitted certification(s) are up-to-date, including for any applicable firms.

XIII.
Right to Inspect Records

Engineer agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Engineer involving transactions relating to this contract. Engineer agrees that City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Engineer reasonable advance notice of intended audits.

Engineer further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give the consultant or subcontractor reasonable advance notice of intended audits.

XIV.
No Third Party Beneficiary

For purposes of this contract, including its intended operation and effect, the parties (City and Engineer) specifically agree and contract that: (1) the contract only affects matters/disputes between the parties to this contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Engineer or both; and (2) the terms of

this contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Engineer.

XV.
Successors and Assigns

City and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this contract. Neither City nor Engineer shall assign or transfer its interest herein without the prior written consent of the other.

XVI.
Engineer's Liability

Acceptance of the final plans by City shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the designs, working drawings, specifications, or other documents prepared by said Engineer, its employees, subcontractor, agents and consultants.

XVII.
Indemnification

ENGINEER does hereby covenant and contract to indemnify and hold harmless CITY and all of its officials, officers, agents, employees and invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including reasonable attorney fees of litigation and/or settlement, that may arise by reason of death of or injury to persons or damage to or loss of use of property occasioned by any wrongful intentional act or omission of ENGINEER as well as any negligent omission, act or error of ENGINEER, its officials, officers, agents, employees and invitees, or other persons for whom ENGINEER is legally liable with regard to the performance of this Contract, whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence or any other form of negligence. In the event of joint or concurrent negligence of ENGINEER and CITY, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas. Nothing in this paragraph is intended to waive any governmental immunity available to CITY under Texas law or waive any defenses of ENGINEER or CITY under Texas law. This paragraph shall not be construed for the benefit of any third party, nor does it create or grant any right or cause of action in favor of any third party against CITY or ENGINEER.

ENGINEER warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by ENGINEER unless ENGINEER has

obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. ENGINEER covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any related statutory, common law or other right of any person or entity in performing this Contract. ENGINEER will indemnify and hold CITY and its officers, agents and employees harmless from all claims, losses and damages (including reasonable attorney's fees) with respect to such copyright, royalty or trademark rights to the extent caused by ENGINEER or for whom ENGINEER is legally liable.

The provisions of this section are intended to only provide indemnification to the extent allowed by Texas Local Gov't Code Sec. 271.094 and shall be construed to that effect. The ENGINEER as allowed by Texas Local Gov't Code Sec. 271.084 will still name CITY as additional insured in its General Liability Policy and provide any defense as allowed by the policy.

XVIII.
Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIX.
Independent Contractor

Engineer covenants and agrees that he/she 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 liable 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.

XX.
Disclosure

By signing this contract, Engineer acknowledges to City that he or she has made a full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed project and business relationships with abutting property owners. Engineer further agrees that he shall make disclosure in writing of any conflicts of interests which develop subsequent to the signing of this contract and prior to final payment under the contract.

XXI.
Venue

The parties to this contract agree and covenant that this contract shall be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this contract, exclusive venue shall lie in Tarrant County, Texas.

XXII.
Entire Agreement

This contract 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.

XXIII.
Applicable Law

This contract is entered into subject to the Charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

XXIV.
Default

If at any time during the term of this contract, Engineer shall fail to commence the work in accordance with the provisions of this contract or fail to diligently provide services in an efficient, timely, and careful manner and in strict accordance with the provisions of this contract or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this contract, then City shall have the right, if Engineer does not cure any such default after thirty (30) days written notice thereof, to terminate this contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy, the cost to City of the performance of the balance of the work is in excess of that part of the contract sum which has not theretofore been paid to Engineer hereunder, Engineer shall be liable for and shall reimburse City for such excess.

XXV.
Headings

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

XXVI.
Non-Waiver

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

XXVII.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this contract 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 contract.

XXVIII.
Equal Employment Opportunity

Engineer shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. Engineer shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include, but not be limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXIX.
Construction of Contract

Both parties have participated fully in the review and revision of this contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this contract.

XXX.
Notices

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:
City of Arlington - Mail Stop 01-0220
ATTN: Assistant Director of Public Works and
Transportation/Engineering and Construction
PO Box 90231

Arlington, Texas 76004-3231

If intended for Engineer, to:
Wier & Associates, Inc.
2201 E. Lamar Blvd., Suite 200 E
Arlington, Texas 76006
Attn: Carlo Silvestri, P.E., President

XXXI
Title VI

The City of Arlington, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all vendors that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Vendor will abide and ensure compliance with all terms of Appendix A of the USDOT Standard Title VI Assurances as listed below.

Appendix A of the USDOT Standard Title VI Assurances
During the performance of this contract, the engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

(1) Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-Assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Arlington shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Engineer shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Engineer shall take such action with respect to any subcontract or procurement as the City of Arlington or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Arlington to enter into such litigation to protect the interests of the City of Arlington, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties enter into this contract on the date first written above.

ENGINEER:
WIER & ASSOCIATES, INC.

BY:_____
Carlo Silvestri, P.E.
President

CITY OF ARLINGTON, TEXAS:

BY: _____
James F. Parajon, FAICP
Deputy City Manager

BY: _____
Walter J. Pishkur
Director of Water Utilities

APPROVED AS TO FORM:
Teris Solis, City Attorney

BY: _____

ATTEST:
Mary Supino, City Secretary

_____

THE STATE OF TEXAS §

COUNTY OF TARRANT §

Engineer Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____Carlo Silvestri_____, ☐ who is known to me or ☐ who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or ☐ who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2016.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared James F. Parajon, FAICP, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Deputy City Manager thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Walter J. Pishkur, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Director of Water Utilities thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

PRIME AND SUBS &
MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE) REPORT

Please complete this form, include copy of certification(s) and return with executed contracts

Project Name: _____

Project No: _____ Date: _____

LEGEND
* Answer with "YES" or "NO"
AI - Native American (AI)
NW - Native American, Women-Owned (NW)
AS - Asian (AS)
AW - Asian, Women-Owned (AW)
BL - Black (BL)
BW - Black, Women-Owned (BW)
HI - Hispanic (HI)
HW - Hispanic, Women-Owned (HW)
WO - Women-Owned (WO)
Other _____

PRIME CONTRACTOR	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

LIST **ALL** SUBS:

Name of Company	Description of Primary Work Type (For prequalification verification purposes)	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

SAMPLE (Copy for execution will be included with award letter)

EXHIBIT A

SCOPE OF SERVICES

CIVIL ENGINEERING DESIGN SERVICES

FOR

EDEN ROAD

U.S. HIGHWAY 287 TO CALENDER ROAD

CITY OF ARLINGTON, TEXAS

The City of Arlington is proposing to contract with Wier & Associates, Inc. to provide civil engineering design services to prepare construction plans for Eden Road. In general, these services will include topographic surveys, water line replacement design, paving design, roundabout design, and storm drainage design.

SPECIFIC SCOPE OF SERVICES

I. Survey Control, Right of Way, & Topographic Survey

A. Right of Entry

Wier & Associates, Inc. will research and prepare a list of property ownership adjacent to the project location. Wier & Associates, Inc. anticipates the following approximate number of letters:

1. Eden Rd. - 25 residential properties and 6 commercial/institutional/HOA properties

Property owner information will be provided to the City for their use in preparation of right-of-entry letters. The City will handle obtaining right-of entry for survey operations. Wier & Associates, Inc. will maintain a right-of-entry received list and update the CAD base mapping for right-of-entry received.

B. Horizontal & Vertical Survey Control

Wier & Associates, Inc. will establish and set project control based on City of Arlington survey control monuments with GPS.

C. Topographic Survey

Wier & Associates, Inc. will perform full topographic surveys of the project limits and existing right-of-way including up to 20 feet outside of existing right-of-way in order to provide adequate ground ties for the proposed improvements. The topographic survey will also include side street intersections up to 50 feet beyond the curb returns. Topographic survey of the roundabout intersections at Russell Curry Road, Ledbetter Road, and Calender Road will include survey data up to 200 feet beyond the curb returns.

The topographic survey will include ties to all visible features and break lines including franchise and City utilities, overhead utility lines, appurtenances and flow lines; drainage structures and flow lines, trees 6" in diameter or greater, landscaped areas, bushes, shrubs, mailboxes, driveways, retaining walls, signs, curb lines, edges of pavement, flumes, gutters, sidewalk, pedestrian ramps, fences, and gates. The topographic survey will be included in a base map to be used for design purposes.

Tree drip line ties are not included in this scope of services. The location of existing underground utilities will be included in the base mapping from Subsurface Utility Engineering (SUE) services per Item D below, as well as available record drawing information provided to Wier & Associates, Inc. by the City and through coordination with the franchise utility owners.

The topographic survey shall be performed using actual field shots based on the latest GPS Monument Manual located on the City of Arlington Public Works & Transportation web page.

D. Subsurface utility engineering investigations and designating of utilities.

E. Right of Way Survey

Wier & Associates, Inc. will perform research of available deeds and plats for properties adjacent to the project location. A deed/plat sketch will be prepared based on the information gathered from the research. Existing property corners (not every lot) along the City right-of-way will be tied if found in the field with the intention of locating the recorded plat configuration and establishing the existing property boundary lines and street right-of-way line in the mapping based on the tied corners.

F. Preparation of Right of Way Dedication or Easement Dedication Exhibits

Wier & Associates, Inc. will prepare Right-of-way strip maps and individual right-of-way and/or easement dedication parcel exhibits, as required, for the project. The exhibits prepared will include an exhibit drawing, dedication metes and bounds description, closure calculations sheet, and field setting of dedication corner monuments.

G. Geotechnical/Pavement Subgrade Design (Culvert foundation recommendations, Lime-Series, Cement Content Testing Only)

II. Paving Design

Wier & Associates, Inc. will prepare plans designed in accordance with the City of Arlington Design Criteria Manual. The following are the anticipated specific components of the plan set.

A. Cover Sheet/General Notes

Wier & Associates, Inc. will include a cover sheet for the plan set utilizing the City standard detail. A general notes sheet will be included in the plan set based on standard City general notes as well as any notes specific to the project.

B. Quantity Summary

Quantities will be calculated for the project bid items and summarized in tabular format in the plan set and organized by project component. Each bid item will be quantified by plan sheet.

C. Paving Plans, Profiles, and Cross Sections

Paving plan and profile sheets will be included for Eden Road as well as each roundabout location including street geometry, and proposed 5' sidewalk along the south side of Eden Road with pedestrian ramps, and a 12' hike and bike trail along the north side of Eden Road with pedestrian ramps. Proposed cross sections will depict proposed and existing ground, pavement section depth and sidewalk where included. Cut and fill volumes will be included in tabular format with the cross sections.

D. Roundabout Plans

Wier & Associates, Inc. will design, prepare plans for and coordinate a Third Party Review of Modern Urban Roundabouts at the intersection of Russell-Curry Road, Ledbetter Road and Calender Road. As part of the Third Party Review, the reviewer will perform a preliminary design performance check focusing on inscribed circle diameter, approach alignments, functionality, design vehicle accommodation, bicycle and pedestrian accommodation and right-of-way impacts. A submission package documenting the fastest paths, truck swept paths, path overlap, entry angles and sight distance envelopes for each roundabout will be provided.

Additionally, Wier & Associates, Inc. along with the Third Party Reviewer will evaluate the feasibility of a Roundabout at the intersection of Eden Road with the U.S. Highway 287 northbound frontage road. Third Party Review and evaluation services of a Roundabout(s) at the U.S. Highway 287 intersection are provided as a separate line item in Attachment "B".

E. Signing and Pavement Marking Layouts

Wier & Associates, Inc. will prepare proposed signing and pavement markings as required. Proposed signing will utilize standard MUTCD signs.

F. Street Light Design & Fiber Communications Conduit

Wier & Associates, Inc. will prepare proposed street illumination pole, foundation, conduit locations and cabling design according to City criteria. Wier & Associates, Inc. will also prepare relocation plans for the existing fiber communications conduit and construction sequence plan to maintain the existing system in service during construction.

G. Paving Details

Wier & Associates, Inc. will include necessary and required City or TxDOT standard details as part of the paving details.

H. Roundabout Landscape and Irrigation:

Wier & Associates, Inc. will include landscape plans, irrigation plans and required details for the Roundabout central island to provide the necessary mounding and headline screening.

I. Permitting (TxDOT/Franchise Utilities/Pipeline Crossing)

Wier & Associates, Inc. will coordinate the review and approval of a permit for the street connection to the U.S. Highway 287 frontage road. Wier & Associates will also coordinate review and approval of permitting required for the crossing of natural gas pipelines that may be encountered within the project limits with the pipeline operator.

III. Water Line Replacement Design

Wier & Associates, Inc. will prepare water line replacement plans along Eden Road.

IV. Storm Drainage Design

Wier & Associates, Inc. will develop drainage area mapping, drainage calculations, drainage plan and profiles, and drainage details as required for the project in accordance with the City of Arlington Design Criteria Manual:

A. Evaluate the capacity of the existing 5'x3' box culvert in Calender Road.

B. Utilizing the SCS Unit Hydrograph Method, Wier & Associates, Inc. will perform a drainage analysis of the existing large watersheds south of Eden Road contributing to the Wentworth Estates retention/detention pond and the Methodist Church drainage channel. The flows developed with be utilized to evaluate capacity/operation of the existing Wentworth Estates retention/detention pond and the capacity/operation of the drainage channel west of the Methodist Church that discharge into Eden Road. The small drainage areas for the Eden Road street drainage will be analyzed using the Modified Rational Method. The existing ditches along Eden Road will be removed and an enclosed storm drain system will be designed.

C. Sublett Creek Crossing:

1. Wier & Associates, Inc. will coordinate the delineation of 404 jurisdictional area for Sublett Creek crossing and evaluate the project impacts on the jurisdictional area. Wier & Associates, Inc. will attempt to accomplish the crossing utilizing Nationwide Permits.

2. Wier & Associates will coordinate the review and approval of a CLOMR with FEMA for the Sublett Creek crossing.

3. Post construction, Wier & Associates will coordinate the review and approval of a LOMR with FEMA for the Sublett Creek crossing.

4. Wier & Associates, Inc. will coordinate with Dr. Puppala of the University of Texas Arlington and URETEK regarding the design, plans and specifications for the Sublett Creek crossing bridge/culvert approach slab subgrade design.

V. Project Submittals

A. Milestone submittals to the City will be at Conceptual Design (40%) including Drainage Analysis outlined in Items IV.A and IV.B above, Preliminary Design (85%), and Final Design (100%) stages of completion and will include submittal of an opinion of probable construction cost. Completion of the bid proposal document will accompany the final submittal.

B. Submittals will be made in electronic format as pdf and in AutoCAD at the direction of the City. Hard copies will be provided in accordance with the contract.

C. Submittal of plans for review by other agencies is beyond this scope of services.

VI. Exclusions

The following items are excluded from this scope of services, but can be added for additional compensation

- Traffic control plans and sequence of construction
- Bridge layout, details, and design
- Retaining wall design and details
- Structural design services
- Traffic signal design and plans
- Preparation of an SW3P or erosion control plans
- Preparation of project bid manual or contract documents
- Construction administration services

VII. Fees

Fees for engineering services for this project are included under Attachment "B".

ATTACHMENT "A"
SCHEDULE OF CURRENT HOURLY BILLING RATES
(City of Arlington, Eden Road: U.S. 287 to Calender Road PWST16008)

Hourly reimbursable services will be provided on the basis of the specific staff positions engaged to complete the project/task and such staff positions will be invoiced at the firm's current rates.

Billing rates for individual staff members or for survey crews may be adjusted twice annually (at April 1 and/or October 1) if ENGINEER/SURVEYOR adjusts salary or pay rates of employees.

Current billing rates are listed below.

OFFICE STAFF	Billing Rate PER HOUR
Principal PE or RPLS	$225.00
Senior Project Manager PE or RPLS	$188.00
Project Manager or Team Leader	$176.00
Senior Reg. Professional PE or RPLS	$161.00
Registered Professional PE or RPLS	$142.00
Graduate Engineer/Surveyor-in-Training (EIT/SIT)	$124.00
Senior CADD Technician	$117.00
CADD Technician	$100.00
Junior CADD Technician	$85.00
Admin/Support	$70.00

FIELD SURVEY CREW STAFF	
Party Chief	$110.00
Instrument Man	$ 58.00

Based on billing rates for individual crew members as shown above, the billing rates for survey crews will be as follows:

One-man Field Survey Crew	$110.00
One-man Robotic Field Survey Crew	$140.00
Two-man Field Survey Crew	$168.00

DIRECT COSTS (REIMBURSABLES)	
Printing & Plotting-Paper (per square foot)	$ 0.15
Printing & Plotting-Mylar (per square foot)	$ 1.40
Courier (per trip)	$ 50.00
Travel/Transportation (per mile outside Tarrant/Dallas Co.)	$ 0.50

Revised Effective 4-16-2016 A-1 of 1

ATTACHMENT "B"

Description	Labor Base Total $	TOTAL COST (Task)
Eden Road (U.S. 287 to Calendar Road)		
BASIC SERVICES		
DEMOLITION	$16,850	$16,850
PAVING	$204,907	$204,907
PAVEMENT MARKINGS	$3,606	$3,606
STORM DRAINAGE	$149,772	$149,772
STREET LIGHTING & FIBER COMMUNICATIONS CONDUIT	$36,473	$36,473
ROUNDABOUT LANDSCAPE & IRRIGATION	$18,668	$18,668
SUBTOTAL-PAVING, DRAINAGE & STREET LIGHTING (Portion of ESC Sec. II.A)	$430,277	$430,277
WATER & SANITARY SEWER (Contract Sec. II.E.)	$25,801	$25,801
TOTAL BASIC SERVICES	$456,077	$456,077
SPECIAL SERVICES		
DESIGN & ROW FIELD SURVEY (ECS Sec. II.B)(See Attached Survey Fee Estimate)	$100,036	$100,036
Right-of-way & Easement Acquisition Services (25 Parcels @$3,500/parcel)	$87,500	$87,500
TOTAL SPECIAL SERVICES	$187,536	$187,536
TOTAL BASE PROJECT INCLUDING ALL SPECIAL SERVICES		$643,613
ADDITIONAL SERVICES		
Section 404 Permitting with U.S.C.O.E. (ESC Sec. III.A.1)	$23,300	$23,300
CLOMR with FEMA pre-construction (ESC Sec. III.A.2)	$50,000	$50,000
LOMR with FEMA post construction (ESC Sec. III.A.3)	$20,500	$20,500
SOIL & FOUNDATION INVESTIGATIONS (ESC Sec. III.A.4)	$12,500	$12,500
Subsurface Utility Engineering (SUE) (ESC Sec. III.A.5)	$40,500	$40,500
TxDOT/Franchise Utility/Pipeline Permitting (ESC Sec. III.A.6)	$10,000	$10,000
RoundAbout Third Party Review (Russell-Curry, Ledbetter & Calender Road)	$41,500	$41,500
U.S. 287 RoundAbout Feasibility Study, Third Party Review & TxDOT Presentation	$30,500	$30,500
TOTAL ADDITIONAL SERVICES	$228,800	$228,800
TOTAL BASE PROJECT INCLUDING ALL SPECIAL & ADDITIONAL SERVICES		$872,413
DIRECT EXPENSES (REIMBURSABLES)		
Printing & Plotting		$4,700
Mileage @ $0.50/mile		$0
Courier		$250
TOTAL DIRECT EXPENSES (REIMBURSABLES) (Portion of ESC Sec. II.A)		$4,950
TOTAL FEE COST		$877,363

		(Rounded for ESC)
Basic Services + Direct Expenses, LESS Field Survey, ROW Acq. Data, W/SS Design, Addn. Services	Contract Sec. II.A =	$435,200
Field Survey	Contract Sec. II.B =	$100,000
Right-of-way Acquisition	Contract Sec. II.C =	$87,500
W/SS Design	Contract Sec. II.E =	$25,800
Additional Services (404 Permitting)	Conract Sec. III.A.1 =	$23,300
Additional Services (FEMA coordination for CLOMR)	Conract Sec. III.A.2 =	$50,000
Additional Services (FEMA coordination for LOMR)	Conract Sec. III.A.3 =	$20,500
Additional Services (Geotech)	Conract Sec. III.A.4 =	$12,500
Additional Services (SUE)	Conract Sec. III.A.5 =	$40,500
Additional Services (TxDOT Permitting)	Conract Sec. III.A.6 =	$10,000
RoundAbout Third Party Review	Conract Sec. III.A.7 =	$41,500
US287 RoundAbout Feasibility & Third Party Review	Conract Sec. III.A.8 =	$30,500
		$877,300

END OF DOCUMENT

N
W E
S

Eden Road (US 287 - Calender Rd.)
Location Map
Project No. PWST16008

ARLINGTON
THE AMERICAN DREAM CITY

Prepared By:
PWT Engineering Operations
3/11/2016

Staff Report

Engineering Services Contract for 2014 Residential Street Rebuilds (Phase III); Project No. PWST16001	
City Council Meeting Date: 05/24/16	Action Being Considered: Minute Order

RECOMMENDATION

Authorizing the City Manager or his designee to execute an Engineering Services Contract with Dunaway Associates L.P. of Fort Worth, Texas, for the design of the 2014 Residential Street Rebuilds (Phase III) in an amount not to exceed $305,217.

PRIOR BOARD OR COUNCIL ACTION

On November 17, 2008, City Council passed Resolution No. 08-425 to approve canvassing election returns and declaring election results in the special election held on November 4, 2008 in the City of Arlington for the purpose of approval of the issuance of general obligation bonds.

On February 23, 2016, City Council passed Resolution No. 16-032 to adopt the Capital Budget for the City of Arlington for Fiscal Year 2016, beginning October 1, 2015 and ending September 30, 2016.

ANALYSIS

The 2016 Capital Budget included $10,000,000 for design and reconstruction of existing residential streets from the 2008 Bond Election. The following streets have been identified for the 2014 Residential Street Rebuild Program (Phase III):

Concrete Street Rebuild
Harmon Terrace (Park Row Drive to Park Row Drive)
Kelly Terrace (Park Row Drive to Meadow Lane)

Concrete Street Rebuild and Water and Sanitary Sewer Line Renewal
Wynn Terrace (Forrestal Drive to south of Darlene Lane)

Ponding Rehabilitation
1904 River Bend Drive

	Not to Exceed
Base Design Fee:	$212,089
ROW Preparation:	$15,000
Field Survey Work Fee (Rebuild):	$45,628
Reimbursables:	$2,800
Sanitary Sewer Design Fee:	$29,700
Total:	**$305,217**

In February 2013, City Council approved a new "Do Worst First" street reconstruction philosophy through which to prioritize residential street reconstruction projects. One of the fundamental elements of this philosophy is to address first the streets that have an Overall Condition Index (OCI) below 50, referred to as "red" streets since they show significant failure. All the streets listed above as part of the 2014 Residential Rebuilds Project (Phase III) have an OCI below 50. These streets account for approximately **2.42** lane-miles of "'red" streets.

FINANCIAL IMPACT

Funding is available in the following accounts:

Street Bond Fund Account No. 358504-61043-65870698	$275,517
Water Bond Fund Account No. 658502-61043-18137205	$20,000
Sanitary Sewer Bond Fund Account No. 648502-61043-17969204	$9,700

FY 2016	FY 2017	FY 2018
$250,000	$55,217	$0

ADDITIONAL INFORMATION

Attached:	Engineering Services Contract with Exhibits
Under separate cover:	None
Available in the City Secretary's Office:	None

STAFF CONTACT(S)

David Wynn, P.E., Interim Director	Walter J. Pishkur
Public Works & Transportation	Director of Water Utilities
817-459-6560	817-459-6603
David.Wynn@arlingtontx.gov	Buzz.Pishkur@arlingtontx.gov

THE STATE OF TEXAS §

ENGINEERING SERVICES CONTRACT

COUNTY OF TARRANT §

THIS CONTRACT is made and entered into this 24th day of May, 2016, by and between the City of Arlington, Tarrant County, Texas, a municipal corporation, hereinafter called "City" and Dunaway Associates, L.P., hereinafter called "Engineer," whose address is 550 Bailey Avenue, Suite 400, Fort Worth, Texas 76107.

W I T N E S S E T H:

That in consideration of the terms and conditions contained herein the parties do mutually agree as follows:

I.

Employment of Engineer

Engineer will perform all services under this contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If Engineer is representing that he/she has special expertise in one or more areas to be utilized in this contract, then Engineer agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards. Engineer will provide services necessary for the construction of improvements to City's infrastructure, the location and extent of which is known as:

2014 RESIDENTIAL STREET REBUILDS, PHASE 3

Concrete Street Rebuild

Harmon Terrace (Park Row Dr. to Park Row Dr.)
Kelly Terrance (Park Row Dr. to Meadow Ln)

Concrete Street Rebuild with Water & Sanitary Sewer Renewals

Wynn Terrace (Forrestal Dr. to south of Darlene Ln)

Ponding Rehabilitation

1904 River Bend Drive

City of Arlington Project No. PWST16001, being located within the City of Arlington, Tarrant County, Texas, and hereinafter referred to as the "Project." The services to be performed by Engineer under this Contract include but are not limited to the services described in attached Scope of Services/Exhibit “A” which is attached and referenced herein as if written word for word.

II.
Compensation to Engineer

A. City agrees to pay to Engineer for all services outlined in Section III, a base design fee in an amount not to exceed $**212,089.00**. The following services are not included in this base fee:

1. Services required by Section III.A., Additional Services, for which cost is set out in III.A.

2. Work necessary to perform the design field survey as described in III.B., Field Survey Work, for which cost is set out in II.B.

3. Work necessary for the preparation of right-of-way and/or easement acquisition data as described by Section III.F., Right-of-Way Determination, for which cost is set out in II.C.

4. Work necessary to design the water and sanitary sewer improvements as described by Section III.G., for which cost is set out in II.E.

B. All costs associated with performing the design field survey as outlined in III.B. shall be paid to Engineer by City in an amount not to exceed $**45,628.00**.

C. All costs associated with right-of-way acquisition data, as outlined in III.F., shall be paid to Engineer by City on an hourly fee basis as shown in Attachment "A" in an amount not to exceed $**15,000.00** unless mutually agreed to in writing by the parties hereto. Attachment "A" is hereby incorporated within this contract as if written word for word. In no case shall more than seventy-five percent (75%) of this amount be paid until all right-of-way acquisition data is accepted by City.

D. Direct expenses shall include subcontract charges for surveying, contract labor, computer time, printing, reproduction expense, communication expense, travel, transportation, and subsistence out of Tarrant and Dallas Counties directly related to the work. Direct costs shall not exceed the rates indicated in Attachment "B" for a total amount not to exceed **$2,800.00**. Attachment "B" is hereby incorporated within this contract as if written word for word and shall contain the result of the rates for direct costs multiplied by the factor of 1.1. Evidence of cost incurred for direct expenses shall be submitted with each billing.

E. All costs associated with design of the water and sanitary sewer improvements, as outlined in III.G., shall be paid to Engineer by City on an hourly fee basis as shown on Attachment "A" in an amount not to exceed $**29,700.00**.

F. Written request for payment for services rendered by Engineer may be made on a monthly basis. City will pay to the Engineer as follows:

1. An amount not to exceed the amount set out in II.B until satisfactory completion of the design survey as set forth herein.

2. An amount not to exceed forty percent (40%) of the total base design fee until satisfactory completion of the conceptual design plans.

3. An amount not to exceed eighty-five percent (85%) of the base design fee until satisfactory completion of the preliminary construction plans and right-of-way documents.

4. An amount not to exceed ninety-five percent (95%) of the base design fee until satisfactory completion of the final construction plans and specifications, and right-of-way documents.

5. An amount equal to five percent (5%) shall be retained until such time as City requests and receives one (1) set of reproducibles of the final design construction plans and other documents described herein.

6. No interest shall accrue for late payments. CITY shall not be required to pay any amount in excess of the original amount unless CITY shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts. If at any time it becomes evident that the cost estimates provided to CITY will not be sufficient to complete the authorized work, Engineer will immediately notify CITY in writing of said fact.

III.
Services

A. Additional Services –No additional service is anticipated at this time. However, should the City request for additional services, it shall be mutually agreed upon in writing and the fee shall be on an hourly basis, as shown in Attachment "A". In no case shall more than seventy-five percent (75%) of the agreed amounts be paid until such services are accepted by City.

B. Field Survey Work - Engineer shall furnish a survey field party to collect all field information necessary to prepare complete and detailed plans, specifications, and contract documents consistent with prevailing engineering standards. This field information shall be based on NAD-83 or the latest version of the City's GPS Monument Manual located on Public Works & Transportation web page. Before the survey party is engaged in surveying on private property, City shall send letters to all adjacent property owners and other affected property owners notifying them of the survey party's intent to survey on private property. Engineer shall provide City with the legal description and address of the affected property(s). Permission to survey on private property shall be obtained from the property owners before surveying commences. The letter of permission will include permission for Engineer to set iron pins and control monuments for future right-of-way

and/or easements to be acquired by City at a later date. Engineer shall direct the field party in the following:

1. Establishing the proposed centerline or a suitable reference base line on the ground as required by City.

2. Making complete and accurate cross-section field notes.

3. Making a complete topographic survey of all existing features above and below ground level that would or could affect proposed construction. These features shall include, but are not limited to, telephone poles, power poles, all other utilities or other structures located on or above or below the surface, fences, retaining walls, water meters, detector check valves, manholes, vaults, sprinkler heads, structures, culverts, pipes and all other facilities in close proximity to the construction. Also, all buildings, trees, steps, and other topographical features which would be of interest to the property owner in discussing the plans with City engineers must be shown accurately and drawn to scale. Engineer shall also show street numbers for all existing houses and structures.

4. Determining horizontal and vertical location of all underground utilities or other underground structures based upon information obtained in accordance with Section III where they cross any part of the proposed storm drainage system or street system or may affect the proposed Project. The Engineer shall not be responsible for the cost of exposing these utilities or repairing damage caused by such exposure unless due to omission or other negligence by Engineer.

5. Making of all surveys necessary to determine limits of any existing right-of-way.

C. General Requirements

1. Each time Engineer submits plans and specifications to City, eight (8) copies (four {4} full size {22”x34”}, four {4} half scaled {11x17}) and a .pdf of each shall be submitted to the Department of Public Works and Transportation. These shall be reviewed and checked by City and returned to Engineer for corrections. When the corrected copies of the plans and specifications are returned to City, the original and reviewed hard copies of the plans and specifications shall also be returned to City. All plans, specifications, documents, provisions, attachments, and correspondence provided in accordance with this contract shall be dated. The City will supply plans for Project to other parties, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project.

2. Specific design requirements shall be obtained from the City of Arlington *Design Criteria Manual*. Landscaping materials shall be in accordance with the

latest approved plant list posted by the Parks and Recreation Department. Irrigation shall be in accordance with the latest ordinances.

Bike lanes, if required, shall be designed in accordance with the *Bicycle and Pedestrian Facilities Planning and Design Guidelines* developed by the North Central Texas Council of Governments Guide for the Development of Bicycle Facilities by the American Association of State Highway and Transportation Officials for the design of bikeway lanes.

3. Each set of plans shall be stamped "Review," and each sheet of the plans shall be signed and dated with license number noted by Engineer until approval of the final design construction plans by City, whereupon the word "Review" shall be omitted and the plans shall be stamped "Final" on the cover sheet. Each sheet of the final plans shall include the Engineer's seal, signature and date.

4. City will coordinate with the utility companies, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project. Coordination shall include any and all exposure, removal, relocation and any proposed improvements necessary for implementation of Project. Engineer shall attend utility coordination meeting(s) for Project, as requested by the City. Engineer shall indicate on the final plans all existing utilities and proposed improvements both on plan and profile sheets.

5. Engineer shall accompany City representatives on Project observation visits prior to commencing design of Project and prior to final design of Project.

6. Upon completion of the final design construction plans, special provisions and specifications, and contract documents, Engineer shall submit a letter of notification to City stating completion of design of Project.

7. Review by City does not relieve Engineer of responsibility to prepare construction plans and specifications in accordance with prevailing engineering standards.

8. Engineer shall attend the pre-bid meeting and assist with inquiries pertaining to the final design of Project.

D. Conceptual Design Plans - Conceptual plans for this project shall be prepared to such detail as is necessary to resolve all conceptual issues. Conceptual plans must be approved by City prior to Engineer commencing with the preparation of preliminary design construction plans. The requirements for conceptual plans are included in the City of Arlington *Design Criteria Manual*.

E. Preliminary Design Construction Plans - At such time as Engineer is directed by City, Engineer shall prepare preliminary plans, including a title sheet, quantity sheets, and

details. The requirements for preliminary plans are included in the City of Arlington *Design Criteria Manual*.

F. Right-of-Way/Easement Determination – In conformance with City standards, Engineer shall survey, render field notes, and individual parcel exhibits for any additional right-of-way and/or easements, including temporary construction easements, needed. Engineer shall also set control points, which shall be based on NAD-83 and the latest version of the City's GPS Monument Manual (located on Public Works & Transportation web page), approximately every 600 feet on both sides of the road. Before setting the control points, Engineer shall obtain approved sketches and specifications from City for the placing of control points. The requirements for right-of-way and easement submission are included in the City of Arlington *Design Criteria Manual*. The required items are necessary for the acquisition of right-of-way required to construct Project. This information shall be required prior to acceptance of final construction plans.

Upon notification by City of acceptance of the right-of-way plans, exhibits and instruments, and as directed by City, Engineer's surveyor shall set all corners and points of curvature for the proposed right-of-way and/or easements and submit final sealed plans and exhibits.

G. Water and Sanitary Sewer Design – Engineer shall provide the water and/or sanitary sewer design with the plans. The water and sanitary sewer design requirements are included in the City of Arlington *Design Criteria Manual*.

H. Final Design Construction Plans - Upon acceptance of preliminary plans by the City, the Engineer shall prepare final plans. Final plans shall be consistent with previous sections and shall include:

1. Right-of-way plans and documents.

2. Construction plans.

3. Bid proposal.

4. Special specifications as required.

I. Miscellaneous Requirements - Engineer shall furnish, upon request by City electronic files in .pdf format (one formatted to 34"x22" full scaled and one formatted to 11"x17" half scaled) of the "Final" approved, sealed and dated plans. If electronic files are not feasible, City may accept one (1) set of film reproducibles. Engineer shall also submit an electronic file of the "Final" drawings in .dwg format.

In performing the services outlined above, Engineer will protect City to the extent reasonably possible against defects and deficiencies in the work of contractors. Engineer will report any observed deficiencies to City and Engineer will take any other appropriate actions; however, it is understood that Engineer does not guarantee the contractor's

performance, nor is Engineer responsible for supervision of the contractor's operation and employees except to the extent defects, omissions or negligence is reasonably discoverable by Engineer. Engineer shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractor, or the safety precautions and programs incident to the work of the contractor.

IV.
Time for Completion

Engineer agrees to complete and submit all work required by City as follows:

1. Conceptual design plans in **33** calendar days from the date of written notice to proceed.

2. Preliminary design construction plans in **47** calendar days from acceptance of the conceptual plans and written notice to proceed with preliminary plans.

3. Final design construction plans and specifications in **19** calendar days from acceptance of preliminary plans and written notice to proceed with final plans. Subsequent submittals of final plans shall be returned to the City within six (6) weeks of the date of the previous review letter.

Calendar days for each design phase shall commence when Engineer is notified to proceed and shall terminate when Engineer has submitted plans to the City. No extensions of time shall be granted unless a written request is submitted by Engineer, and such request is approved in writing by City.

V.
Revisions of Plans and Specifications

City reserves the right to direct substantial revision of the plans, special provisions, and specifications after acceptance by City as City may deem necessary, but in such event, City shall pay Engineer equitable compensation for services rendered in making such revisions. In any event, when Engineer is directed to make substantial revisions under this Section of the contract, Engineer shall provide to City a written proposal for the entire costs involved in providing City a completed set of plans, specifications and special provisions, and the completion time involved in the revisions. Prior to Engineer undertaking any substantial revisions as directed by City, City must authorize in writing the nature and scope of the revisions and accept the method and amount of compensation and the time involved in all phases of the work.

If revisions of the final plans, special provisions, and specifications, or drawings are required by reason of Engineer's error or omission, then such revisions will be made by Engineer without additional compensation to the fees herein specified, and in a time frame as directed by City.

It is expressly understood and agreed by Engineer that any compensation not specified in Section II., "Compensation to Engineer" may require Arlington City Council approval and is subject to the funding limitations.

VI.
Engineer's Coordination with Owner

Engineer shall be available for conferences with City so that Project can be designed with the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. City shall make available to Engineer all existing plans, maps, field notes, and other data in its possession relative to the Project. Engineer may show justification to City for changes in design from City standards due to the judgment of said Engineer of a cost savings to City and/or due to the surrounding topographic conditions. City shall make the final decision as to any changes after appropriate request by Engineer.

VII.
Contract Termination Provision

This contract may be terminated at any time by City for any with or without cause without any penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by City, Engineer shall immediately discontinue all services and Engineer will immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this contract. As soon as practicable after receipt of notice of termination, the Engineer shall submit a statement, showing in detail the services performed but not paid for under this contract to the date of termination. City shall then pay Engineer promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by City.

This contract may be terminated by Engineer with mutual consent of City at any time for any cause without penalty or liability except as may otherwise be specified herein. Engineer shall submit written notice to terminate contract and shall submit to City all plans and documents relative to the design of Project. City shall then ascertain cost to complete the balance of the work under this contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, City shall retain all unpaid balances and, in addition, Engineer shall pay directly to City the difference in the unpaid balance and the cost to complete the work. In no case shall City pay Engineer any additional monies other than those previously paid under the contract.

VIII.
Ownership of Documents

All drawings and specifications prepared or assembled by Engineer under this contract shall become the sole property of City and shall be delivered to City, without restriction on future use. Engineer shall retain in his files all original drawings, specifications and all other pertinent

information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers subsequent to the completion of the contract. City shall require that any such change be sealed, dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

IX.
Insurance

A. Engineer shall at Engineer's own expense, purchase, maintain and keep in force during the term of this contract such insurance as set forth below. Engineer shall not commence work under this contract until Engineer has obtained all the insurance required under this contract and such insurance has been approved by City, nor shall Engineer allow any subcontractor to commence work on his or her own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this contract shall be written on an "occurrence" basis, except for professional liability. The insurance requirements shall remain in effect throughout the term of this Contract. The policy limits stated below are at a minimum.

1. Workers' Compensation as required by law, Employers Liability Insurance of not less than $1,000,000 for each accident, $1,000,000 disease-each employee, $1,000,000 disease-policy limit.

2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this contract, fully insuring Engineer's liability for injury to or death of employees of City 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 $1,000,000 per occurrence and a $2,000,000 aggregate.

3. Commercial Automobile and Truck Liability Insurance, covering any auto or hired and non-owned vehicles, with a combined bodily injury and property damage limit of $1,000,000 per occurrence.

4. Professional Liability Insurance: Engineer shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be $1,000,000 per claim and $2,000,000 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, Engineer must maintain this policy for a period of four (4) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

5. Umbrella Liability Insurance of not less than $2,000,000 per occurrence, following form and drop down provisions included.

B. Each insurance policy to be furnished by Engineer shall include the following conditions by endorsement to the policy:

1. Except for Worker's Compensation and Professional Liability insurance, the policy shall name City as an additional insured as to all applicable coverage;

2. Each policy will require that thirty (30) days prior to the expiration in coverage, a notice thereof shall be given to City to:

City of Arlington
Risk Management - Mail Stop 63-0790
PO Box 90231
Arlington, Texas 76004-3231

If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required. Engineer shall also notify CITY within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

3. The term "Owner" or "City" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of City and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of City.

4. The policy phrase "other insurance" shall not apply to City where city is an additional insured on the policy; and

5. All provisions of the contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by Engineer, it is a condition precedent to acceptability thereof that:

1. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

2. Insurance is to be placed with carriers with an A.M. Best rating of A:VII, or as otherwise acceptable to the City.

D. Engineer agrees to the following:

1. Except for Professional Liability, Engineer hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against City, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies.

2. Companies issuing the insurance policies and Engineer shall have no recourse against City for payment of any premiums or assessments for any deductible, as all such premiums and deductibles are the sole responsibility and risk of Engineer.

3. Approval, disapproval or failure to act by City regarding any insurance supplied by Engineer (or any subcontractors) shall not relieve Engineer of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate Engineer from liability.

4. Engineer shall provide one (1) copy of a Certificates of Insurance completed on an Acord form or other State-approved form, and endorsements effecting coverage required by this section to the City by forwarding to:

City of Arlington
Department of Public Works and Transportation - Mail Stop 01-0220
Attn: Jenette T. Hull, Engineering Coordinator
PO Box 90231
Arlington, Texas 76004-3231

E. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

X.
Monies Withheld

When City has reasonable grounds for believing that:

A. Engineer will be unable to perform this contract fully and satisfactorily within the time fixed for performance; or

B. A claim exists or will exist against Engineer or City arising out of the negligence of the Engineer or the Engineer's breach of any provision of this contract; then

City may withhold payment of any amount otherwise due and payable to Engineer under this contract. Any amount so withheld may be retained by City for that period of time as it may deem advisable to protect City against any loss and may, after written notice to Engineer, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of City, and no other person or entity shall have any right or claim against City by reason of City's failure or refusal to withhold monies. No interest shall be payable by City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of City.

XI.
No Damages for Delays

Notwithstanding any other provision of this contract, Engineer shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

XII.
Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this contract, Engineer agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to City of Arlington projects and procurements, City of Arlington also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this contract, Engineer agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this contract.

The Engineer agrees to provide information about its minority status at time of contract execution. Engineer will also be required to submit cost information towards minority/woman owned businesses. The information submitted is for reporting purposes only and shall include the engineer and any other firms performing work as a part of this contract such as surveying services. See attached sample Prime and Subs & Minority/Women Business Enterprise (MWBE) Report form. Submitted form shall be accompanied by copy of certification(s) for Engineer and any applicable firms. Engineer will be required to submit anticipated dollar amounts towards these businesses (if applicable) upon execution of the contract for this project and actual dollar amounts spent with the monthly pay estimate. It will be the Engineer's responsibility to ensure submitted certification(s) are up-to-date, including for any applicable firms.

XIII.
Right to Inspect Records

Engineer agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Engineer involving transactions relating to this contract. Engineer agrees that City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Engineer reasonable advance notice of intended audits.

Engineer further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that City shall have access to and the right to examine any

directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give the consultant or subcontractor reasonable advance notice of intended audits.

XIV.
No Third Party Beneficiary

For purposes of this contract, including its intended operation and effect, the parties (City and Engineer) specifically agree and contract that: (1) the contract only affects matters/disputes between the parties to this contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Engineer or both; and (2) the terms of this contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Engineer.

XV.
Successors and Assigns

City and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this contract. Neither City nor Engineer shall assign or transfer its interest herein without the prior written consent of the other.

XVI.
Engineer's Liability

Acceptance of the final plans by City shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the designs, working drawings, specifications, or other documents prepared by said Engineer, its employees, subcontractor, agents and consultants.

XVII.
Indemnification

ENGINEER does hereby covenant and contract to indemnify and hold harmless CITY and all of its officials, officers, agents, employees and invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including reasonable attorney fees of litigation and/or settlement, that may arise by reason of death of or injury to persons or damage to or loss of use of property occasioned by any

wrongful intentional act or omission of ENGINEER as well as any negligent omission, act or error of ENGINEER, its officials, officers, agents, employees and invitees, or other persons for whom ENGINEER is legally liable with regard to the performance of this Contract, whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence or any other form of negligence. In the event of joint or concurrent negligence of ENGINEER and CITY, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas. Nothing in this paragraph is intended to waive any governmental immunity available to CITY under Texas law or waive any defenses of ENGINEER or CITY under Texas law. This paragraph shall not be construed for the benefit of any third party, nor does it create or grant any right or cause of action in favor of any third party against CITY or ENGINEER.

ENGINEER warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by ENGINEER unless ENGINEER has obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. ENGINEER covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any related statutory, common law or other right of any person or entity in performing this Contract. ENGINEER will indemnify and hold CITY and its officers, agents and employees harmless from all claims, losses and damages (including reasonable attorney's fees) with respect to such copyright, royalty or trademark rights to the extent caused by ENGINEER or for whom ENGINEER is legally liable.

The provisions of this section are intended to only provide indemnification to the extent allowed by Texas Local Gov't Code Sec. 271.094 and shall be construed to that effect. The ENGINEER as allowed by Texas Local Gov't Code Sec. 271.084 will still name CITY as additional insured in its General Liability Policy and provide any defense as allowed by the policy.

XVIII.

Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIX.

Independent Contractor

Engineer covenants and agrees that he/she 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 liable 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.

XX.
Disclosure

By signing this contract, Engineer acknowledges to City that he or she has made a full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed project and business relationships with abutting property owners. Engineer further agrees that he shall make disclosure in writing of any conflicts of interests which develop subsequent to the signing of this contract and prior to final payment under the contract.

XXI.
Venue

The parties to this contract agree and covenant that this contract shall be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this contract, exclusive venue shall lie in Tarrant County, Texas.

XXII.
Entire Agreement

This contract 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.

XXIII.
Applicable Law

This contract is entered into subject to the Charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

XXIV.
Default

If at any time during the term of this contract, Engineer shall fail to commence the work in accordance with the provisions of this contract or fail to diligently provide services in an efficient, timely, and careful manner and in strict accordance with the provisions of this contract or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this contract, then City shall have the right, if Engineer does not cure any such default after thirty (30) days written notice thereof, to terminate

this contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy, the cost to City of the performance of the balance of the work is in excess of that part of the contract sum which has not theretofore been paid to Engineer hereunder, Engineer shall be liable for and shall reimburse City for such excess.

XXV.
Headings

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

XXVI.
Non-Waiver

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

XXVII.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this contract 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 contract.

XXVIII.
Equal Employment Opportunity

Engineer shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. Engineer shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include, but not be limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXIX.
Construction of Contract

Both parties have participated fully in the review and revision of this contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this contract.

XXX.
Notices

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:

City of Arlington - Mail Stop 01-0220
ATTN: Assistant Director of Public Works and
Transportation/Engineering and Construction
PO Box 90231
Arlington, Texas 76004-3231

If intended for Engineer, to:

Dunaway Associates, L.P.
ATTN: Kervin Campbell, P.E.
550 Bailey Avenue, Suite 400
Fort Worth, Texas 76107

XXXI
Title VI

The City of Arlington, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all vendors that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Vendor will abide and ensure compliance with all terms of Appendix A of the USDOT Standard Title VI Assurances as listed below.

Appendix A of the USDOT Standard Title VI Assurances
During the performance of this contract, the engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

(1) Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-Assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended

from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Arlington shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Engineer shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Engineer shall take such action with respect to any subcontract or procurement as the City of Arlington or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Arlington to enter into such

litigation to protect the interests of the City of Arlington, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties enter into this contract on the date first written above.

ENGINEER:
Dunaway associates, L.P.

BY:_____
Tom Galbreath, A.S.L.A., R.L.A.
President

CITY OF ARLINGTON, TEXAS:

BY: _____
James F. Parajon, FAICP
Deputy City Manager

BY: _____
Walter J. Pishkur
Director of Water Utilities

APPROVED AS TO FORM:
Teris Solis, City Attorney

BY: _____

ATTEST:
Mary Supino, City Secretary

_____

THE STATE OF TEXAS §

Engineer Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Tom Galbreath, A.S.L.A., R.L.A., ☐ who is known to me or ☐ who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or ☐ who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared James F. Parajon, FAICP, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Deputy City Manager thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Walter J. Pishkur, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Director of Water Utilities thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

PRIME AND SUBS &
MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE) REPORT

Please complete this form, include copy of certification(s) and return with executed contracts

Project Name: _____

Project No: _____ Date: _____

LEGEND

* Answer with "YES" or "NO"

AI - Native American (AI)
NW - Native American, Women-Owned (NW)
AS - Asian (AS)
AW - Asian, Women-Owned (AW)
BL - Black (BL)
BW - Black, Women-Owned (BW)
HI - Hispanic (HI)
HW - Hispanic, Women-Owned (HW)
WO - Women-Owned (WO)
Other _____

PRIME CONTRACTOR	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

LIST **ALL** SUBS:

Name of Company	Description of Primary Work Type (For prequalification verification purposes)	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

SAMPLE (Copy for execution will be included with award letter)

Exhibit "A" – Scope of Services

The Engineering Service Contract (ESC) includes the scope of work needed for design survey, right-of-way documentation, and design of approximately 6,300 linear feet of residential street rebuild. The street limits include Harmon Terrace from Park Row Dr to Park Row Dr (2,570 LF), Kelly Terrace from Park Row Dr to Meadow Ln (1,050 LF), and Wynn Terrace from Forrestal Dr to south of Darlene Ln (2,680 LF) as depicted in Attachment "C" – Location Map.

Assumptions:

- Dunaway will complete a TDLR review if pedestrian improvements are more than $50,000.
- No drainage improvements are required within the limits of the street rebuilds for this project.

Scope of Services:

1) **Base Design – Street Improvements**
   a) Services outlined in ESC Section III.C, III.D, III.E, III.H & III.I
      i) Design of street & driveway paving, signing, pavement markings, and street lights for:
         (1) Harmon Terrace (Park Row Dr to Park Row Dr) – approx. 2,570 linear feet, 28 feet B-B
         (2) Kelly Terrace (Park Row Dr to Meadow Ln) – approx. 1,050 linear feet, 28 feet B-B
         (3) Wynn Terrace (Forrestal Dr to south of Darlene Ln) – approx. 2,680 linear feet, 38 feet B-B

         Sidewalk will be replaced only in locations where sidewalk currently exists.
      ii) Ponding location at 1904 River Bend Dr.
         (1) Dunaway will perform a drainage analysis of the ponding location using topographic survey of the ROW within the limits of the ponding location. Dunaway will conduct a site investigation with City staff during the preliminary walk-through and review flood complaints for property. Dunaway will then determine mitigation measures for this area and produce design plan sheets.

2) **Design Field Survey**
   a) Services outlined in ESC Section III.B, excluding Section III.B.4
   b) Per ESC Section III.B, Dunaway will provide City a list of property owners anticipated to be affected by field survey work. City will notify affected property owners with written letters prior to commencing survey.

3) **Right-of-way and/or Easement Acquisition Documents**
   a) Services outlined in ESC Section III.F
      i) It is assumed the 10 ROW corner clips will be needed on this project. The cost will be $1,500 each. If it is determined during detailed design additional corner clips are needed these will be provided at an additional cost of $1,500/EA.

4) **Water and Sanitary Sewer Improvements**
   a) Services outlined in ESC Section III.G
      i) Design of approx. 2,100 linear feet of 12-inch water line along Wynn Terrace from Inwood Drive to Darlene Lane. This proposed line will run parallel with an existing 16-inch to remain in service.
      ii) Design of approx. 200 linear feet of upsizing existing 6-inch to 8-inch sanitary sewer along Wynn Terrace between Lovers Lane and Glynn Oaks Drive.

iii) Design of approx. 50 linear feet of upsizing existing 6-inch to 8-inch sanitary sewer crossing within the intersection of Wynn Terrace and Glynn Oaks Drive.
iv) Design of approx. 50 linear feet of upsizing existing 6-inch to 8-inch sanitary sewer crossing within the intersection of Wynn Terrace and Rosewood Lane.
v) Design of approx. 50 linear feet of upsizing existing 6-inch to 8-inch sanitary sewer crossing within the intersection of Wynn Terrace and Darlene Lane.
vi) Design of approx. 50 linear feet of upsizing existing 6-inch to 8-inch sanitary sewer crossing within the intersection of Wynn Terrace and Biggs Terrace.

5) Reproduction

a) Services outlined in ESC Section III.C.1 for Conceptual, Preliminary and Final Design submittals.
b) Upon request by City, Dunaway can provide plan deliverables for Franchise Utility coordination or other parties
c) Compensation for reproduction per Attachment "B" included herein
d) Final Mylar sheets will **not** be included, unless requested by City

6) Project Meetings

a) (1) Design review meeting with City staff after Conceptual design submittal
b) (1) Design review meeting with City staff after Preliminary (60%) design submittal
c) (1) Design review meeting with City staff after Final (90%) design submittal
d) (1) Pre-bid conference meeting
e) Attendance at the Pre-Construction meeting is **not** required for this project. If requested by City this service will be provided for an hourly fee per Attachment "A".
f) Attendance at the Franchise Utility Coordination meeting is **not** required for this project. If requested by City this service will be provided for an hourly fee per Attachment "A".
g) Compensation for travel per Attachment "B" included herein

7) Site Visits

a) (1) Site observation visit with City staff prior to design
b) (1) Site observation visit with City staff after Final (90%) design prior to project completion/bidding phase
c) General construction representation is **not** required in this project. If requested by City, Dunaway will conduct construction site visits for an hourly fee per Attachment "A".
d) Compensation for travel per Attachment "B" included herein

8) Miscellaneous

a) MWBE Forms will be completed with each billing invoice on a monthly basis (10 Assumed)
b) Dunaway will respond to up to (3) RFIs during the bidding phase
c) Construction Administration is **not** required in this project. If requested by City, Dunaway will conduct construction site visits for an hourly fee per Attachment "A".

DUNAWAY

ATTACHMENT "A"

*2016 STANDARD HOURLY BILL RATE SCHEDULE

STAFF TYPE	HOURLY BILL RATE		
Administrative	$ 80.00	-	$100.00
Department Directors	$140.00	-	$245.00
Information Systems	$ 85.00	-	$170.00
Marketing/Business Development	$95.00	-	$135.00
Financial	$100.00	-	$170.00
Civil Technician	$87.00	-	$95.00
Civil Designer	$108.00	-	$130.00
Graduate Engineer	$105.00	-	$110.00
Project Engineer	$125.00	-	$150.00
Assistant Project Manager	$125.00		
Project Manager	$145.00	-	$180.00
Field Manager/Chief of Parties	$125.00	-	$145.00
Survey Project Manager	$130.00	-	$160.00
Survey Party Chief	$110.00	-	$125.00
Survey Technician	$85.00	-	$105.00
Survey Field Assistant	$54.00		
GIS	$95.00	-	$105.00
PLA Technician	$97.00		
Land Planner	$175.00		
Graduate Landscape Architect	$95.00	-	$100.00
Landscape Architect	$110.00	-	$210.00
Graduate Planner	$95.00		
Construction Administrator	$110.00		
Environmental Scientist	$105.00	-	$120.00
Intern	$73.00		
Principal	$180.00	-	$285.00
Senior Technical Expert	$180.00		

***Please note that rates are subject to change after December 31st 2016**

550 Bailey Avenue, Suite 400 ≋ Fort Worth, Texas 76107 ≋ Tel: 817.335.1121 ≋ Fax: 817.335.7437 ≋ dunawayassociates.com

DUNAWAY

Attachment "B" - Direct Expense Rates

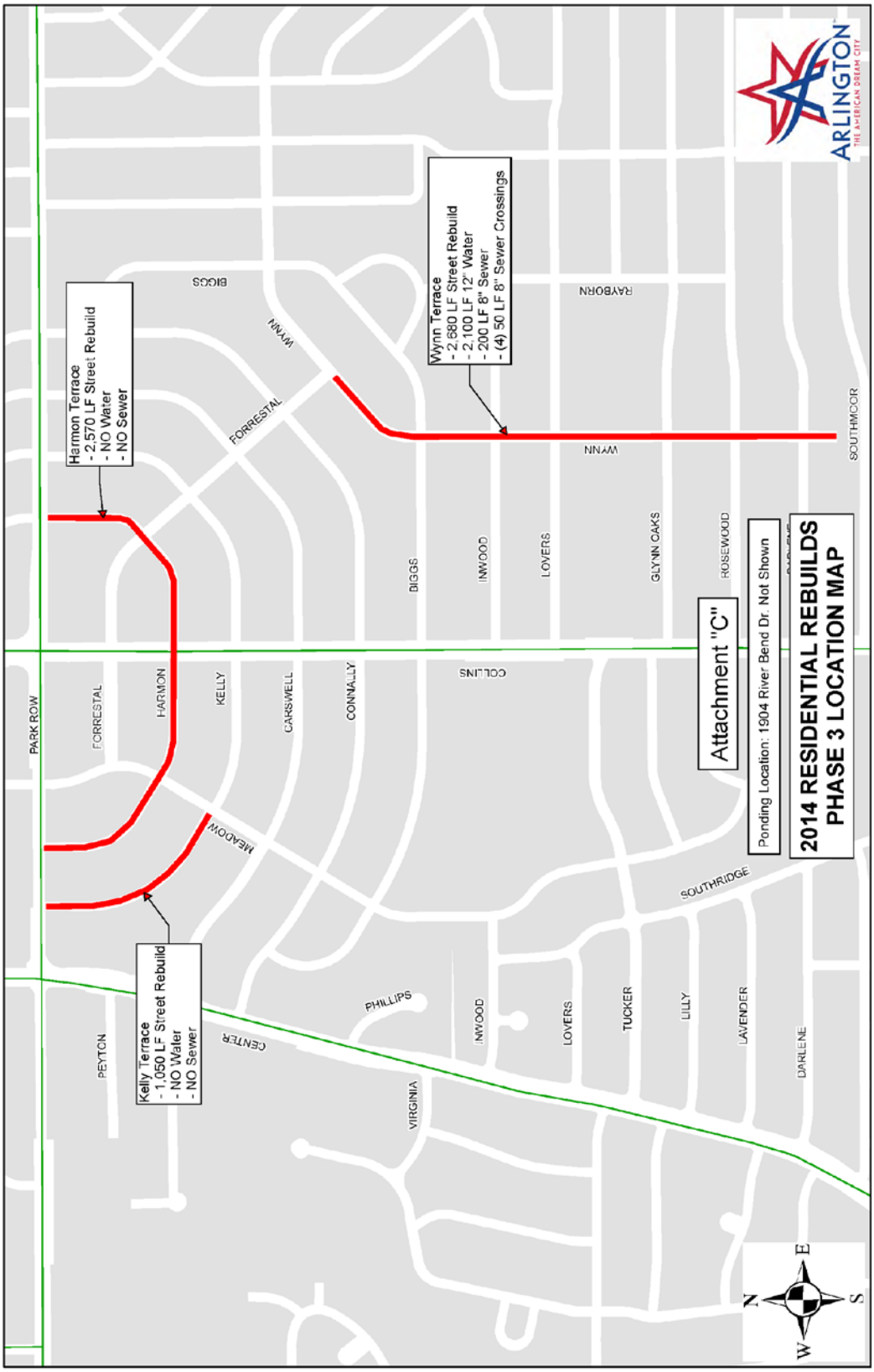
Reproduction *		
Type	Unit	Cost
Large B&W	Sheet	$ 2.20
Large Color	Sheet	$ 4.00
Large Mylar	Sheet	$ 15.00
Large Photo	Sheet	$ 45.00
Large Special Bond	Sheet	$ 35.00
Small B&W		
Legal	Sheet	$ 0.50
Letter	Sheet	$ 0.35
Tabloid	Sheet	$ 1.10
Small Color		
Legal	Sheet	$ 0.75
Letter	Sheet	$ 0.50
Tabloid	Sheet	$ 2.50
Travel		
Mileage	Mile	$ 0.54
Imagery		
Nearmap Aerial	Photo	$ 55.00
Nearmap Aerial	Deliverable	$ 220.00

Assumed Reproduction Summary				
Conceptual Design	SETS	$ / SHEET	SHEETS	TOTAL
Nearmap Aerial	1	$ 55.00	1	$ 55
Full Size Plans	4	$ 2.20	56	$ 493
Half Size Plans	4	$ 1.10	56	$ 246
				$ 794
Preliminary Design				
Full Size Plans	4	$ 2.20	56	$ 493
Half Size Plans	4	$ 1.10	56	$ 246
				$ 739
Final Design				
Full Size Plans	4	$ 2.20	56	$ 493
Half Size Plans	4	$ 1.10	56	$ 246
				$ 739
Bid Advertisement				
Full Size Plans	2	$ 2.20	56	$ 246
Half Size Plans	2	$ 1.10	56	$ 123
				$ 370
Total				**$ 2,642**

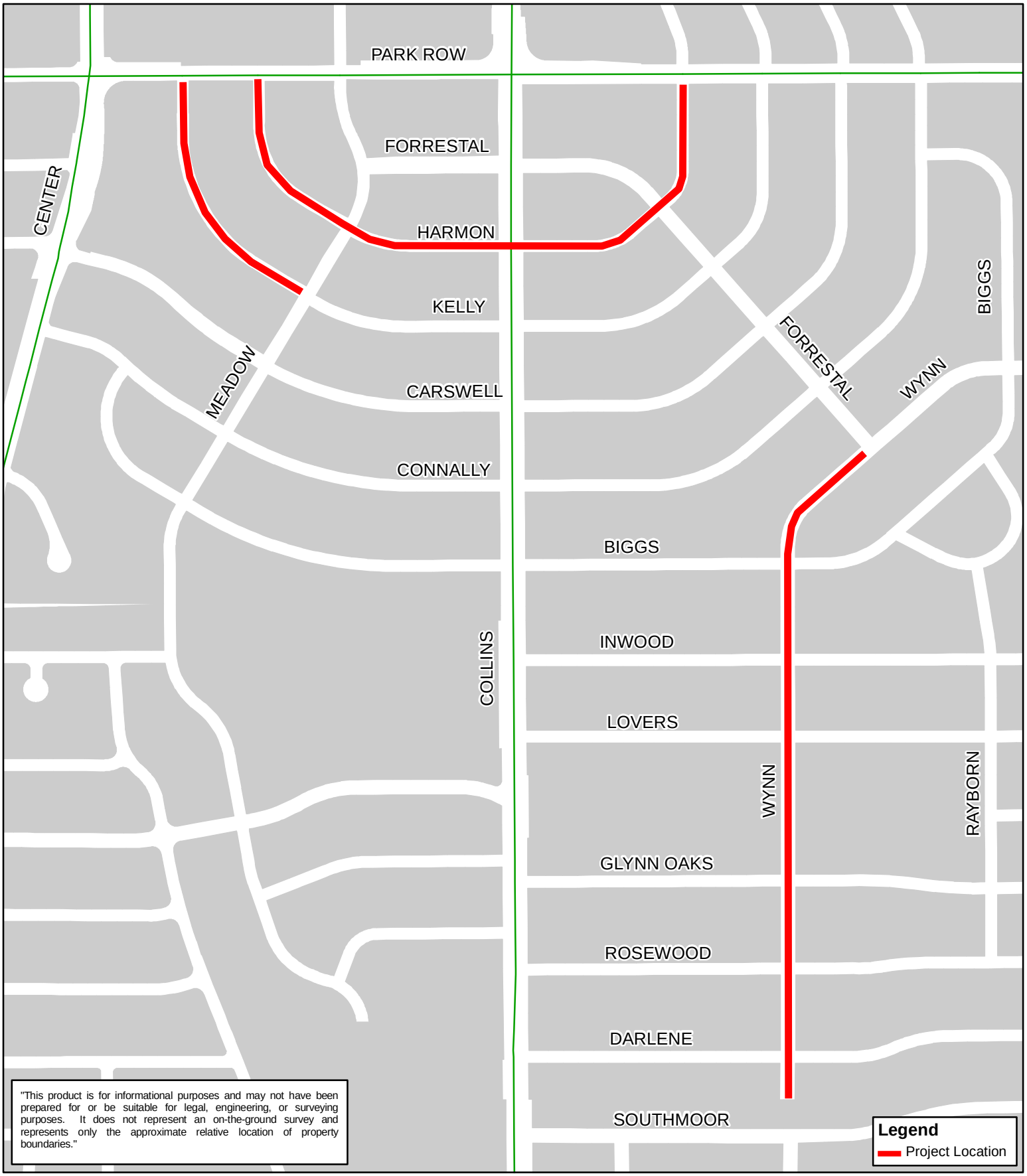
Assumed Travel Summary				
Site Observation	Miles	$ / Mile	Trips	TOTAL
(2) Site Visits	38	$ 0.54	2	$ 41
Meetings				
(1) Scoping Meeting	36	$ 0.54	1	$ 19
(3) Design Review Meetings	36	$ 0.54	3	$ 58
(1) Franchise Coord. Meeting	36	$ 0.54	1	$ 19
(1) Pre-bid Conference	36	$ 0.54	1	$ 19
Total				**$ 158**

***Please note that rates are subject to change after December 31st 2016**

550 Bailey Avenue, Suite 400 ≋ Fort Worth, Texas 76107 ≋ Tel: 817.335.1121 ≋ Fax: 817.335.7437 ≋ dunawayassociates.com



END OF DOCUMENT



N
W E
S

2014 Residential Rebuilds
Phase 3 Location Map
Project No. PWST16001

ARLINGTON
THE AMERICAN DREAM CITY

Prepared By:
PWT Engineering Operations
3/11/2016

Staff Report

Engineering Services Contract for 2016 Residential Street Rebuilds (Phase I); Project No. PWST16004	
City Council Meeting Date: 05/24/16	Action Being Considered: Minute Order

RECOMMENDATION

Authorizing the City Manager or his designee to execute an Engineering Services Contract with Elder Engineering, Inc., of Mansfield, Texas, for the design of the 2016 Residential Street Rebuilds, Phase I, in an amount not to exceed $174,430.

PRIOR BOARD OR COUNCIL ACTION

On November 18, 2014, City Council passed Resolution No. 14-299 to approve a resolution of the City Council of the City of Arlington, Texas canvassing of the returns and declaring the results of a bond election held in the City of Arlington, Texas on November 4, 2014.

On February 23, 2016, City Council passed Resolution No. 16-032 to adopt the Capital Budget for the City of Arlington for Fiscal Year 2016, beginning October 1, 2015 and ending September 30, 2016.

ANALYSIS

The 2016 Capital Budget included $6,995,000 for design and reconstruction of existing residential streets from the 2014 Bond Election. The following streets have been identified for the 2016 Residential Street Rebuilds, Phase I:

Concrete Street Rebuild and Sanitary Sewer Line Renewal

Belvedere Drive (Collins Street to Mitchell Street)
Cedar Street (Woodrow Street to Cooper Street)
Gardiner Street (Sanford Street to Fuller Street)
Woodrow Street (Fuller Street to Cedar Street)

Ponding Location

801 – 807 Scott Drive

	Not to Exceed
Base Design Fee:	$103,660
Santiary Sewer Design Fee:	$35,630
Field Survey Work Fee (Public Works):	$28,140
Ponding Survey Fee:	$2,000
ROW and Easements Aquisitions:	$5,000
Total:	**$174,430**

In February 2013, City Council approved a new "Do Worst First" street condition philosophy through which to prioritize residential street reconstruction projects. One of the fundamental elements of this philosophy is to address first the streets that have an Overall Condition Index (OCI) below 50, referred to as "red" streets since they show significant failure. All the streets listed above as part of the 2016 Residential Rebuilds, Phase I project have an OCI below 50. These streets account for approximately **1.03** lane-miles of "'red" streets.

FINANCIAL IMPACT

Funding is available in the following accounts:

Street Bond Fund Account No. 358504-61043-65790698	$138,800
Sanitary Sewer Bond Fund Account No. 648502-61042-17965204	$35,630

FY 2016	FY 2017	FY 2018
$174,430	$0	$0

ADDITIONAL INFORMATION

Attached:	Engineering Services Contract Location Map
Under separate cover:	None
Available in the City Secretary's Office:	None

STAFF CONTACT(S)

David Wynn, P.E.,
Interim Director
Public Works & Transportation
817-459-6560
David.Wynn@arlingtontx.gov

Walter J. Pishkur
Director of Water Utilities
817-459-6603
Buzz.Pishkur@arlingtontx.gov

THE STATE OF TEXAS §

ENGINEERING SERVICES CONTRACT

COUNTY OF TARRANT §

THIS CONTRACT is made and entered into this 24th day of May, 2016, by and between the City of Arlington, Tarrant County, Texas, a municipal corporation, hereinafter called "City" and Elder Engineering, Inc., hereinafter called "Engineer," whose address is P.O. Box 698, Mansfield, Texas, 76063-0698.

W I T N E S S E T H:

That in consideration of the terms and conditions contained herein the parties do mutually agree as follows:

I.
Employment of Engineer

Engineer will perform all services under this contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If Engineer is representing that he/she has special expertise in one or more areas to be utilized in this contract, then Engineer agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards. Engineer will provide services necessary for the construction of improvements to City's infrastructure, the location and extent of which is as follows:

2016 RESIDENTIAL STREET REBUILDS, PHASE 1

Concrete Street Rebuild and Sanitary Sewer Line Renewal
Belvedere Drive (Collins Street to Mitchell Street)
Cedar Street (Woodrow Street to Cooper Street)
Gardiner Street (Sanford Street to Fuller Street)
Woodrow Street (Fuller Street to Cedar Street)

Ponding Rehabilitation
801-807 Scott Drive

City of Arlington Project No. PWST16004, being located within the City of Arlington, Tarrant County, Texas, and hereinafter referred to as the "Project." The services to be performed by Engineer under this Contract include but are not limited to the services described in attached Scope of Services/Attachment “A” which is attached and referenced herein as if written word for word.

II.
Compensation to Engineer

A. City agrees to pay to Engineer for all services outlined in Section III, a base design fee in an amount not to exceed $**103,660.00**. The following services are not included in this base fee:

1. Services required by Section III.A., Additional Services, for which cost is set out in III.A.

2. Work necessary to perform the design field survey as described in III.B., Field Survey Work, for which cost is set out in II.B and II.B.1.

3. Work necessary for the preparation of right-of-way and/or easement acquisition data as described by Section III.F., Right-of-Way/Easement Determination, for which cost is set out in II.C.

4. Work necessary to design the sanitary sewer improvements as described by Section III.G., for which cost is set out in II.E.

B. All costs associated with performing the design field survey as outlined in III.B. shall be paid to Engineer by City in an amount not to exceed $**28,140.00**.

B.1. All costs associated with performing the design field survey for the ponding location as outlined in III.B. shall be paid to Engineer by City on an hourly fee basis as shown on Attachment "A" in an amount not to exceed $**2,000.00**.

C. All costs associated with right-of-way and/or easement acquisition data, such as Utility Easements and “corner clips”, as outlined in III.F. shall be paid to Engineer by City on an hourly fee basis as shown in Attachment "A" at the rate of $1,000.00 per description, in an amount not to exceed $**5,000.00** unless mutually agreed to in writing by the parties hereto. Attachment "A" is hereby incorporated within this contract as if written word for word. In no case shall more than seventy-five percent (75%) of this amount be paid until all right-of-way acquisition data is accepted by City.

D. Direct expenses shall include subcontract charges for contract labor, computer time, printing, reproduction expense, communication expense, travel, transportation, and subsistence out of Tarrant and Dallas Counties directly related to the work. Direct costs are included in the base fee and shall not exceed the rates indicated in Attachment "B" in an amount not to exceed $3,200.00. Attachment "B" is hereby incorporated within this contract as if written word for word and shall contain the result of the rates for direct costs multiplied by the factor of 1.1. Evidence of cost incurred for direct expenses shall be submitted with each billing.

E. All costs associated with design of the sanitary sewer improvements, as outlined in III.G., shall be paid to Engineer by City on an hourly fee basis as shown on Attachment "A" in an amount not to exceed $**35,630.00**.

F. Written request for payment for services rendered by Engineer may be made on a monthly basis. City will pay to the Engineer as follows:

1. An amount not to exceed the amount set out in II.B until satisfactory completion of the design survey as set forth herein.

2. Conceptual design plans are not required for this project; hence no payment is required.

3. An amount not to exceed seventy percent (70%) of the base design fee until satisfactory completion of the preliminary construction plans.

4. An amount not to exceed ninety five percent (95%) of the base design fee until satisfactory completion of the final construction plans and specifications and right-of-way/easement documents.

5. An amount equal to five percent (5%) shall be retained until such time as City requests and receives one (1) set of reproducibles of the final design construction plans and other documents described herein.

6. No interest shall accrue for late payments. CITY shall not be required to pay any amount in excess of the original amount unless CITY shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts. If at any time it becomes evident that the cost estimates provided to CITY will not be sufficient to complete the authorized work, Engineer will immediately notify CITY in writing of said fact.

III.
Services

A. Additional Services – No additional services is anticipated at this time. However, should the City request for additional services, it shall be mutually agreed to in writing and the fee shall be on an hourly basis, as shown in Attachment "A". In no case shall more than seventy-five percent (75%) of the agreed amounts be paid until such services are accepted by City.

B. Field Survey Work - Engineer shall furnish a survey field party to collect all field information necessary to prepare complete and detailed plans, specifications, and contract documents consistent with prevailing engineering standards. This field information shall be based on NAD-83 or the latest version of the City's GPS Monument Manual located on Public Works & Transportation web page. Before the survey party is engaged in

surveying on private property, City shall send letters to all adjacent property owners and other affected property owners notifying them of the survey party's intent to survey on private property. Engineer shall provide City with the legal description and address of the affected property(s). Engineer shall direct the field party in the following:

1. Establishing the proposed centerline or a suitable reference base line on the ground as required by City.

2. Making complete and accurate cross-section field notes.

3. Making a complete topographic survey of all existing features above and below ground level that would or could affect proposed construction. These features shall include, but are not limited to, telephone poles, power poles, all other utilities or other structures located on or above or below the surface, fences, retaining walls, water meters, detector check valves, manholes, vaults, sprinkler heads, structures, culverts, pipes and all other facilities in close proximity to the construction. Also, all buildings, trees, steps, and other topographical features which would be of interest to the property owner in discussing the plans with City engineers must be shown accurately and drawn to scale. Engineer shall also show street numbers for all existing houses and structures.

4. Determining horizontal and vertical location of all underground utilities (if readily accessible) or other underground structures based upon information obtained in accordance with Section III where they cross any part of the proposed storm drainage system or street system or may affect the proposed Project. The Engineer shall not be responsible for the cost of exposing these utilities or repairing damage caused by such exposure unless due to omission or other negligence by Engineer.

5. Making of all surveys necessary to determine limits of any existing right-of-way.

C. <u>General Requirements</u>

1. Each time Engineer submits plans and specifications to City, eight (8) copies (four {4} full size {22”x34”}, four {4} half scaled {11x17}) and a .pdf of each shall be submitted to the Department of Public Works and Transportation. These shall be reviewed and checked by City and returned to Engineer for corrections. When the corrected copies of the plans and specifications are returned to City, the original and reviewed hard copies of the plans and specifications shall also be returned to City. All plans, specifications, documents, provisions, attachments, and correspondence provided in accordance with this contract shall be dated. The City will supply plans for Project to other parties, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project.

2. Specific design requirements shall be obtained from the City of Arlington *Design Criteria Manual*. Landscaping materials shall be in accordance with the latest approved plant list posted by the Parks and Recreation Department. Irrigation shall be in accordance with the latest ordinances.

   Bike lanes, if required, shall be designed in accordance with the *Bicycle and Pedestrian Facilities Planning and Design Guidelines* developed by the North Central Texas Council of Governments Guide for the Development of Bicycle Facilities by the American Association of State Highway and Transportation Officials for the design of bikeway lanes.

   Entertainment District Standards shall be incorporated in accordance with the latest Unified Development Code, if the project is located within the Entertainment District.

3. Each set of plans shall be stamped "Review," and each sheet of the plans shall be signed and dated with license number noted by Engineer until approval of the final design construction plans by City, whereupon the word "Review" shall be omitted and the plans shall be stamped "Final" on the cover sheet. Each sheet of the final plans shall include the Engineer's seal, signature and date.

4. City will coordinate with the utility companies, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project. Coordination shall include any and all exposure, removal, relocation and any proposed improvements necessary for implementation of Project. Engineer shall attend utility coordination meeting(s) for Project, as requested by the City. Engineer shall indicate on the final plans all existing utilities and proposed improvements both on plan and profile sheets.

5. Engineer shall accompany City representatives on Project observation visits prior to commencing design of Project and prior to final design of Project.

6. Upon completion of the final design construction plans, special provisions and specifications, and contract documents, Engineer shall submit a letter of notification to City stating completion of design of Project.

7. Review by City does not relieve Engineer of responsibility to prepare construction plans and specifications in accordance with prevailing engineering standards.

8. Engineer shall attend the pre-bid meeting and assist with inquiries pertaining to the final design of Project.

D. <u>Conceptual Design Plans</u> - Will not be required on this project.

E. Preliminary Design Construction Plans - At such time as Engineer is directed by City, Engineer shall prepare preliminary plans, including a title sheet, quantity sheets, and details. The requirements for preliminary plans are included in the City of Arlington *Design Criteria Manual*.

F. Right-of-Way/Easement Determination – In conformance with City standards, Engineer shall survey, render field notes, individual parcel exhibits for any additional right-of-way and/or easements, including temporary construction easements, needed. The requirements for right-of-way and easement submission are included in the City of Arlington *Design Criteria Manual*. This information shall be required prior to acceptance of final construction plans.

G. Sanitary Sewer Design – Engineer shall provide the sanitary sewer design with the plans. The sanitary sewer design requirements are included in the City of Arlington *Design Criteria Manual*.

H. Final Design Construction Plans - Upon acceptance of preliminary plans by the City, the Engineer shall prepare final plans. Final plans shall be consistent with previous sections and shall include:

1. Right-of-way/Easements and documents

2. Construction plans.

3. Bid proposal.

4. Special specifications as required.

I. Miscellaneous Requirements - Engineer shall furnish, upon request by City electronic files in .pdf format of the "Final" approved, sealed and dated plans. If electronic files are not feasible, City may accept one (1) set of film reproducibles. Engineer shall also submit an electronic file of the “Final” drawings in .dwg format.

In performing the services outlined above, Engineer will protect City to the extent reasonably possible against defects and deficiencies in the work of contractors. Engineer will report any observed deficiencies to City and Engineer will take any other appropriate actions; however, it is understood that Engineer does not guarantee the contractor’s performance, nor is Engineer responsible for supervision of the contractor’s operation and employees except to the extent defects, omissions or negligence is reasonably discoverable by Engineer. Engineer shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractor, or the safety precautions and programs incident to the work of the contractor.

IV.
Time for Completion

Engineer agrees to complete and submit all work required by City as follows:

1. Conceptual design plans are not required for this project

2. Preliminary design construction plans in 180 calendar days from acceptance of the conceptual plans and written notice to proceed with preliminary plans.

3. Final design construction plans and specifications in 42 calendar days from acceptance of preliminary plans and written notice to proceed with final plans. Subsequent submittals of final plans shall be returned to the City within six (6) weeks of the date of the previous review letter.

Calendar days for each design phase shall commence when Engineer is notified to proceed and shall terminate when Engineer has submitted plans to the City. No extensions of time shall be granted unless a written request is submitted by Engineer, and such request is approved in writing by City.

V.
Revisions of Plans and Specifications

City reserves the right to direct substantial revision of the plans, special provisions, and specifications after acceptance by City as City may deem necessary, but in such event, City shall pay Engineer equitable compensation for services rendered in making such revisions. In any event, when Engineer is directed to make substantial revisions under this Section of the contract, Engineer shall provide to City a written proposal for the entire costs involved in providing City a completed set of plans, specifications and special provisions, and the completion time involved in the revisions. Prior to Engineer undertaking any substantial revisions as directed by City, City must authorize in writing the nature and scope of the revisions and accept the method and amount of compensation and the time involved in all phases of the work.

If revisions of the final plans, special provisions, and specifications, or drawings are required by reason of Engineer's error or omission, then such revisions will be made by Engineer without additional compensation to the fees herein specified, and in a time frame as directed by City.

It is expressly understood and agreed by Engineer that any compensation not specified in Section II., "Compensation to Engineer" may require Arlington City Council approval and is subject to the funding limitations.

VI.
Engineer's Coordination with Owner

Engineer shall be available for conferences with City so that Project can be designed with the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. City shall make available to Engineer all existing plans, maps, field notes, and other data in its possession relative to the Project. Engineer may show justification to City for changes in design from City standards due to the judgment of said Engineer of a cost savings to City and/or due to the surrounding topographic conditions. City shall make the final decision as to any changes after appropriate request by Engineer.

VII.
Contract Termination Provision

This contract may be terminated at any time by City for any with or without cause without any penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by City, Engineer shall immediately discontinue all services and Engineer will immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this contract. As soon as practicable after receipt of notice of termination, the Engineer shall submit a statement, showing in detail the services performed but not paid for under this contract to the date of termination. City shall then pay Engineer promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by City.

This contract may be terminated by Engineer with mutual consent of City at any time for any cause without penalty or liability except as may otherwise be specified herein. Engineer shall submit written notice to terminate contract and shall submit to City all plans and documents relative to the design of Project. City shall then ascertain cost to complete the balance of the work under this contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, City shall retain all unpaid balances and, in addition, Engineer shall pay directly to City the difference in the unpaid balance and the cost to complete the work. In no case shall City pay Engineer any additional monies other than those previously paid under the contract.

VIII.
Ownership of Documents

All drawings and specifications prepared or assembled by Engineer under this contract shall become the sole property of City and shall be delivered to City, without restriction on future use. Engineer shall retain in his files all original drawings, specifications and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers subsequent to the completion of the contract. City shall require that any such change be sealed, dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

IX.
Insurance

A. Engineer shall at Engineer's own expense, purchase, maintain and keep in force during the term of this contract such insurance as set forth below. Engineer shall not commence work under this contract until Engineer has obtained all the insurance required under this contract and such insurance has been approved by City, nor shall Engineer allow any subcontractor to commence work on his or her own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this contract shall be written on an "occurrence" basis, except for professional liability. The insurance requirements shall remain in effect throughout the term of this Contract. The policy limits stated below are at a minimum.

1. Workers' Compensation as required by law, Employers Liability Insurance of not less than $1,000,000 for each accident, $1,000,000 disease-each employee, $1,000,000 disease-policy limit.

2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this contract, fully insuring Engineer's liability for injury to or death of employees of City 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 $1,000,000 per occurrence and a $2,000,000 aggregate.

3. Commercial Automobile and Truck Liability Insurance, covering any auto or hired and non-owned vehicles, with a combined bodily injury and property damage limit of $1,000,000 per occurrence.

4. Professional Liability Insurance: Engineer shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be $1,000,000 per claim and $2,000,000 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, Engineer must maintain this policy for a period of four (4) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

5. Umbrella Liability Insurance of not less than $2,000,000 per occurrence, following form and drop down provisions included.

B. Each insurance policy to be furnished by Engineer shall include the following conditions by endorsement to the policy:

1. Except for Worker's Compensation and Professional Liability insurance, the policy shall name City as an additional insured as to all applicable coverage;

2. Each policy will require that thirty (30) days prior to the expiration in coverage, a notice thereof shall be given to City to:

City of Arlington
Risk Management - Mail Stop 63-0790
PO Box 90231
Arlington, Texas 76004-3231

If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required. Engineer shall also notify CITY within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

3. The term "Owner" or "City" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of City and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of City.

4. The policy phrase "other insurance" shall not apply to City where city is an additional insured on the policy; and

5. All provisions of the contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by Engineer, it is a condition precedent to acceptability thereof that:

1. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

2. Insurance is to be placed with carriers with an A.M. Best rating of A:VII, or as otherwise acceptable to the City.

D. Engineer agrees to the following:

1. Except for Professional Liability, Engineer hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against City, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies.

2. Companies issuing the insurance policies and Engineer shall have no recourse against City for payment of any premiums or assessments for any deductible, as all such premiums and deductibles are the sole responsibility and risk of Engineer.

3. Approval, disapproval or failure to act by City regarding any insurance supplied by Engineer (or any subcontractors) shall not relieve Engineer of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate Engineer from liability.

4. Engineer shall provide one (1) copy of a Certificates of Insurance completed on an Acord form or other State-approved form, and endorsements effecting coverage required by this section to the City by forwarding to:

City of Arlington
Department of Public Works and Transportation - Mail Stop 01-0220
Attn: Jenette T. Hull, Engineering Coordinator
PO Box 90231
Arlington, Texas 76004-3231

E. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

X.
Monies Withheld

When City has reasonable grounds for believing that:

A. Engineer will be unable to perform this contract fully and satisfactorily within the time fixed for performance; or

B. A claim exists or will exist against Engineer or City arising out of the negligence of the Engineer or the Engineer's breach of any provision of this contract; then

City may withhold payment of any amount otherwise due and payable to Engineer under this contract. Any amount so withheld may be retained by City for that period of time as it may deem advisable to protect City against any loss and may, after written notice to Engineer, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of City, and no other person or entity shall have any right or claim against City by reason of City's failure or refusal to withhold monies. No interest shall be payable by City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of City.

XI.
No Damages for Delays

Notwithstanding any other provision of this contract, Engineer shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

XII.
Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this contract, Engineer agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to City of Arlington projects and procurements, City of Arlington also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this contract, Engineer agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this contract.

The Engineer agrees to provide information about its minority status at time of contract execution. Engineer will also be required to submit cost information towards minority/woman owned businesses. The information submitted is for reporting purposes only and shall include the engineer and any other firms performing work as a part of this contract such as surveying services. See attached sample Prime and Subs & Minority/Women Business Enterprise (MWBE) Report form. Submitted form shall be accompanied by copy of certification(s) for Engineer and any applicable firms. Engineer will be required to submit anticipated dollar amounts towards these businesses (if applicable) upon execution of the contract for this project and actual dollar amounts spent with the monthly pay estimate. It will be the Engineer's responsibility to ensure submitted certification(s) are up-to-date, including for any applicable firms.

XIII.
Right to Inspect Records

Engineer agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Engineer involving transactions relating to this contract. Engineer agrees that City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Engineer reasonable advance notice of intended audits.

Engineer further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that City shall have access to and the right to examine any

directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give the consultant or subcontractor reasonable advance notice of intended audits.

XIV.
No Third Party Beneficiary

For purposes of this contract, including its intended operation and effect, the parties (City and Engineer) specifically agree and contract that: (1) the contract only affects matters/disputes between the parties to this contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Engineer or both; and (2) the terms of this contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Engineer.

XV.
Successors and Assigns

City and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this contract. Neither City nor Engineer shall assign or transfer its interest herein without the prior written consent of the other.

XVI.
Engineer's Liability

Acceptance of the final plans by City shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the designs, working drawings, specifications, or other documents prepared by said Engineer, its employees, subcontractor, agents and consultants.

XVII.
Indemnification

ENGINEER does hereby covenant and contract to indemnify and hold harmless CITY and all of its officials, officers, agents, employees and invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including reasonable attorney fees of litigation and/or settlement, that may arise by reason of death of or injury to persons or damage to or loss of use of property occasioned by any

wrongful intentional act or omission of ENGINEER as well as any negligent omission, act or error of ENGINEER, its officials, officers, agents, employees and invitees, or other persons for whom ENGINEER is legally liable with regard to the performance of this Contract, whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence or any other form of negligence. In the event of joint or concurrent negligence of ENGINEER and CITY, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas. Nothing in this paragraph is intended to waive any governmental immunity available to CITY under Texas law or waive any defenses of ENGINEER or CITY under Texas law. This paragraph shall not be construed for the benefit of any third party, nor does it create or grant any right or cause of action in favor of any third party against CITY or ENGINEER.

ENGINEER warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by ENGINEER unless ENGINEER has obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. ENGINEER covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any related statutory, common law or other right of any person or entity in performing this Contract. ENGINEER will indemnify and hold CITY and its officers, agents and employees harmless from all claims, losses and damages (including reasonable attorney's fees) with respect to such copyright, royalty or trademark rights to the extent caused by ENGINEER or for whom ENGINEER is legally liable.

The provisions of this section are intended to only provide indemnification to the extent allowed by Texas Local Gov't Code Sec. 271.094 and shall be construed to that effect. The ENGINEER as allowed by Texas Local Gov't Code Sec. 271.084 will still name CITY as additional insured in its General Liability Policy and provide any defense as allowed by the policy.

XVIII.
Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIX.
Independent Contractor

Engineer covenants and agrees that he/she 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 liable 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.

XX.
Disclosure

By signing this contract, Engineer acknowledges to City that he or she has made a full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed project and business relationships with abutting property owners. Engineer further agrees that he shall make disclosure in writing of any conflicts of interests which develop subsequent to the signing of this contract and prior to final payment under the contract.

XXI.
Venue

The parties to this contract agree and covenant that this contract shall be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this contract, exclusive venue shall lie in Tarrant County, Texas.

XXII.
Entire Agreement

This contract 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.

XXIII.
Applicable Law

This contract is entered into subject to the Charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

XXIV.
Default

If at any time during the term of this contract, Engineer shall fail to commence the work in accordance with the provisions of this contract or fail to diligently provide services in an efficient, timely, and careful manner and in strict accordance with the provisions of this contract or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this contract, then City shall have the right, if

Engineer does not cure any such default after thirty (30) days written notice thereof, to terminate this contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy, the cost to City of the performance of the balance of the work is in excess of that part of the contract sum which has not theretofore been paid to Engineer hereunder, Engineer shall be liable for and shall reimburse City for such excess.

XXV.
Headings

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

XXVI.
Non-Waiver

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

XXVII.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this contract 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 contract.

XXVIII.
Equal Employment Opportunity

Engineer shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. Engineer shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include, but not be limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXIX.
Construction of Contract

Both parties have participated fully in the review and revision of this contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this contract.

XXX.
Notices

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:

City of Arlington - Mail Stop 01-0220
ATTN: Assistant Director of Public Works and
Transportation/Engineering and Construction
PO Box 90231
Arlington, Texas 76004-3231

If intended for Engineer, to:

Elder Engineering, Inc.
P.O. Box 698
Mansfield, Texas 76063-0698

XXXI
Title VI

The City of Arlington, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all vendors that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Vendor will abide and ensure compliance with all terms of Appendix A of the USDOT Standard Title VI Assurances as listed below.

Appendix A of the USDOT Standard Title VI Assurances
During the performance of this contract, the engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

(1) Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-Assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Arlington shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Engineer shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Engineer shall take such action with respect to any subcontract or procurement as the City of Arlington or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Arlington to enter into such litigation to protect the interests of the City of Arlington, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties enter into this contract on the date first written above.

ENGINEER:
ELDER ENGINEERING, INC.

BY: _____
Pat Elder, P.E.
President

CITY OF ARLINGTON, TEXAS:

BY: _____
James F. Parajon, FAICP
Deputy City Manager

BY: _____
Walter J. Pishkur
Director of Water Utilities

APPROVED AS TO FORM:
Teris Solis, City Attorney

BY: _____

ATTEST:
Mary Supino, City Secretary

_____

THE STATE OF TEXAS §

COUNTY OF TARRANT §

Engineer Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared ____Pat Elder, P.E.____, ☐ who is known to me or ☐ who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or ☐ who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared James F. Parajon, FAICP, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Deputy City Manager thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Walter J. Pishkur, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Director of Water Utilities thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

PRIME AND SUBS &
MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE) REPORT

Please complete this form, include copy of certification(s) and return with executed contracts

Project Name: _____

Project No: _____ Date: _____

LEGEND

* Answer with "YES" or "NO"

AI - Native American (AI)
NW - Native American, Women-Owned (NW)
AS - Asian (AS)
AW - Asian, Women-Owned (AW)
BL - Black (BL)
BW - Black, Women-Owned (BW)
HI - Hispanic (HI)
HW - Hispanic, Women-Owned (HW)
WO - Women-Owned (WO)
Other _____

PRIME CONTRACTOR	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

LIST **ALL** SUBS:

Name of Company	Description of Primary Work Type (For prequalification verification purposes)	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

SAMPLE (Copy for execution will be included with award letter)

ATTACHMENT 'A'
SCOPE OF SERVICES

Engineer agrees to provide construction plans for the locations indicated in Section I of the contract to include the following construction activities:

- Replace existing street pavement with 7" thick, 28' wide reinforced concrete pavement, including reconstruction of concrete driveway approaches, sidewalks, curb inlets, and street signs (total length all streets approximately 5,740 LF).

- Renew sanitary sewer lines, including sewer services to property line.

Engineer's surveying consultant shall provide all topographic surveys for design and shall perform any necessary easement acquisition documents.

The construction plan set will include a plan, profile and cross section of each street, plan and profile of sanitary sewer renewals, plan of traffic signs to be replaced, project general notes, construction details, and summary of quantities. An *Engineer's Opinion of Cost* and Bid Proposal for use in the project bid documents will also be provided.

FEE SCHEDULE (Hourly Rates)

Project Engineer…….$125
Registered Professional Land Surveyor……..$125
Survey Crew……$110
Survey Technician……$85
Survey Clerical/Technical Typist…….....$55

ATTACHMENT 'B'

PRINTING & REPRODUCTION COST ESTIMATE					
	NUMBER OF SETS	SHEETS PER SET	PRINT COST	BINDING	TOTAL COST
BOND COPIES (FULL SIZE)	16	60	$1,059.84	$24.39	$1,084.23
BOND COPIES (HALF SIZE)	16	60	$353.28	$24.39	$377.67
REDUCE TO HALF SIZE	4	60	$360.00	$6.10	$366.10
MYLARS	1	60	$864.00		$864.00
				SUBTOTAL	$2,692.01
				TAX	$222.09
				TOTAL	$2,914.10
				CONTRACT AMT = (1.1)(TOTAL)	**$3,200.00**

CITY OF ARLINGTON

2016 Residential Street Rebuild Phase I

Residential Street Rebuilds with Sanitary Sewer Renewals

ENGINEER COMPENSATION

DESIGN COST ESTIMATE

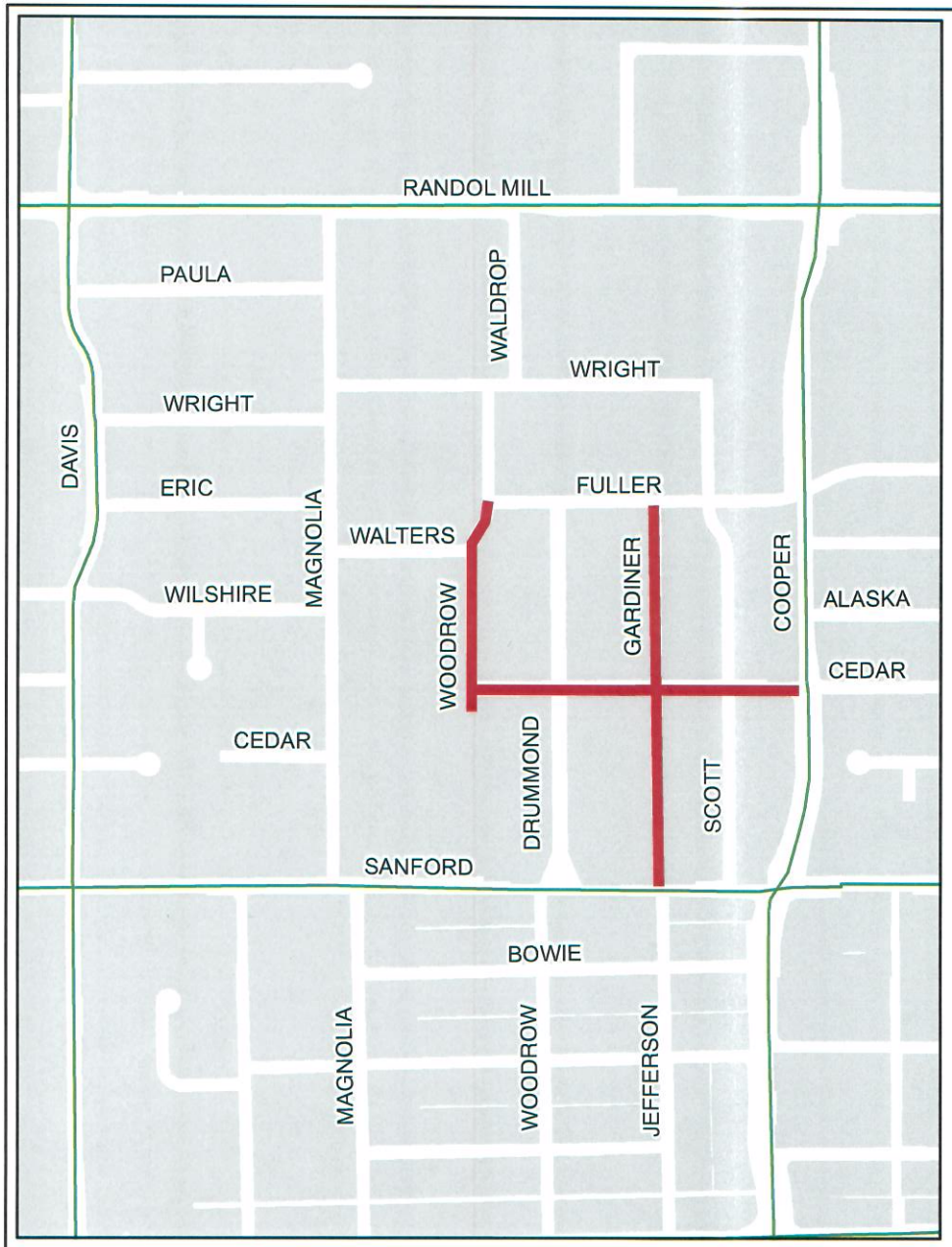
	CONST COST	MULTIPLIER	CURVE 'A'	DESIGN COST
PAVING & PONDING	$1,641,548	0.85	7.20%	$100,460
SANITARY SEWER	$487,300	0.85	8.60%	$35,630
DIRECT COSTS (NTE)				$3,200

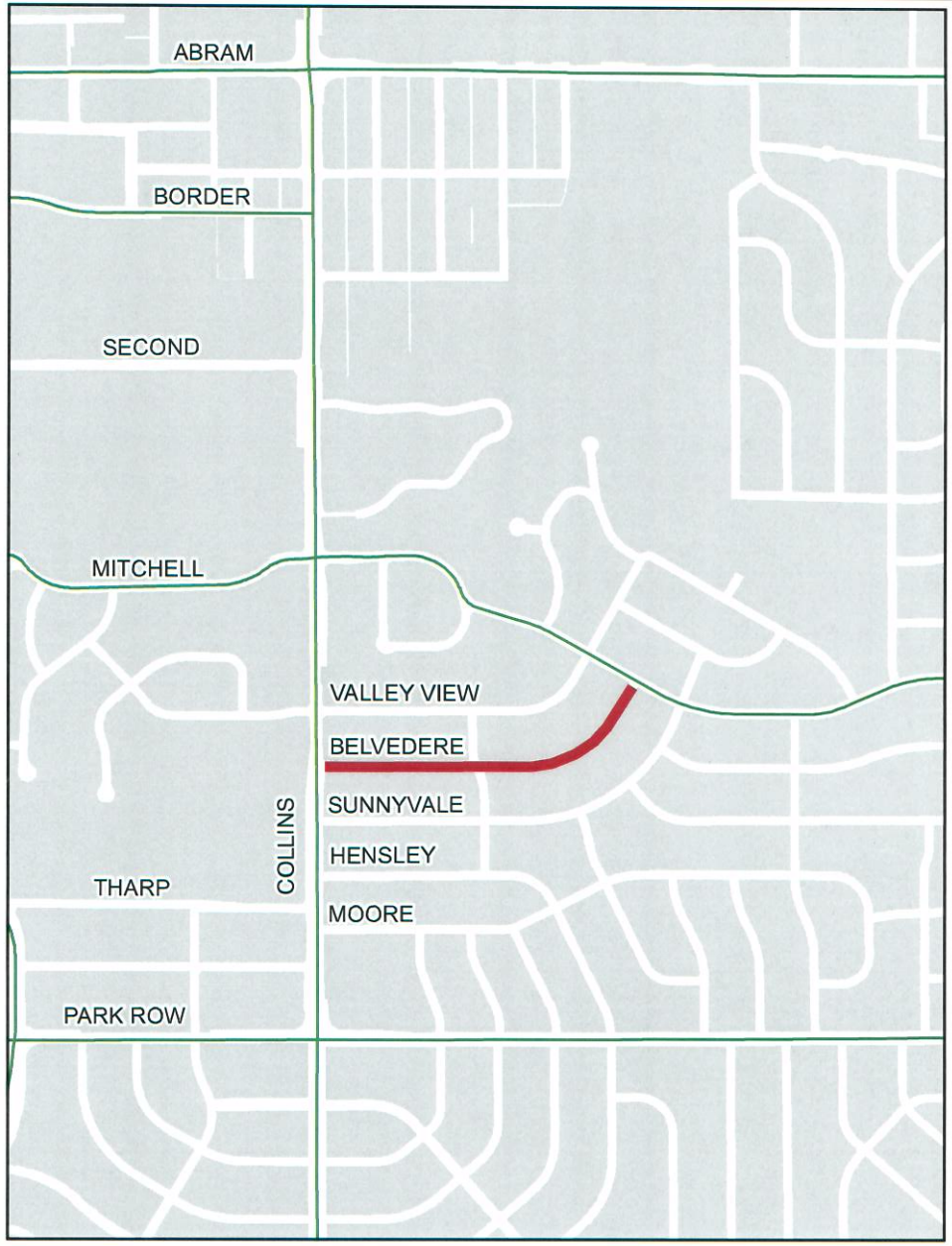
Notes: Curve 'A' is median compensation % obtained from "Compensation Curve A" in ASCE Manual 45
Design Cost = Construction Cost x Multiplier x Curve 'A'

Public Works = $100,460 + $3,200 = $103,660
Water Utilities = $35,630

AMOUNT	ITEM
$103,660	Base + Direct Costs
$35,630	Water Utilities
$28,140	Design Survey
$2,000	Ponding Survey
$5,000	Easement Acquisition
$174,430	**CONTRACT TOTAL (NTE)**

END OF DOCUMENT





2016 Residential Rebuilds
Phase 1 Locations

Prepared By: PWT Engineering Operations 2/19/2016

Staff Report

Professional Services Contract for the New Central Library, Council Chambers/Community Room Facility; Project No. CMLI14004	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorizing the City Manager or his designee to execute a Professional Services Contract with Fugro Consultants Inc., of Dallas, Texas, for Construction Materials Testing Services for the new Central Library, Council Chambers, and Community Room Facility in an amount not to exceed $137,394.

PRIOR BOARD OR COUNCIL ACTION

On June 24, 2014, City Council approved Resolution No. 14-163, authorizing the Construction Manager at Risk method of construction to build the new facility for the Central Library.

On October 28, 2014, City Council approved Minute Order No. MO10282014-001, authorizing the execution of a Professional Services Contract with Dewberry Architects, Inc., of Dallas, Texas, for the design of a new Central Library and Council Chambers/Community Room Facility in an amount not to exceed $2,478,750.

On October 28, 2014, City Council approved a Minute Order No. MO10282014-002, authorizing the execution of a Construction Manager at Risk contract with Byrne Construction Services, of Fort Worth, Texas, for pre-construction and estimating services for a new Central Library, Council Chambers, and Community Room Facility in an amount not to exceed $64,380.

On December 16, 2014, City Council approved Minute Order No. MO12162014-017, authorizing the execution of a Professional Services Contract with Teague, Nall and Perkins, of Fort Worth, Texas, for surveying services for the new Central Library, Council Chambers, and Community Room Facility in an amount not to exceed $42,850.

On March 17, 2015, City Council approved Minute Order No. MO03172015-016, authorizing the City Manager or his designee to execute a Professional Services Contract with Delta-T Ltd., of Garland, Texas, for Commissioning Services for the new Central Library, Council Chambers, and Community Room Facility in an amount not to exceed $56,800.

On May 10, 2016, City Council approved a Minute Order No. MO05102016-007, authorizing the execution of Amendment No. 1 to the Construction Manager-At-Risk contract with Byrne Construction Services, of Fort Worth, Texas, establishing the Guaranteed Maximum Price (GMP) for the New Central Library and Council Chambers/Community Room Facility construction and associated infrastructure in the amount of $26,353,944.

ANALYSIS

This project consists of a new Central Library to replace the existing facility located at 101 East Abram Street. The project also includes a new Council Chambers/Community Room Facility to replace the existing facility located at 101 West Abram Street. On street parking and a new plaza between City Hall and the new Library and Council Chambers facilities is included in this project.

The scope of services to be provided by the construction materials testing consultant will include construction materials testing and observation services for earthwork control testing, drilled pier observation, cast-in-place concrete testing, masonry testing, structural steel observation, and sprayed fire resistant material inspection.

FINANCIAL IMPACT

Funding is available in the Library Capital Bond Fund Account No. 968501-61002. Individual Activity numbers, as listed below, have been created for the two components of this contract.

Project Component	Activity Number	Amount
Central Library	89501199	$120,907
Council Chambers	89511199	$16,487

FY 2016	FY 2017	FY 2018
$68,700	$68,694	$0

ADDITIONAL INFORMATION

Attached: Professional Services Contract with Exhibit
Under separate cover: None
Available in the City Secretary's Office: None

STAFF CONTACT(S)

David Wynn, P.E., Interim Director
Public Works & Transportation
817-459-6560
David.Wynn@arlingtontx.gov

Alf Bumgardner, AIA, LEED AP BD+C
Construction Manager
817-459-6558
Alf.Bumgardner@arlingtontx.gov

Yoko Matsumoto
Director of Libraries
817-459-6925
Yoko.Matsumoto@arlingtontx.gov

Jennifer Wichmann
Director of Management Resources
817-459-6408
Jennifer.Wichmann@arlingtontx.gov

James F. Parajon FAICP
Deputy City Manager
817-459-6154
Jim.Parajon@arlingtontx.gov

THE STATE OF TEXAS §
§ **Professional Services Contract**
COUNTY OF TARRANT § Construction Materials Testing Services
for New Library & Council Chambers
101 West Abram Street, Arlington, Texas

THIS CONTRACT is entered into on this **24th day of May, 2016**, by and between the **CITY OF ARLINGTON, TEXAS,** a municipal corporation located in Tarrant County, Texas (hereinafter referred to as "CITY"), acting by and through its City Manager or his designee, and **Fugro Consultants, Inc.,** (hereinafter referred to as "CONSULTANT") whose address is 2880 Virgo Lane, Dallas, Texas 75229.

W I T N E S S E T H:

WHEREAS, CITY desires to obtain professional services relative to Construction Materials Testing Services 101 W. Abram Street New Central Library and Council Chambers Areas (hereinafter referred to as "Services"); and

WHEREAS, CONSULTANT is a firm qualified to provide such Services and is willing to undertake such Services for CITY in exchange for fees hereinafter specified; NOW, THEREFORE,

THAT IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.
Employment of CONSULTANT

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of its profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional or national professional standards.

II.
Scope of Services

CONSULTANT shall perform such services as are necessary to provide Construction Materials Testing Services specifically including, but not necessarily limited to, the tasks enumerated more fully in **Exhibit "A"** to this Contract. **Exhibit "A"** is incorporated herein by reference and made a part hereof as if written word for word. However, in the event of any discrepancy or conflict in the language of **Exhibit "A"** and this Contract, the terms and conditions of this Contract shall be given priority as to interpretation and effect.

III.
Compensation to CONSULTANT
Compensation

CONSULTANT shall submit periodic statements for services rendered and CITY shall make payments in the amount shown by CONSULTANT's approved statements and other documentation submitted. No interest shall accrue for late payments. Each invoice shall show the percentage of work completed on each phase of each Project, a brief summary of the work performed, and the total of the invoice amount as well as running total balance.

CITY agrees to pay to CONSULTANT for satisfactory completion of all services included in this Contract a total fee not to exceed **One Hundred Thirty-Seven Thousand Three Hundred Ninety-Four Dollars and Zero Cents ($137,394.00)**. The cost estimate for accomplishing the specified Scope of Services is included in **Exhibit "A"** and billing shall be according to schedule in **Exhibit "A".** In the cases where additional tasks are requested, CONSULTANT will not initiate work until authorized by CITY in writing to proceed.

The Scope of Services shall be strictly limited. CITY shall not be required to pay any amount in excess of the original amount unless CITY shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts. If at any time it becomes evident that the cost estimates provided to CITY will not be sufficient to complete the authorized work, CONSULTANT will immediately notify CITY in writing of said fact.

IV.
Term

This Contract shall begin on the date first written above, and shall terminate upon completion of the Scope of Services unless terminated earlier in accordance with this contract.

V.
Contract Termination Provision

This Contract may be canceled or terminated at any time by the CITY or the CONSULTANT with or without cause by providing the other thirty (30) days written notice of such termination. Upon receipt of such notice, all work and labor being performed shall immediately cease, pending final cancellation at the end of such thirty (30) day period. CONSULTANT shall be compensated in accordance with the terms of this Contract for all work accomplished prior to the receipt of notice of such termination.

VI.
Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of CITY and shall be delivered to CITY without restriction on future use. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work.

CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VII.
Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by CITY, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an "occurrence" basis, except for professional liability which shall be on a "claims made" basis. The insurance requirements shall remain in effect throughout the term of this Contract.

1. Worker's Compensation Insurance, statutory limits as required by law; Employers Liability Insurance of not less than $1,000,000.00 for each accident, $1,000,000.00 disease-each employee, $1,000,000.00 disease-policy limit.

2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this Contract, fully insuring CONSULTANT's liability for injury to or death of employees of CITY 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 limit of $1,000,000.00 per occurrence and $2,000,000 aggregate.

3. Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage limit of $1,000,000.00 per occurrence; or separate limits of $250,000 for bodily injury (per person), $500,000 bodily injury (per accident), and $100,000 for property damage.

4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be $1,000,000.00 per occurrence and $2,000,000 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, CONSULTANT must maintain this policy for a period of two (2) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy:

1. Name CITY as an additional insured as to all applicable coverage, except worker's compensation and professional liability insurance;

2. Each policy will <u>require</u> that thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, a notice thereof shall be given to the CITY.

   City of Arlington
   Human Resources
   Post Office Box 90231
   MS# 63-0790
   Arlington, Texas 76004-3231

   However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to CITY is required;

   CONSULTANT shall also notify CITY within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s).

3. The term "Owner" or "CITY" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of CITY and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of CITY;

4. The policy phrase "Other Insurance" shall not apply to CITY where CITY is an additional insured on the policy; and

5. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. CITY's decision(s) thereon shall be final;

2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

3. The General and Automobile liability policies required herein shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against CITY, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;

2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against CITY for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;

3. Approval, disapproval or failure to act by CITY regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and,

4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

VIII.
CONSULTANT's Coordination with CITY

CONSULTANT shall hold periodic conferences with CITY so that the Services can be performed with the full benefit of the CITY's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. CITY shall make available to CONSULTANT all existing plans, maps, field notes, and other data in its possession relative to the Services. CONSULTANT may show justification to CITY of changes in design from CITY standards due to the judgment of CONSULTANT of a cost savings to CITY and/or due to the surrounding topographic conditions. CITY shall make the final decision after appropriate approval as to any changes. CONSULTANT is held responsible by CITY for any and all necessary revisions made to the final Evaluation due to the CONSULTANT's errors and negligent acts or omissions as well as any change in topographic conditions resulting from CONSULTANT's delay in completing the final Services.

IX.
Right to Inspect Records

CONSULTANT agrees that CITY shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that CITY shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. CITY shall give CONSULTANT reasonable advance notice of intended audits.

CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that CITY shall, until the expiration of three (3) years after final payment under any subcontract, have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract; and further, that CITY shall have access during normal working hours to all such engineer or sub-contractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. CITY shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.
Successors and Assigns

CITY and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither CITY nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.
CONSULTANT's Liability

Acceptance of the final plans by the CITY shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or Engineers or Consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, engineers, agents or "subconsultants".

XII.
INDEMNIFICATION

CONSULTANT does hereby covenant and contract to indemnify and hold harmless CITY and all of its officials, officers, agents, employees and

invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including reasonable attorney fees of litigation and/or settlement, that may arise by reason of death of or injury to persons or damage to or loss of use of property occasioned by any wrongful intentional act or omission of CONSULTANT as well as any negligent omission, act or error of CONSULTANT, its officials, officers, agents, employees and invitees, or other persons for whom CONSULTANT is legally liable with regard to the performance of this Contract, whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence or any other form of negligence. In the event of joint or concurrent negligence of CONSULTANT and CITY, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas. Nothing in this paragraph is intended to waive any governmental immunity available to CITY under Texas law or waive any defenses of CONSULTANT or CITY under Texas law. This paragraph shall not be construed for the benefit of any third party, nor does it create or grant any right or cause of action in favor of any third party against CITY or CONSULTANT.

CONSULTANT warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by CONSULTANT unless CONSULTANT has obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. CONSULTANT covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any related statutory, common law or other right of any person or entity in performing this Contract. CONSULTANT will indemnify and hold CITY and its officers, agents and employees harmless from all claims, losses and damages (including reasonable attorney's fees) with respect to such copyright, royalty or trademark rights to the extent caused by CONSULTANT or for whom CONSULTANT is legally liable.

The provisions of this section are intended to only provide indemnification to the extent allowed by Texas Local Gov't Code Sec. 271.094 and shall be construed to that effect. The CONSULTANT as allowed by Texas Local Gov't Code Sec. 271.084 will still name CITY as additional insured in its General Liability Policy and provide any defense as allowed by the policy.

XIII.
Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of CITY in the performance of this Contract. No term or provision of or act of CONSULTANT or CITY under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable

for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between CITY and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONSULTANT.

XIV.
Default

If at any time during the term of this Contract CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if CONSULTANT shall not cure any such default after seven (7) days written notice thereof, to terminate this Contract. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to CITY to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse CITY for such excess. CONSULTANT's liability under this provision shall be limited to the total dollar amount of this Contract.

XV.
Changes

CITY may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between CITY and CONSULTANT shall be incorporated by written modification to this Contract.

XVI.
Mailing Address

All notices and communications under this Contract to be mailed or delivered to CITY shall be sent to the address of CITY's agent as follows, unless and until CONSULTANT is otherwise notified:

City of Arlington
PO Box 90231
Mail Stop 01-0220
Arlington, Texas 76004-3231
Attention: Alf Bumgardner

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until CITY is otherwise notified:

Attention: Shawn B. Peatrowsky, PE
Dallas CMET Manager
2880 Virgo Lane
Dallas, Texas 75229

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

XVII.
Disclosure

By signing this Contract, CONSULTANT acknowledges to CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed project and business relationships abutting property owners. CONSULTANT further agrees that it will make disclosure in writing of any conflicts of interest which develop subsequent to the signing of this Contract and prior to final payment under the Contract.

XVIII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of Arlington, its affiliates and subsidiaries, and all oral and written information concerning CITY or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority.

XIX.
Applicable Law

The CONTRACT is entered into subject to the Arlington City Charter and ordinances of CITY, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income. Situs of this Contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

XX.
Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract 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 Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written 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 Contract.

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

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

XXIV.
Headings

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

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Tarrant County, Texas.

XXVI.
Equal Employment Opportunity

CONSULTANT shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, disability, ancestry, national origin or place of birth. CONSULTANT shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their race, age, color, religion, sex, disability, ancestry, national origin or place of birth. This action shall include but not be limited to the following: employment; upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

XXVII.
Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this Contract, CONSULTANT agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this Contract, CONSULTANT agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Contract.

XXVIII.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (CITY and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way

intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with CITY or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

_____

BY_____
Printed Name_____
Title _____

CITY OF ARLINGTON, TEXAS

BY_____
James F. Parajon, FAICP
Deputy City Manager

ATTEST:

_____
MARY W. SUPINO
City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY_____

THE STATE OF TEXAS §
§ **CONSULTANT'S**
COUNTY OF TARRANT § **Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **_____.,** known to me (or proved to me on the oath of _____ or through _____ (*description of identity card or other document*)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of _____ and as Principal thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2016.

_____
Notary Public In and For
The State of Texas

_____ _____
My Commission Expires: Notary's Printed Name

THE STATE OF TEXAS §
§ **CITY OF ARLINGTON, TEXAS**
COUNTY OF TARRANT § **Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **James F. Parajon, FAICP**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **CITY OF ARLINGTON, TEXAS**, a municipal corporation of the State of Texas, Tarrant County, Texas, and as the **Deputy City Manager** thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2016.

_____
Notary Public In and For
The State of Texas

_____ _____
My Commission Expires: Notary's Printed Name

Proposal for Professional Services
Fugro Consultants Inc.
2880 Virgo Lane Dallas, TX 75229
P 972.484.8301 F 972.620.7328

May 16, 2016
Proposal No. 04.4016-2008P

City of Arlington, Texas
Public Works and Transportation
101 W. Abrams Street
Arlington, TX 76010
Attn: Julita Untung, LEED AP BD+C,
Construction Specialist

Cost Estimate for Construction Materials Testing Services
Arlington Central Library & City Council Chambers
100 S. Center Street
Arlington, Texas

In accordance with your request, we are pleased to provide this cost estimate for construction materials testing and observation services for the City of Arlington Central Library and City Council Chambers to be constructed in Arlington, Texas. The new facility will be located at 100 S. Center Street in Arlington. The quantity of testing and observation listed in this cost estimate are based on the plans, specifications, and construction schedule provided. Our services will be provided in accordance the unit fees listed below.

It is our understanding that the library will be a new four story building with a seperate one story building for the City Council Chambers. The new facility will be surrounded by new concrete driveways, pavement and sidewalks. The exterior finish of the two buildings will be CMU block, modular stone, and metal panel veneer. Services will be provided on a will call basis when notified by the contractor that testing and inspection services are needed. Invoices will be submitted on a monthly basis for services performed. The sections that follow show our estimated test quantities, unit fees, and an estimated total for this project based on the provided specifications and plans.

EARTHWORK CONTROL TESTING

Sample soils in field to perform laboratory tests to establish moisture/density relationships, and in-place nuclear density tests on compacted backfill for grading, utility backfill, grade beam backfill, as well as subgrade preparation for the pavements and sidewalks. Estimate is based on quantities from the drawings as well as the construction schedules provided.

- Moisture/Density Relationship (ASTM D-698)
  10 tests @ $225.00 per test.....$2,250.00
- Liquid Limit, Plastic Limit and Plasticity Index
  10 tests @ $65.00 per test.....$ 650.00
- Percent Passing No. 200 Sieve
  10 tests @ $45.00 per test…….. $ 450.00
- In-Place Nuclear Density Tests
  400 tests @ $16.00 per test.....$6,400.00

- Technician Time for Testing & Inspection
  140 hours @ $46.00 per hour $6,440.00
- Vehicle Charge
  30 Trips @ $50.00 per trip $1,500.00

Subtotal – Earthwork Control Testing $17,690.00

DRILLED PIER OBSERVATION

Services of a materials technician to perform observation of pier drilling and foundation construction for the planned library and council chamber buildings. Our technician will be onsite on a full-time basis whenever the contractor is installing piers. The technician will monitor drilling activities, recording shaft diameter, depth to bearing stratum, depth of penetration into bearing stratum, check of the reinforcing steel cages, and perform concrete testing as well as cast concrete test cylinders.

- Concrete Cylinders
  250 cylinders @ $18.00 each.....$ 4,500.00
- Technician Time
  400 Hours @ 46.00 per hour.....$18,400.00
- Technician Overtime
  100 Hours @ 56.00 per hour.....$ 5,600.00
- Vehicle Charge
  50 Trips @ $50.00 per trip .....$ 2,500.00
- Specimen Pick-up
  8 Trips @ $140.00 per trip .....$ 1,120.00

Subtotal – Drilled Pier Observation $32,120.00

CAST-IN-PLACE CONCRETE TESTING

A technician will be onsite on a full-time basis for observation and testing during concrete placements for building slabs, grade beams, and fire-lane paving (parking and sidewalks will not be tested). They will sample concrete in the field and perform slump, temperature, and air tests for each set of cylinders. They will identify time batched and time of placement, record concrete and ambient temperatures, weather conditions and water added on site. The concrete test cylinders will be transported, cured, and tested and reports issued as results are made available. Time has been included in this estimate for technician to observe reinforcing steel prior to concrete placements and post-tensioning observation.

- Compressive Strength Cylinders (Sets of 5 – 4” x 8”)
  330 Cylinders @ $18.00 per cylinder .....$ 5,940.00
- Technician Time
  240 Hours @ $46.00 per hour.....$11,040.00

- Technician Overtime
  50 Hours @ $56.00 per hour.....$ 2,800.00
- Vehicle Charge
  40 Trips @ $50.00 per trip .....$ 2,000.00
- Specimen pick-up
  14 Trips @ $140.00 per trip .....$ 1,960.00

Subtotal – Cast-in-Place Concrete Testing $23,740.00

MASONRY TESTING

Services of a materials technician to sample and test mortar and grout during wall construction for compliance with plans and specifications and inspect steel reinforcement. These services will be provided on a periodic basis as indicated in the structural drawings. Mortar cubes and grout prisms will be cast for strength verification.

- Compressive Strength Mortar Cubes
  180 mortar cubes @ $18.00 each.....$3,240.00
- Compressive Strength Grout Prisms
  240 grout prisms @ $25.00 each.....$6,000.00
- Technician Time
  120 Hours @ 46.00 per hour.....$5,520.00
- Vehicle Charge
  30 Trips @ $50.00 per trip $1,500.00
- Specimen pick-up
  12 Trips @ $140.00 per trip $1,680.00

Subtotal – Masonry Testing.....$17,940.00

STRUCTURAL STEEL OBSERVATION

Visual observation during structural steel erection by a Certified Welding Inspector (CWI) to observe bolted and welded connections including 25% of partial and full-penetration field welds as well as installation of the steel deck and shear stud testing. Any deficiencies will be noted and pointed out to the contractor and rechecked the next site visit. Additional time has been included for review of welder's certifications and welding procedures to be utilized by the contractor. No offsite plant inspections are planned.

- CWI Time
  320 Hours @ $76.00 per hour.....$24,320.00
- Vehicle Charge
  75 Trips @ $50.00 per trip ..... $ 3,750.00

Subtotal – Structural Steel Observation.....$28,070.00

SPRAYED FIRE RESISTANT MATERIAL INSPECTION

A technician will make periodic inspection of sprayed fire resistant-materials to ensure that they are applied in accordance with the specifications. Sprayed on fire resistant-materials will be checked for depth, bond strength to steel framing members, and samples will be taken for density tests.

- Technician Time
  64 Hours @ $46.00 per hour.....$2,944.00
- Vehicle Charge
  16 Trips @ $50.00 per trip .....$ 800.00
- Laboratory Density of Field Cut Fire Proofing
  32 Test @ $50.00 each $1,600.00

Subtotal – Sprayed Fire Resistant Material Testing..... $5,344.00

PROJECT MANAGEMENT

Fee is for services of a project manager coordinating testing activities, reviewing daily reports, attending site meetings, and providing project management services. Also includes services of office personnel preparing and submitting test reports as well as invoices.

- Project Management fee @ 10% of monthly invoice $12,490.00

Subtotal – Project Management $12,490.00

ESTIMATED TESTING SERVICES TOTAL	**$124,904.00**
ESTIMATED PROJECT MANAGEMENT TOTAL	**$ 12,490.00**
ESTIMATED PROJECT TOTAL COST	**$137,394.00**

As previously mentioned, this estimate is based on the number of tests and services assumed in this cost estimate and not a lump sum price. The construction sequence of the project conditions may require more or less testing or observation. Our services will be provided on a time-and-materials basis and invoiced in accordance with the rates as indicated in this cost estimate, the project owner will only be charged for the services provided.

Terms and Conditions for this contract are established on the attached Terms and Conditions. To provide written authorization of this Agreement for Professional Services, please have the signature block below signed by a duly authorized person in the spaces provided and return the attached copy to us for our files. Whoever signs this proposal is identified as our Client as used throughout the Revised Schedule.

Fugro Consultants Inc. appreciates the opportunity to be of service to the City of Arlington on this project. We trust the information provided herein is sufficient for your use. Please contact us if we may be of further service.

Consultant:	Fugro Consultants Inc.	**Client:**	City of Arlington, Texas
By:	Shawn B. Peatrowsky, PE	**By:**	
Signature:	Shawn B Peatrowsky	**Signature:**	
Title:	Dallas CMET Manager	**Title:**	
Date:	May 16, 2016	**Date:**	

Attachments:

1) Construction Materials Engineering and Testing Services – Fee Schedule

Copies Submitted: 1 – Julita Untung, LEED AP BD+C (Julita.Untung@arlingtontx.gov)

Fugro Consultants, Inc.
Dallas, Texas
Fee Schedule CMT-2016

FEES FOR CONSTRUCTION MATERIALS TESTING SERVICES

		Regular Time (1)	Overtime (2)
1.	**Field Technicians**		
1.1	Technician (NICET Level I, or equivalent)	$ 46.00/hour	$ 56.00/hour
1.2	Senior Technician (NICET Level II, TxDOT Level 1A/1B, Associate Welding Inspector, or equivalent)	$ 55.00/hour	$ 65.00/hour
1.3	Senior Supervising Technician (NICET Level III, TxDOT Level II, or equivalent)	$ 85.00/hour	$ 95.00/hour
1.4	Certified Welding Inspector	$ 76.00/hour	$ 86.00/hour

		Unit Rate
2.	**Field Testing and Equipment**	
2.1	Transportation (Minimum $0.60/mile)	$ 50.00/trip
2.2	Nuclear Density Tests (In addition to technician time)	$ 16.00/test
2.3	Torque Wrench	$ 20.00/day
2.4	Dye Penetrant & Magnetic Particle Supplies	Cost + 15%
2.5	Ultrasonic Testing Equipment	$ 25.00/hour
2.7	Concrete Coring Equipment	$ 25.00/hour
2.8	Concrete Core Bit Charges	+ bit charge
2.8.1	3 inch-diameter Core	$ 3.00/inch
2.8.2	4 inch-diameter Core	$ 4.00/inch
2.8.3	6 inch-diameter Core	$ 6.00/inch
	(Other sizes quoted upon request)	
2.9	Floor Flatness/Floor Levelness Equipment (ASTM E1155)	$ 200.00/day
2.10	Air Content of Fresh Concrete (ASTM C173, C231)	$ 18.00/each
2.11	Unit Weight of Fresh Concrete (ASTM C138)	$ 40.00/each
2.12	Soil-Lime Field Gradation (TEX-101-E, Part III)	$ 35.00/each
3.	**Laboratory Testing - Soil**	
3.1	Natural Moisture Content (TEX-103-E)	$ 15.00/each
3.2	Atterberg Limits (TEX-104, 105, 106, 107-E)	$ 65.00/each
3.3	Sieve Analysis (TEX-110-E)	$ 65.00/each
3.4	Percent Passing No. 200 Sieve (TEX-111-E)	$ 45.00/each
3.5	Combined Sieve Analysis (TEX-110, 110-E)	$ 65.00/each
3.6	Moisture Density Relationship (ASTM D 698), (ASTM D 1557), (TEX-113-E), (TEX-114-E)	$ 225.00/each
4.	**Laboratory Tests - Concrete and Cement**	
4.2	Aggregate Sieve Analysis (ASTM C136)	$ 70.00/each
4.6	Concrete Cylinder Compressive Strength (ASTM C39)	$ 18.00/each
4.8	Mortar Cube Compressive Strength (ASTM C780)	$ 15.00/each
4.9	Grout Specimen Compressive Strength (ASTM C1019)	$ 25.00/each
4.10	Concrete Masonry Unit Strength (ASTM C140)	$ 80.00/each
4.11	Concrete Masonry Unit Prism Strength (ASTM C1314)	$ 225.00/each
4.12	Drilled Core Compressive Strength (ASTM C42)	$ 80.00/each
5.	**Laboratory Testing - Asphalt and Roofing**	
	Not Applicable	
6.	**Laboratory Testing - Structural Steel and Fireproofing**	
6.2	Laboratory Density of Field Cut Fireproofing	$ 50.00/each

7. Report Preparation

Test report preparation, review, and initial electronic distribution will be invoiced at a flat rate of 10% of total fees invoiced.

8. Engineering Consultation

8.1 Senior Consultant or Project Principal ..... $ 195.00/hour
8.2 Project Manager ..... $ 170.00/hour

9. Outside Services..... **Cost + 15%**

Notes: (1) Minimum call-out charge for CMT technician and equipment is 4 hours. Minimum for a sample pick-up is 2 hours. Minimum call-out charge for CWI technician is 4 hours. Charges are accrued portal to portal.

(2) Overtime rates are applicable to time worked in excess of 8 hours per day, Monday through Friday; hours worked before 7:00 am and after 6:00 pm; and all hours worked on Saturdays, Sundays, and holidays.

Staff Report

Rush Creek at Bowen Road Erosion and Scour Protection; Project No. PWDR16001	
City Council Meeting Date: 05/24/16	Action Being Considered: Minute Order

RECOMMENDATION

Authorizing the City Manager or his designee to execute an Engineering Services contract with Huitt-Zollars, Inc., of Fort Worth, Texas, for the Rush Creek and Bowen Road Erosion and Scour Investigation in an amount not to exceed $121,769.78.

PRIOR BOARD OR COUNCIL ACTION

On January 12, 2016, City Council approved Minute Order No. MO01122016-017, authorizing the execution of an Engineering Services contract with Huitt-Zollars, Inc., of Fort Worth, Texas, for the Rush Creek and Bowen Road Erosion and Scour Investigation in an amount not to exceed $32,935.

On February 23, 2016, City Council approved Resolution No. 16-033, adopting the Capital Budget for Storm Water Utility Fund for Fiscal Year 2016, beginning October 1, 2015, and ending September 30, 2016.

ANALYSIS

Significant scour and erosion has occurred along the walls and gabions that support Bowen Road adjacent to Rush Creek. Huitt-Zollars, Inc. has completed an initial investigation to determine the extent of the erosion and identify potential solutions. This design contract will include design services for streambank stabilization to correct existing erosion and scour, prevent future erosion, and protect the Bowen Road retaining wall and pipe outfall.

	Not to Exceed
Field Survey Work:	$7,830
Design Services:	$80,665
Geotechnical Services:	$15,000
Environmental Assessments/Permits (as required):	$12,600
Construction Services:	$5,000
Direct Costs	674.78
Total:	**$121,769.78**

The design of Rush Creek at Bowen Road Scour/Erosion Protection was included in the Capital Budget.

FINANCIAL IMPACT

Funding is available in the Storm Water Utility Fund Account No. 308501-61043-11130199.

FY 2016	FY 2017	FY 2018
$121,767.78	$0	$0

ADDITIONAL INFORMATION

Attached:	Engineering Services Contract with Attachments Location Map
Under separate cover:	None
Available in the City Secretary's Office:	None

STAFF CONTACT(S)

David Wynn, P.E., Interim Director	Mandy Clark, P.E.
Public Works & Transportation	Assistant Director/Stormwater
817-459-6560	817-459-6592
David.Wynn@arlingtontx.gov	Mandy.Clark@arlingtontx.gov

THE STATE OF TEXAS §

ENGINEERING SERVICES CONTRACT

COUNTY OF TARRANT §

THIS CONTRACT is made and entered into this 24th day of May, 2016, by and between the City of Arlington, Tarrant County, Texas, a municipal corporation, hereinafter called "City" and Huitt-Zollars, Inc., hereinafter called "Engineer," whose address 500 West 7th Street, Mail Unit 23, Fort Worth, Texas 76102-4773.

W I T N E S S E T H:

That in consideration of the terms and conditions contained herein the parties do mutually agree as follows:

I.
Employment of Engineer

Engineer will perform all services under this contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If Engineer is representing that he/she has special expertise in one or more areas to be utilized in this contract, then Engineer agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards. Engineer will provide services necessary for the construction of improvements to City's infrastructure, the location and extent of which is known as: **Rush Creek at Bowen Road Erosion and Scour Protection, City of Arlington Project No. PWDR16001,** being located within the City of Arlington, Tarrant County, Texas, and hereinafter referred to as the "Project." The services to be performed by Engineer under this Contract include but are not limited to the services described in attached Scope of Services/Exhibit "A" which is attached and referenced herein as if written word for word.

II.
Compensation to Engineer

A. City agrees to pay to Engineer for all services outlined in Section III, a base design fee in an amount not to exceed $**80,665.00**. The following services are not included in this base fee:

1. Services required by Section III.A., Additional Services, for which cost is set out in III.A.

2. Work necessary to perform the design field survey as described in III.B., Field Survey Work, for which cost is set out in II.B.

3. Work necessary for the preparation of right-of-way and/or easement acquisition data as described by Section III.F., Right-of-Way Determination, for which cost is set out in II.C.

B. All costs associated with performing the design field survey as outlined in III.B. shall be paid to Engineer by City in an amount not to exceed $**7,830.00**.

C. All costs associated with right-of-way/easement acquisition data, as outlined in III.F., is included with design survey cost as indicated in II.B and is based on an hourly fee basis shown in Attachment "A" Attachment "A" is hereby incorporated within this contract as if written word for word. In no case shall more than seventy-five percent (75%) of this amount be paid until all right-of-way acquisition data is accepted by City.

D. Direct expenses shall include subcontract charges for surveying, contract labor, computer time, printing, reproduction expense, communication expense, travel, transportation, and subsistence out of Tarrant and Dallas Counties directly related to the work. Direct costs shall not exceed the rates indicated in Attachment "B" and shall be in an amount not to exceed $**674.78**. Attachment "B" is hereby incorporated within this contract as if written word for word. Evidence of cost incurred for direct expenses shall be submitted with each billing.

E. Written request for payment for services rendered by Engineer may be made on a monthly basis. City will pay to the Engineer as follows:

1. An amount not to exceed the amount set out in II.B. until satisfactory completion of the design survey as set forth herein.

2. An amount not to exceed forty percent (40%) of the total base design fee until satisfactory completion of the conceptual design plans.

3. An amount not to exceed eighty-five percent (85%) of the total base design fee until satisfactory completion of the preliminary construction plans and right-of-way documents.

4. An amount not to exceed ninety-five percent (95%) of the total base design fee until satisfactory completion of the final construction plans and specifications, and right-of-way documents.

5. An amount equal to five percent (5%) shall be retained until such time as City requests and receives one (1) set of reproducibles of the final design construction plans and other documents described herein.

6. No interest shall accrue for late payments. CITY shall not be required to pay any amount in excess of the original amount unless CITY shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts. If at any time it becomes evident that the cost estimates

provided to CITY will not be sufficient to complete the authorized work, Engineer will immediately notify CITY in writing of said fact.

III.

Services

A. Additional Services – Engineer will also perform the following additional services. For each individual service the maximum fee is indicated in parenthesis. The fee shall be on an hourly basis, as shown in Attachment "A". In no case shall more than seventy-five percent (75%) of the amounts indicated below be paid until such services are accepted by City.

1. Engineer shall coordinate this Project with the U.S. Army Corps of Engineers and shall obtain the necessary Section 404 Permit required for construction of the Project (hourly fee not to exceed $**12,600.00**).

2. Engineer will establish the scope of and arrange for the soil and foundation investigations (hourly fee not to exceed $**15,000.00**).

3. Engineer shall provide construction assistance service at the request of the City. Such service may include, but not limited to field visits, change orders, plan revision, etc. Engineer shall bill the City based on actual hours performed and associated direct expenses, including mileage, printing, etc. (hourly fee not to exceed $**5,000.00**)

B. Field Survey Work - Engineer shall furnish a survey field party to collect all field information necessary to prepare complete and detailed plans, specifications, and contract documents consistent with prevailing engineering standards. This field information shall be based on NAD-83 or the latest version of the City's GPS Monument Manual located on Public Works & Transportation web page. Before the survey party is engaged in surveying on private property, City shall send letters to all adjacent property owners and other affected property owners notifying them of the survey party's intent to survey on private property. Engineer shall provide City with the legal description and address of the affected property(s). Permission to survey on private property shall be obtained from the property owners before surveying commences. The letter of permission will include permission for Engineer to set iron pins and control monuments for future right-of-way and/or easements to be acquired by City at a later date. Engineer shall direct the field party in the following:

1. Establishing the proposed centerline or a suitable reference base line on the ground as required by City.

2. Making complete and accurate cross-section field notes.

3. Making a complete topographic survey of all existing features above and below ground level that would or could affect proposed construction. These features shall include, but are not limited to, telephone poles, power poles, all other utilities or other structures located on or above or below the surface, fences, retaining walls, water meters, detector check valves, manholes, vaults, sprinkler heads, structures, culverts, pipes and all other facilities in close proximity to the construction. Also, all buildings, trees, steps, and other topographical features which would be of interest to the property owner in discussing the plans with City engineers must be shown accurately and drawn to scale. Engineer shall also show street numbers for all existing houses and structures.

4. Determining horizontal and vertical location of all underground utilities or other underground structures based upon information obtained in accordance with Section III where they cross any part of the proposed storm drainage system or street system or may affect the proposed Project. The Engineer shall not be responsible for the cost of exposing these utilities or repairing damage caused by such exposure unless due to omission or other negligence by Engineer.

5. Making of all surveys necessary to determine limits of any existing right-of-way.

C. General Requirements

1. Each time Engineer submits plans and specifications to City, eight (8) copies (two {2} full size {22”x34”}, six {6} half scaled {11x17}) and a .pdf of each shall be submitted to the Department of Public Works and Transportation. These shall be reviewed and checked by City and returned to Engineer for corrections. When the corrected copies of the plans and specifications are returned to City, the original and reviewed hard copies of the plans and specifications shall also be returned to City. All plans, specifications, documents, provisions, attachments, and correspondence provided in accordance with this contract shall be dated. The City will supply plans for Project to other parties, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project.

2. Specific design requirements shall be obtained from the City of Arlington *Design Criteria Manual*. Landscaping materials shall be in accordance with the latest approved plant list posted by the Parks and Recreation Department. Irrigation shall be in accordance with the latest ordinances.

3. Each set of plans shall be stamped "Review," and each sheet of the plans shall be signed and dated with license number noted by Engineer until approval of the final design construction plans by City, whereupon the word "Review" shall be omitted and the plans shall be stamped "Final" on the cover sheet. Each sheet of the final plans shall include the Engineer's seal, signature and date.

4. City will coordinate with the utility companies, including, but not limited to franchised utilities, other City of Arlington departments, pipeline companies, railroad companies, TxDOT, or any other entity which has facilities within or adjacent to the Project. Coordination shall include any and all exposure, removal, relocation and any proposed improvements necessary for implementation of Project. Engineer shall attend utility coordination meeting(s) for Project, as requested by the City. Engineer shall indicate on the final plans all existing utilities and proposed improvements both on plan and profile sheets.

5. Engineer shall accompany City representatives on Project observation visits prior to commencing design of Project and prior to final design of Project.

6. Upon completion of the final design construction plans, special provisions and specifications, and contract documents, Engineer shall submit a letter of notification to City stating completion of design of Project.

7. Review by City does not relieve Engineer of responsibility to prepare construction plans and specifications in accordance with prevailing engineering standards.

8. Engineer shall attend the pre-bid meeting and assist with inquiries pertaining to the final design of Project.

D. Conceptual Design Plans - Conceptual plans for this project shall be prepared to such detail as is necessary to resolve all conceptual issues. Conceptual plans must be approved by City prior to Engineer commencing with the preparation of preliminary design construction plans. The requirements for conceptual plans are included in the City of Arlington *Design Criteria Manual*.

E. Preliminary Design Construction Plans - At such time as Engineer is directed by City, Engineer shall prepare preliminary plans, including a title sheet, quantity sheets, and details. The requirements for preliminary plans are included in the City of Arlington *Design Criteria Manual*, and shall include items as described in Sections III.A.1 and III.A.2.

F. Right-of-Way/Easement Determination – In conformance with City standards, Engineer shall survey, render field notes, and individual parcel exhibits for any additional right-of-way and/or easements, including temporary construction easements, needed. Engineer shall also set control points, which shall be based on NAD-83 and the latest version of the City's GPS Monument Manual (located on Public Works & Transportation web page), approximately every 600 feet on both sides of the road. Before setting the control points, Engineer shall obtain approved sketches and specifications from City for the placing of control points. The requirements for right-of-way and easement submission are included in the City of Arlington *Design Criteria Manual*. The required items are necessary for the acquisition of right-of-way required to construct Project. This information shall be required prior to acceptance of final construction plans.

Upon notification by City of acceptance of the right-of-way plans, exhibits and instruments, and as directed by City, Engineer's surveyor shall set all corners and points of curvature for the proposed right-of-way and/or easements and submit final sealed plans and exhibits.

G. Final Design Construction Plans - Upon acceptance of preliminary plans by the City, the Engineer shall prepare final plans. Final plans shall be consistent with previous sections and shall include:

1. Right-of-way/Easements plans and documents.

2. Construction plans.

3. Bid proposal.

4. Special specifications as required.

H. Miscellaneous Requirements - Engineer shall furnish, upon request by City electronic files in .pdf format (one formatted to 34”x22” full scaled and one formatted to 11”x17” half scaled) of the "Final" approved, sealed and dated plans. If electronic files are not feasible, City may accept one (1) set of film reproducibles. Engineer shall also submit an electronic file of the “Final” drawings in .dwg format.

In performing the services outlined above, Engineer will protect City to the extent reasonably possible against defects and deficiencies in the work of contractors. Engineer will report any observed deficiencies to City and Engineer will take any other appropriate actions; however, it is understood that Engineer does not guarantee the contractor’s performance, nor is Engineer responsible for supervision of the contractor’s operation and employees except to the extent defects, omissions or negligence is reasonably discoverable by Engineer. Engineer shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractor, or the safety precautions and programs incident to the work of the contractor.

IV.
Time for Completion

Engineer agrees to complete and submit all work required by City as follows:

1. Conceptual design plans in 60 calendar days from the date of written notice to proceed.

2. Preliminary design construction plans in 30 calendar days from acceptance of the conceptual plans and written notice to proceed with preliminary plans.

3. Final design construction plans and specifications in 30 calendar days from acceptance of preliminary plans and written notice to proceed with final plans.

Subsequent submittals of final plans shall be returned to the City within six (6) weeks of the date of the previous review letter.

Calendar days for each design phase shall commence when Engineer is notified to proceed and shall terminate when Engineer has submitted plans to the City. No extensions of time shall be granted unless a written request is submitted by Engineer, and such request is approved in writing by City.

V.
Revisions of Plans and Specifications

City reserves the right to direct substantial revision of the plans, special provisions, and specifications after acceptance by City as City may deem necessary, but in such event City shall pay Engineer equitable compensation for services rendered in making such revisions. In any event, when Engineer is directed to make substantial revisions under this Section of the contract, Engineer shall provide to City a written proposal for the entire costs involved in providing City a completed set of plans, specifications and special provisions, and the completion time involved in the revisions. Prior to Engineer undertaking any substantial revisions as directed by City, City must authorize in writing the nature and scope of the revisions and accept the method and amount of compensation and the time involved in all phases of the work.

If revisions of the final plans, special provisions, and specifications, or drawings are required by reason of Engineer's error or omission, then such revisions will be made by Engineer without additional compensation to the fees herein specified, and in a time frame as directed by City.

It is expressly understood and agreed by Engineer that any compensation not specified in Section II., "Compensation to Engineer" may require Arlington City Council approval and is subject to the funding limitations.

VI.
Engineer's Coordination with Owner

Engineer shall be available for conferences with City so that Project can be designed with the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. City shall make available to Engineer all existing plans, maps, field notes, and other data in its possession relative to the Project. Engineer may show justification to City for changes in design from City standards due to the judgment of said Engineer of a cost savings to City and/or due to the surrounding topographic conditions. City shall make the final decision as to any changes after appropriate request by Engineer.

VII.
Contract Termination Provision

This contract may be terminated at any time by City for any with or without cause without

any penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by City, Engineer shall immediately discontinue all services and Engineer will immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this contract. As soon as practicable after receipt of notice of termination, the Engineer shall submit a statement, showing in detail the services performed but not paid for under this contract to the date of termination. City shall then pay Engineer promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by City.

This contract may be terminated by Engineer with mutual consent of City at any time for any cause without penalty or liability except as may otherwise be specified herein. Engineer shall submit written notice to terminate contract and shall submit to City all plans and documents relative to the design of Project. City shall then ascertain cost to complete the balance of the work under this contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, City shall retain all unpaid balances and, in addition, Engineer shall pay directly to City the difference in the unpaid balance and the cost to complete the work. In no case shall City pay Engineer any additional monies other than those previously paid under the contract.

VIII.
Ownership of Documents

All drawings and specifications prepared or assembled by Engineer under this contract shall become the sole property of City and shall be delivered to City, without restriction on future use. Engineer shall retain in his files all original drawings, specifications and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers subsequent to the completion of the contract. City shall require that any such change be sealed, dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

IX.
Insurance

A. Engineer shall at Engineer's own expense, purchase, maintain and keep in force during the term of this contract such insurance as set forth below. Engineer shall not commence work under this contract until Engineer has obtained all the insurance required under this contract and such insurance has been approved by City, nor shall Engineer allow any subcontractor to commence work on his or her own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this contract shall be written on an "occurrence" basis, except for professional liability. The insurance requirements shall remain in effect throughout the term of this Contract. The policy limits stated below are at a minimum.

1. Workers' Compensation as required by law, Employers Liability Insurance of not less than $1,000,000 for each accident, $1,000,000 disease-each employee, $1,000,000 disease-policy limit.

2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this contract, fully insuring Engineer's liability for injury to or death of employees of City 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 $1,000,000 per occurrence and a $2,000,000 aggregate.

3. Commercial Automobile and Truck Liability Insurance, covering any auto or hired and non-owned vehicles, with a combined bodily injury and property damage limit of $1,000,000 per occurrence.

4. Professional Liability Insurance: Engineer shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be $1,000,000 per claim and $2,000,000 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, Engineer must maintain this policy for a period of four (4) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

5. Umbrella Liability Insurance of not less than $2,000,000 per occurrence, following form and drop down provisions included.

B. Each insurance policy to be furnished by Engineer shall include the following conditions by endorsement to the policy:

1. Except for Worker's Compensation and Professional Liability insurance, the policy shall name City as an additional insured as to all applicable coverage;

2. Each policy will require that thirty (30) days prior to the expiration in coverage, a notice thereof shall be given to City to:

City of Arlington
Risk Management - Mail Stop 63-0790
PO Box 90231
Arlington, Texas 76004-3231

If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required. Engineer shall also notify CITY within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

3. The term “Owner” or “City” shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of City and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of City.

4. The policy phrase “other insurance” shall not apply to City where city is an additional insured on the policy; and

5. All provisions of the contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by Engineer, it is a condition precedent to acceptability thereof that:

1. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

2. Insurance is to be placed with carriers with an A.M. Best rating of A:VII, or as otherwise acceptable to the City.

D. Engineer agrees to the following:

1. Except for Professional Liability, Engineer hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against City, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies.

2. Companies issuing the insurance policies and Engineer shall have no recourse against City for payment of any premiums or assessments for any deductible, as all such premiums and deductibles are the sole responsibility and risk of Engineer.

3. Approval, disapproval or failure to act by City regarding any insurance supplied by Engineer (or any subcontractors) shall not relieve Engineer of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate Engineer from liability.

4. Engineer shall provide one (1) copy of a Certificates of Insurance completed on an Acord form or other State-approved form, and endorsements effecting coverage required by this section to the City by forwarding to:

City of Arlington
Department of Public Works and Transportation - Mail Stop 01-0220
Attn: Jenette T. Hull, Engineering Coordinator

PO Box 90231
Arlington, Texas 76004-3231

E. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

X.
Monies Withheld

When City has reasonable grounds for believing that:

A. Engineer will be unable to perform this contract fully and satisfactorily within the time fixed for performance; or

B. A claim exists or will exist against Engineer or City arising out of the negligence of the Engineer or the Engineer's breach of any provision of this contract; then

City may withhold payment of any amount otherwise due and payable to Engineer under this contract. Any amount so withheld may be retained by City for that period of time as it may deem advisable to protect City against any loss and may, after written notice to Engineer, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of City, and no other person or entity shall have any right or claim against City by reason of City's failure or refusal to withhold monies. No interest shall be payable by City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of City.

XI.
No Damages for Delays

Notwithstanding any other provision of this contract, Engineer shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

XII.
Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this contract, Engineer agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to City of Arlington projects and procurements, City of Arlington also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or

other persons in organizations proposed for work on this contract, Engineer agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this contract.

The Engineer agrees to provide information about its minority status at time of contract execution. Engineer will also be required to submit cost information towards minority/woman owned businesses. The information submitted is for reporting purposes only and shall include the engineer and any other firms performing work as a part of this contract such as surveying services. See attached sample Prime and Subs & Minority/Women Business Enterprise (MWBE) Report form. Submitted form shall be accompanied by copy of certification(s) for Engineer and any applicable firms. Engineer will be required to submit anticipated dollar amounts towards these businesses (if applicable) upon execution of the contract for this project and actual dollar amounts spent with the monthly pay estimate. It will be the Engineer's responsibility to ensure submitted certification(s) are up-to-date, including for any applicable firms.

XIII.
Right to Inspect Records

Engineer agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Engineer involving transactions relating to this contract. Engineer agrees that City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Engineer reasonable advance notice of intended audits.

Engineer further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give the consultant or subcontractor reasonable advance notice of intended audits.

XIV.
No Third Party Beneficiary

For purposes of this contract, including its intended operation and effect, the parties (City and Engineer) specifically agree and contract that: (1) the contract only affects matters/disputes between the parties to this contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Engineer or both; and (2) the terms of this contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Engineer.

XV.
Successors and Assigns

City and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this contract. Neither City nor Engineer shall assign or transfer its interest herein without the prior written consent of the other.

XVI.
Engineer's Liability

Acceptance of the final plans by City shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the designs, working drawings, specifications, or other documents prepared by said Engineer, its employees, subcontractor, agents and consultants.

XVII.
Indemnification

ENGINEER does hereby covenant and contract to indemnify and hold harmless CITY and all of its officials, officers, agents, employees and invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including reasonable attorney fees of litigation and/or settlement, that may arise by reason of death of or injury to persons or damage to or loss of use of property occasioned by any wrongful intentional act or omission of ENGINEER as well as any negligent omission, act or error of ENGINEER, its officials, officers, agents, employees and invitees, or other persons for whom ENGINEER is legally liable with regard to the performance of this Contract, whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence or any other form of negligence. In the event of joint or concurrent negligence of ENGINEER and CITY, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas. Nothing in this paragraph is intended to waive any governmental immunity available to CITY under Texas law or waive any defenses of ENGINEER or CITY under Texas law. This paragraph shall not be construed for the benefit of any third party, nor does it create or grant any right or cause of action in favor of any third party against CITY or ENGINEER.

ENGINEER warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by ENGINEER unless ENGINEER has obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. ENGINEER covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any

related statutory, common law or other right of any person or entity in performing this Contract. ENGINEER will indemnify and hold CITY and its officers, agents and employees harmless from all claims, losses and damages (including reasonable attorney's fees) with respect to such copyright, royalty or trademark rights to the extent caused by ENGINEER or for whom ENGINEER is legally liable.

The provisions of this section are intended to only provide indemnification to the extent allowed by Texas Local Gov't Code Sec. 271.094 and shall be construed to that effect. The ENGINEER as allowed by Texas Local Gov't Code Sec. 271.084 will still name CITY as additional insured in its General Liability Policy and provide any defense as allowed by the policy.

XVIII.
Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIX.
Independent Contractor

Engineer covenants and agrees that he/she 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 liable 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.

XX.
Disclosure

By signing this contract, Engineer acknowledges to City that he or she has made a full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed project and business relationships with abutting property owners. Engineer further agrees that he shall make disclosure in writing of any conflicts of interests which develop subsequent to the signing of this contract and prior to final payment under the contract.

XXI.
Venue

The parties to this contract agree and covenant that this contract shall be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this contract, exclusive venue shall lie in Tarrant County, Texas.

XXII.
Entire Agreement

This contract 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.

XXIII.
Applicable Law

This contract is entered into subject to the Charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

XXIV.
Default

If at any time during the term of this contract, Engineer shall fail to commence the work in accordance with the provisions of this contract or fail to diligently provide services in an efficient, timely, and careful manner and in strict accordance with the provisions of this contract or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this contract, then City shall have the right, if Engineer does not cure any such default after thirty (30) days written notice thereof, to terminate this contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy, the cost to City of the performance of the balance of the work is in excess of that part of the contract sum which has not theretofore been paid to Engineer hereunder, Engineer shall be liable for and shall reimburse City for such excess.

XXV.
Headings

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

XXVI.
Non-Waiver

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

XXVII.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this contract 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 contract.

XXVIII.
Equal Employment Opportunity

Engineer shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. Engineer shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include, but not be limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXIX.
Construction of Contract

Both parties have participated fully in the review and revision of this contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this contract.

XXX.
Notices

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:
City of Arlington - Mail Stop 01-0220
ATTN: Assistant Director of Public Works and
Transportation/Stormwater

PO Box 90231
Arlington, Texas 76004-3231

If intended for Engineer, to:
Huitt Zollars, Inc.
ATTN: Larry O. Rogers, P.E., Vice President
500 West 7th Street, Mail Unit 23
Fort Worth, Texas 76102-4773

XXXI.
Title VI

The City of Arlington, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all vendors that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Vendor will abide and ensure compliance with all terms of Appendix A of the USDOT Standard Title VI Assurances as listed below.

Appendix A of the USDOT Standard Title VI Assurances
During the performance of this contract, the Engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:
(1) Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-Assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Arlington shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Engineer shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.
The Engineer shall take such action with respect to any subcontract or procurement as the City of Arlington or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Arlington to enter into such litigation to protect the interests of the City of Arlington, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties enter into this contract on the date first written above.

ENGINEER:
Huitt-Zollars, Inc.

BY:_____
Larry O. Rogers, P.E.
Vice President

CITY OF ARLINGTON, TEXAS:

BY: _____
James F. Parajon, FAICP
Deputy City Manager

APPROVED AS TO FORM:
Teris Solis, City Attorney

ATTEST:
Mary Supino, City Secretary

BY: _____

_____

THE STATE OF TEXAS §

Engineer Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared ____Larry O. Rogers, P.E._____, ☐ who is known to me or ☐ who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or ☐ who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared James F. Parajon, FAICP, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Deputy City Manager thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

My Commission Expires: _____

PRIME AND SUBS &
MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE) REPORT

Please complete this form, include copy of certification(s) and return with executed contracts

Project Name: _____

Project No: _____ Date: _____

LEGEND

* Answer with "YES" or "NO"
AI - Native American (AI)
NW - Native American, Women-Owned (NW)
AS - Asian (AS)
AW - Asian, Women-Owned (AW)
BL - Black (BL)
BW - Black, Women-Owned (BW)
HI - Hispanic (HI)
HW - Hispanic, Women-Owned (HW)
WO - Women-Owned (WO)
Other _____

PRIME CONTRACTOR	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

LIST **ALL** SUBS:

Name of Company	Description of Primary Work Type (For prequalification verification purposes)	*Arlington Firm (Yes/No)	*MWBE (Yes/No)	TYPE (Use abbreviation in Legend)	Anticipated Amount

SAMPLE (Copy for execution will be included with award letter)

EXHIBIT "A"

HUITT-ZOLLARS

HUITT-ZOLLARS, INC • 500 West 7th St. Mail Unit 23 • Suite 300 • Fort Worth, TX 76102-4773 • 817.335.3000 phone • 817.429.1291 metro • 817.335.1025 fax • huitt-zollars.com

May 3, 2016

Ms. Mandy Clark, P.E., CFM
Stormwater Engineering Operations Manager
Public Works and Transportation, City of Arlington
Mail Stop 01-0220
101 W. Abram St.
Arlington, TX 76010

VIA EMAIL
Mandy.Clark@arlingtontx.gov

Reference: Fee Proposal – Design of Erosion / Scour Protection, Rush Creek
Arlington, Texas

Dear Ms. Clark:

Huitt-Zollars (HZ) appreciates the opportunity to provide this proposal for professional engineering services for the development of alternatives and design of improvements to address the streambank erosion and scouring issue along Rush Creek adjacent to Bowen Road just to the north of Green Oaks Boulevard. We have developed the following Scope of Services based upon the results of our previous evaluation of the erosion / scour problems and subsequent discussions with you over the past few weeks:

SCOPE OF SERVICES:

Consultant will perform the following SERVICES:

A. Surveying

1. Perform research to identify property owners adjacent to the creek. Perform field survey to locate boundary corners. Perform calculations and analysis of data to determine boundary lines.
2. Prepare legal descriptions and exhibit maps for 2 temporary easements and 1 permanent easement for construction and extension of a gabion retaining wall.
3. Prepare design-level topographic survey of the project limits. Previous topographic survey provides adequate definition of much of the project limits. However, additional detail is required along the existing gabion wall, utilities, and slope definition.

B. Environmental Permitting (by subcontract)

1. Delineation of Waters of the United States and Section 404 Permit Review/Assessment

2 Preparation of Nationwide Permit Pre-construction Notification (NWP PCN) and permit coordination with USACE. This task will only be performed after written notice to proceed and upon determination that an NWP PCN is required.

C. Alternative Analysis

1. Modify current City hydraulic model to reflect existing conditions. City's existing topographic work map will be utilized and will be supplemented with current topography and new cross-section locations.
2. Develop hydraulic assessment parameters (shear stress, velocity)
3. Develop alignment for proposed improvements
4. Assess alternative methods for armoring the toe of slope and the embankment slope. Gabion baskets are anticipated for use in armoring the toe of slope, but alternatives will be assessed for use downstream of the main gabion wall section.
5. Develop concept-level typical details for:
    a. Rehabilitation of existing gabion wall
    b. Removal of wing wall
    c. New gabion wall tie-in to existing wall
    d. Gabion toe protection
    e. Bank protection above gabion toe
    f. Transition to natural channel, possibly to include method to control alignment
6. Develop Preliminary Opinion of Probable Construction Costs (OPCC)
7. Conduct Alternatives analysis meeting with City staff to describe advantages and disadvantages of alternatives under consideration.

D. Conceptual Design (30%) Using the selected alternatives,

1. Develop approximate grading plan
2. Prepare preliminary hydraulic model of proposed conditions
3. Verify no adverse impact; verify hydraulic design parameters
4. Develop alignment data sheet
5. Develop plan / profile at 1" = 10 feet horiz. (2 sheets)
6. Develop Typical Detail Sheets
    a. Gabion rehab (1 sheet)
    b. Headwall removal (includes adjusting storm drain & tie-in of new wall (1 sheet)
    c. Full-height wall (2 sheets)
    d. Toe protection (1 sheet)
    e. Slope protection (1 sheet)
    f. Channel Transition / Terminus alignment control (1 sheet)

7. Prepare preliminary opinion of probable construction cost
8. Prepare preliminary engineering report
9. Design review meeting

E. Pre-Final Design (95%)

1. Respond to City Comments & revise design accordingly
2. Refine alignment and typical sections
3. Develop post-project DTM
4. Develop final hydraulic model & verify no adverse impact
5. Finalize alignment data sheet
6. Finalize plan / profile sheets
7. Finalize detail sheets
8. Prepare construction access & de-watering plan
9. Prepare Quantity Sheet
10. Prepare draft special specifications (if necessary)
11. Prepare SWPPP Erosion Control Sheet w/applicable BMPs
12. Prepare & submit final hydraulic report
13. Field Check plans for accuracy
14. Prepare final hydraulic report
15. Submit plans for final review

F. Final Submittal

1. Respond to City comments
2. Finalize all drawing sheets
3. Prepare final quantities and OPCC
4. Submit set of final plans and special specifications

G. Construction Phase Support

Consultant will address technical questions and sheet modifications as needed during construction. A $5,000 budget is assumed for these services.

H. Geotechnical Investigation (by subcontract)

1. Subsurface Exploration

   Drillers and technicians will evaluate subsurface conditions with a total of three (3) sample borings. One boring will be drilled to a depth of 45 feet near the top of the existing wall on Bowen Road, one boring will be drilled to a depth of 25 feet on the west side of the creek as close to the problem erosion area as possible, both drilled utilizing truck mounted equipment. The remaining boring

will be drilled to a depth of 10 to 15 feet, as possible, by hand portable equipment on the east side of the creek as close to the problem erosion area as possible.

Cohesive and non-cohesive soil samples will be obtained using 3-inch diameter Shelby tube samplers and 2-inch diameter standard split-spoon samplers, respectively. In addition, rock encountered will be evaluated by use of Texas Department of Transportation (TXDOT) cone penetration tests. A soils logger will extrude the samples in the field, check the samples for consistency with a hand penetrometer, carefully wrap them to preserve their condition, and return them to the laboratory for testing. A log of each boring will be prepared to document field activities and results.

2. Laboratory Services

Considering the planned facilities, anticipated soil conditions and geology, laboratory tests will be required for classification purposes, and to determine strength characteristics. The following types of tests are therefore recommended:

- moisture content and soil identification
- percent passing #200 sieve
- sieve and hydrometer analyses
- liquid and plastic limit determinations
- unconfined compression tests on soil
- direct shear tests on soil
- unit weight determinations

The specific types and quantities of tests will be determined based on geologic conditions encountered in the borings.

3. Engineering Services

An engineering report will be prepared to present the results of the field and laboratory data together with our analyses of the results and recommendations. The report will address:

- general soil and ground-water conditions
- recommendations for gabion foundation type, depth and allowable loading
- foundation construction requirements
- recommended lateral pressures for the design of below-grade walls and retaining structures
- an evaluation of the swell characteristics of the subgrade soils
- global slope stability analyses

- recommendations for tiebacks, including founding material, allowable adhesion, and spacing
- earthwork recommendations

Items other than those specified above, which are revealed by these studies or are necessitated by a change in project scope, may require revised field, laboratory, and engineering services. These services, if required and requested, will be performed as Additional Services.

COMPENSATION:

1.0 Fee Breakdown

Fees for these Services are as follows:

HUITT-ZOLLARS (Hourly Not-to Exceed)		
Surveying	$	7,830.00
Design	$	80,665.00
Construction Phase Support	$	5,000.00
SUBCONSULTANTS		
Environmental Permits (Hourly Not-to-Exceed)		
Delineation of Waters of the US	$	2,600.00
Nationwide Permit PCN (if required)	$	10,000.00
Geotechnical (Hourly Not-to-Exceed)	$	15,000.00
EXPENSES *		
Other Direct Costs (Estimated, NTE)	$	521.42
Mileage (Estimated, NTE)	$	153.36
* - Expenses billed at actual cost only		
Total Fee (Not to Exceed)	**$**	**121,769.78**

A detailed breakdown of costs is included in the attached spreadsheets.

SCHEDULE:

A Draft Schedule for performing the scope of services, assuming contract award by June 3, 2016 is as follows:

Award and NTP	June 3, 2016
Surveying and Geotechnical Completed	July 15, 2016
Alternatives Analysis Submittal	July 29, 2016
Alternatives Analysis Review Meeting	August 5, 2016
Concept Design Submittal	August 26, 2016
Concept Design Review Meeting	September 2, 2016
Pre-final Design Submittal	September 30, 2016
Pre-Final Design Review Meeting	October 7, 2016
Final Design Submittal (signed and sealed)	October 14, 2016

DELIVERABLES:

- Alternatives Analysis and Opinion of Probable Construction Costs (OPCC)
- Concept Design Documents and OPCC
- Pre-final Design Documents
- Final Design Documents and OPCC

If you have any questions regarding this proposal please contact me by phone (O) 817-335-3000 or (M) 214-728-7891, or by email at lrogers@huitt-zollars.com . We look forward to working with you.

Respectfully submitted,

Huitt-Zollars, Inc.

Date: MAY 3, 2016

Larry O. Rogers, P.E.
Vice President

ATTACHMENT "A"

Fort Worth

2015
HOURLY RATE SHEET

Engineering/Architecture

Principal-In-Charge	$ 225.00
QA Manager	$ 220.00
Sr. Project Manager	$ 220.00
Project Manager	$ 175.00
Sr. Civil Engineer	$ 180.00
Sr. Structural Engineer	$ 195.00
Sr. Mechanical Engineer	$ 180.00
Sr. Electrical Engineer	$ 180.00
Civil Engineer	$ 115.00
Structural Engineer	$ 125.00
Mechanical Engineer	$ 150.00
Electrical Engineer	$ 150.00
Plumbing Engineer	$ 150.00
Engineer Intern	$ 105.00
Sr. Architect	$ 175.00
Architect	$ 145.00
Architect Intern	$ 85.00
Sr. Landscape Architect	$ 150.00
Landscape Architect	$ 105.00
Landscape Architect Intern	$ 85.00
Sr. Planner	$ 175.00
Planner	$ 155.00
Planner Intern	$ 110.00
Sustainability Professional	$ 140.00
Sr. Designer	$ 115.00
Designer	$ 100.00
Sr. CADD Technician	$ 100.00
CADD Technician	$ 80.00

Surveying (By Dallas Office)

Survey Manager	$ 180.00
Sr. Project Surveyor	$ 140.00
Project Surveyor	$ 135.00
Field Coordinator	$ 115.00
Sr. Survey Technician	$ 100.00
Survey Technician	$ 80.00

Survey Crews (By Dallas Office)

1-Person Survey Crew	$ 90.00
2-Person Survey Crew	$ 135.00
3-Person Survey Crew	$ 160.00

Construction

Construction Manager	$ 175.00
Resident Engineer	$ 145.00
Resident Project Representative	$ 130.00

Administrative

Sr. Project Support	$ 85.00
Project Support	$ 60.00

Reimbursable Expenses

Consultants	Cost ~~+ 10%~~
Other Direct Costs	Cost ~~+ 10%~~
Mileage	IRS Standard Business Mileage Rate

ATTACHMENT "B"

EXPENSES

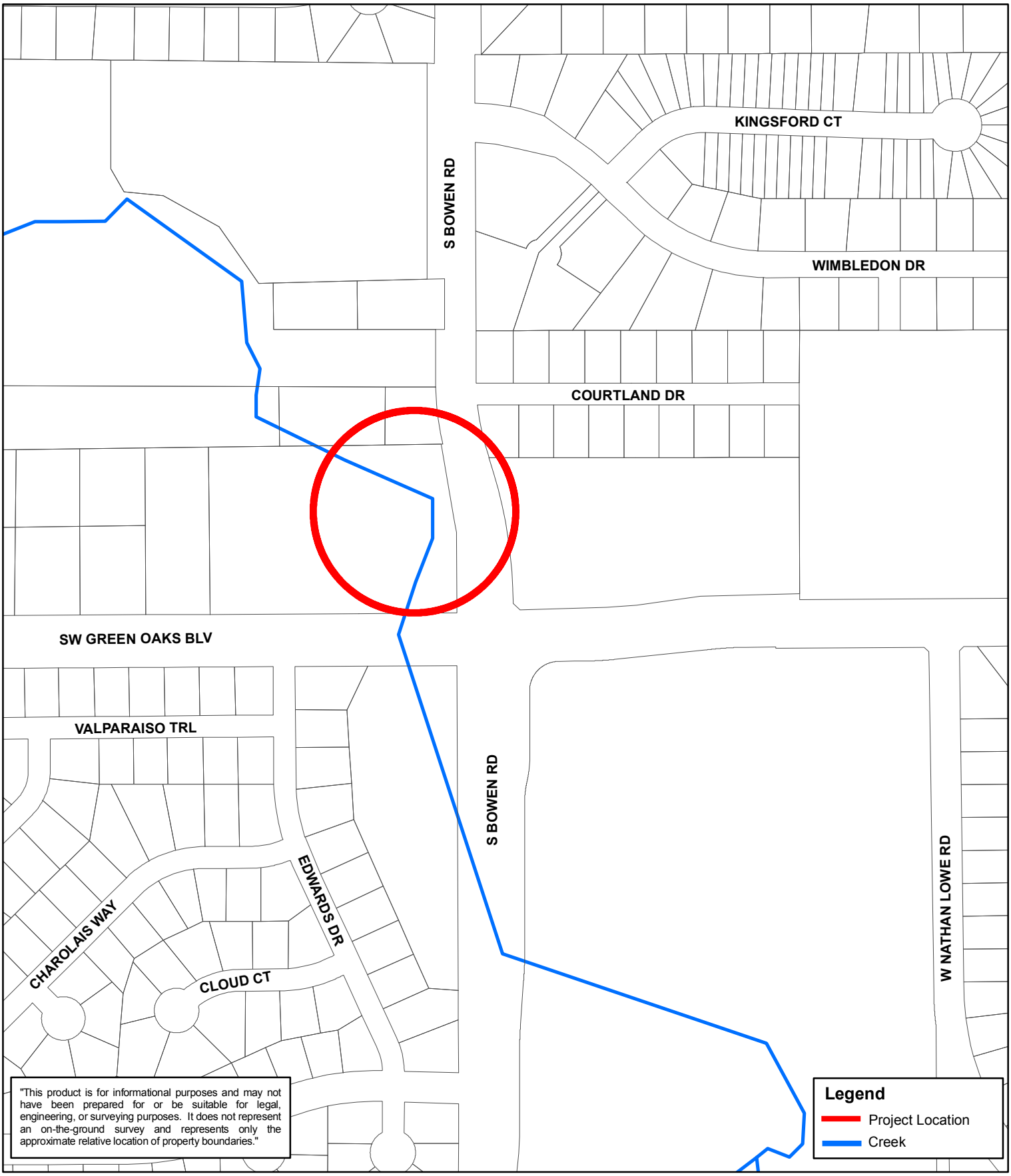
Design of Erosion / Scour Protection
Rush Creek at Bowen Road, Arlington, TX

Travel	Rate	Qty.		Durat. / #		Subtotals
Mileage	$0.540 / mile		miles			
Survey Crew	$0.54	46		2	trips	$49.68
Alternatives Analysis Mtg	$0.54	32		2	people	$34.56
Concept Review Mtg	$0.54	32		2	people	$34.56
Pre-Final Design Mtg	$0.54	32		2	people	$34.56
		Total Mileage Costs				$153.36
Total Travel						**$153.36**

Reproduction	Rate	Qty.		No. Req'd.		Subtotals	
Concept Design							
Drawings - Full Size	$1.85	11	dwgs	2		$40.70	
Drawings - 11 x 17	$0.90	11	dwgs	4		$39.60	
Preliminary Engineering Report	$0.11	20	pages	4		$8.80	
Opinion of Probable Construction Cost	$0.11	4	pages	4		$1.76	
Geotech Report	$0.11	30	pages	4		$13.20	
CD	$1.00	1	each	1		$1.00	
					subtotal	$105.06	$105.06
Pre-Final Design							
Drawings - Full Size	$1.85	15	dwgs	2		$55.50	
Drawings - 11 x 17	$0.90	15	dwgs	4		$54.00	
Specifications	$0.11	150	pages	4		$66.00	
Final Hydraulic Report	$0.11	30	pages	4		$13.20	
Calculations	$0.11	20	pages	4		$8.80	
CD	$1.00	1	each	1		$1.00	
					subtotal	$198.50	$198.50
Final Design							
Drawings - Full Size	$1.85	15	dwgs	2		$55.50	
Drawings - 11 x 17	$0.90	15	dwgs	4		$54.00	
Specifications	$0.11	170	pages	4		$74.80	
Technical Reports	$0.11	50	pages	4		$22.00	
Calculations	$0.11	20	pages	4		$8.80	
Opinion of Probable Construction Cost	$0.11	4	pages	4		$1.76	
CD	$1.00	1	each	1		$1.00	
					subtotal	$217.86	$217.86
Total Reproduction							**$521.42**

TOTAL EXPENSES **$674.78**

END OF DOCUMENT



N
W E
S

Rush Creek at Bowen
Erosion and Scour Investigation
Project No. PWDR16001
Location Map

ARLINGTON
THE AMERICAN DREAM CITY

Prepared By:
PWT Engineering Operations
12/21/2015

Staff Report

Purchase of 13 Chevrolet Tahoes, Bid Project 16-0126	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to purchase 13 Chevrolet Tahoes with Caldwell Country Chevrolet through the Texas Local Government Purchasing Cooperative (TLGPC) in the estimated amount of $471,185.

PRIOR BOARD OR COUNCIL ACTION

On June 25, 2002, the City Council passed Resolution 02-314, authorizing the City of Arlington to participate in the TLGPC.

ANALYSIS

This purchase is for 13 Chevrolet Tahoe police vehicles for the Police Department. The new vehicles will replace existing vehicles that have exceeded their useful service life. The City's fleet management contract defines replacement parameters (age and usage) for every vehicle in the fleet. The City risks increased annual maintenance cost if aged fleet is not replaced.

All new vehicles meet the most current U.S. EPA's Emission standards for pollutant emissions for both gasoline and diesel engines.

FINANCIAL IMPACT

Caldwell Country Chevrolet of Caldwell, Texas, is under contract with the TLGPC and will provide the replacement vehicles for a total estimated amount of $471,185. This is a one-time purchase. No additional maintenance and fuel costs will be incurred for the replacement vehicles. The projected three-year financial impact is as follows:

FY 2016	FY 2017	FY 2018
$471,185	$0	$0

Funds are budgeted in Fleet Services Administration Account No. 790101-68200.

ADDITIONAL INFORMATION

Attached:	Vehicle Replacement List
Under separate cover:	None
Available in the Purchasing office:	Bid file
Notarized 1295 Form	Yes
MWBE:	No

STAFF CONTACT(S)

David Wynn, P.E., Interim Director	Will Velasco, CPPB	Mike Finley
Public Works & Transportation	Purchasing Agent	Director of Finance
817-459-6560	817-459-6303	817-459-6345
David.Wynn@arlingtontx.gov	Will.Velasco@arlingtontx.gov	Mike.Finley@arlingtontx.gov

2016 Vehicle Replacement List

Unit #	Dept.	Year	Make	Model	Description	Current Mileage
0300	810601	2006	CHEV	TAHOE	TRK TAHOE COMMAND	84,873
0301	810501	2006	CHEV	TAHOE	TRK TAHOE COMMAND	79,802
0401	810401	2007	CHEV	TAHOE	TRK TAHOE COMMAND	106,137
0403	811301	2007	CHEV	TAHOE	TRK TAHOE COMMAND	70,685
0500	810401	2008	CHEV	TAHOE	TRK TAHOE COMMAND	133,622
0502	810601	2008	CHEV	TAHOE	TRK TAHOE COMMAND	114,599
0503	811301	2008	CHEV	TAHOE	TRK TAHOE COMMAND	122,935
0504	810702	2008	CHEV	TAHOE	TRK TAHOE COMMAND	61,122
0650	810401	2009	CHEV	TAHOE	TRK TAHOE COMMAND	106,523
0651	810501	2009	CHEV	TAHOE	TRK TAHOE COMMAND	72,039
0652	810601	2009	CHEV	TAHOE	TRK TAHOE COMMAND	71,251
0654	810701	2009	CHEV	TAHOE	TRK TAHOE COMMAND	73,394
2912	810801	2010	CHEV	TAHOE	TRK TAHOE 4X2 SUV	175,775

Staff Report

Purchase and Installation of New Surface Material for Miracle Field, Bid Project 16-0129	
City Council Meeting Date: 5-24-16	Action Being Considered: Minute Order

RECOMMENDATION

Authorize the City Manager or his designee to purchase and install specialized surface material at Miracle Field from Landscape Structures, Inc. through the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program in the estimated amount of $151,427.25.

PRIOR BOARD OR COUNCIL ACTION

On June 24, 1997, the City Council passed Resolution 97-411 authorizing the City of Arlington to participate in the H-GAC Cooperative Purchasing Program.

ANALYSIS

This is for the purchase and installation of new surface material at Miracle Field. Installation of a recycled rubber surface material known as Pebbleflex will provide a smooth, safe, and durable surface that will meet the requirements outlined by the Miracle League.

The new concrete sub-base and Pebbleflex surface material will provide for a more permanent and sustainable solution for a renewed playing surface for park patrons.

FINANCIAL IMPACT

Utilizing the interlocal agreement with Landscape Structures, Inc. of Delano, Minnesota, through the H-GAC Cooperative Purchasing Program, was determined to be the most cost-effective method for obtaining the specialized surface material. This is a one-time purchase and no financial impact is anticipated in future fiscal years directly related to this purchase.

FY 2016	FY 2017	FY 2018
$151,427.25	$0	$0

Funds are available in Field Enhancement Account No. 508503-68101-53550599.

ADDITIONAL INFORMATION

Attached:	None
Under separate cover:	None
Available in the Purchasing office:	Bid File
Notarized Form 1295:	Yes
MWBE:	No

STAFF CONTACT(S)

Lemuel Randolph, Director	Will Velasco, CPPB	Mike Finley
Parks & Recreation	Purchasing Agent	Director of Finance
817-459-5479	817-459-6302	817-459-6345
Lemuel.Randolph@arlingtontx.gov	Will.Velasco@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Staff Report

Zoning Case PD15-13 (Dial Independent Living)	
City Council Meeting Date: 5-24-16	Document Being Considered: Ordinance

RECOMMENDATION

Approve an ordinance changing the zoning classification on property at 131 and 175 East Bardin Road; generally located north of East Bardin Road and east of Matlock Road from Community Commercial (CC) to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan.

PRIOR BOARD OR COUNCIL ACTION

On April 20, 2016, the Planning and Zoning Commission recommended approval of Zoning Case PD15-13 by a vote of 8-0-1

On May 10, 2016, the City Council approved first reading by a vote of 9-0-0, subject to the following stipulation:

- Prohibition of Alternative Financial Institutions.

ANALYSIS

Request

The applicant requests to change the zoning on approximately 9.089 acres addressed at 131 and 175 East Bardin Road; generally located north of East Bardin Road and east of Matlock Road.

Current zoning: Community Commercial (CC)

Requested zoning: Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan

The site is currently undeveloped and zoned CC, which does not allow for the use of Independent Senior Living Center. The proposed Planned Development would allow for this use.

An independent senior living facility is allowed by right only in the Downtown Business (DB) zoning district and the mixed-use zoning districts of Neighborhood Mixed-Use (NMU) and Regional Mixed-Use (RMU).

Adjacent Land Uses

The property to the east is zoned Residential Multi-Family (RMF-22) and is developed with an apartment complex. Properties to the west are zoned CC and are developed with office and restaurant uses. Property to the north is zoned General Commercial (GC) and is undeveloped. Property to the south across East Bardin Road is zoned CC and Residential Single-Family (RS-7.2) and is developed with the Bardin Square retail shopping center and single family housing.

Development Plan

The applicant is proposing to construct a gated 180-unit Independent Senior Living Facility. The units will range in size from 746-square-foot one-bedroom units to 1,113-square-foot two-bedroom units. The density proposed is 20 dwelling units per acre (dua).

The structure will be four stories and contain a leasing office and clubhouse for the senior residents. The building materials for the proposed development will consist primarily of a combination of two brick types, simulated stone and stucco. The roof will be finished with composition shingles and standing seam metal. The architecture resembles a modern residential complex with its use of materials and low-pitch roof of 4:12.

The site will have two points of access. One access point is from a shared access drive through an existing commercial development from Matlock Road on the west side of the property. The primary existing access point is from East Bardin Road on the south side of the site.

Parking
The proposed facility will require 210 parking spaces. The applicant is proposing 211 total spaces of which 31 parking spaces for guests/visitors/staff due to the nature of the project.

UDC REQUIREMENT	REQUIRED	PROPOSED
1 Parking space per unit and 1 space per 100 SF of common area	210 parking spaces	211 parking spaces
50 percent of required parking spaces to be covered	105 spaces	96 spaces (all garages)
20 percent of the required parking spaces to be enclosed into a garage	42 garages	96 garages which includes- 48 park under garage/storage and 8-groupings of 6 freestanding garage clusters

Landscaping
The applicant is proposing to provide landscaping throughout the subject site. Along the East Bardin Road frontage on the south side of the property, the applicant proposes to provide a variable width landscape setback, ranging from 85 feet to 180 feet in width. This is mainly due to an existing 15-foot drainage easement running across the Bardin Road frontage. The landscape setback area will contain six four-inch caliper, 10-foot tall trees, and 223 shrubs in addition to turf grass coverage meet the landscaping requirements.

Outdoor entry enhancements include a Pecan orchard of 18 three-inch caliper trees and a Plum orchard of 18 three-inch caliper trees, in addition to the access drive enriched with nine three-inch caliper Crepe Myrtle trees.

Perimeter ornamental iron fencing with masonry columns is proposed on the northern, southern and western boundaries. On the west side of the property, adjacent to the commercial and office uses, the applicant proposes to provide a four-foot wide pedestrian pathway, facilitating pedestrian connectivity through the site. Specialty paving in the form of stamped and stained concrete under the porte-cochere and the connection between the walking trail and rear amenities is proposed to accentuate the entrances. The applicant proposes 100 percent of all trees and plants for installation on the site to be drought-tolerant native or adapted species.

	REQUIRED	PROPOSED
WIDTH OF LANDSCAPE SETBACK:		
1. Along E. Bardin Road	20 feet	85 feet to 180 feet
PLANTINGS WITHIN LANDSCAPE SETBACK:		
	Trees: 13 4-inch caliper	Six 4-inch caliper Shumard Red Oaks; 18 3-inch caliper Pecans and 18 3-inch caliper Plum trees
PLANTINGS WITHIN LANDSCAPE SETBACK:		
	158 shrubs	223 shrubs
TRANSITIONAL BUFFER LEVEL II:		
1. Northern	15 feet 16 4-inch caliper trees	15 feet 16 4-inch caliper trees
2. Western	15 feet 31 4-inch caliper trees	15 feet 31 4-inch caliper trees
3. Fencing	Masonry, Ornamental Iron, Composite or Cedar fencing 6 feet-8 feet	Ornamental Iron fence with Masonry columns 6 feet
INTERNAL PARKING LOT TREES:		
	One 3-inch caliper tree per 10 parking spaces or 21 parking lot trees	21 parking lot islands provided 30 parking lot trees. (Cedar Elms, Live Oaks and Lacebark Elms)

Internal to the subject site, the applicant proposes to provide trees and plantings for each required landscape parking island, shrubs at the garage entries. In addition to the required plantings, the applicant also proposes to provide plants adjacent to the building on the north and south side, and provide trees and shrubs in the outdoor courtyard area, and a landscaped forecourt area on the Bardin Road frontage public right-of-way.

The applicant has identified a number of items which exceed the UDC requirements:

- Amenities such as swimming pool, spa, outdoor lounge seating and fire pit with covered seating area, putting green and Dog Park with ornamental iron fence with masonry columns
- Of the 210 parking spaces required, the applicant is proposing 211 spaces; 180 spaces for the residents (96 covered, 84 surface), 31 guest.
- Minimum 4-inch caliper trees along street frontage.
- Pedestrian connectivity from the adjacent Matlock Park Place retail center to the development to the west and to East Bardin Road to the south.
- Ornamental iron fencing with masonry columns
- Decorative light fixtures
- Accentuated landscaped forecourt
- Resident commons
- Resident gardening area
- Specialty paving in the form of stamped and stained concrete.

Comprehensive Plan
The Comprehensive Plan, *99 Square Miles* – identifies this area as a Regional Activity Center which is intended to provide the opportunity to create special places that include residential, retail, offices and entertainment. These areas are typically considerably larger and more diverse in land uses and other land use classifications. The plan also calls for a mix of quality housing for a diverse population. Housing designed for seniors should be encouraged in neighborhoods where health and community facilities and services are accessible.

The 2014 Economic Development Strategy includes the subject site in the strategic considerations for development surrounding the Municipal Airport, and identifies this specific stretch of Bardin Road as a suitable location for an Innovation or Technological Corridor, anchored at each end by the Bell Helicopter plant and the new TI site.

The proposed request for a Planned Development for an Independent Senior Living Facility is in general conformance with the Comprehensive Plan, but is not in line with the highest and best uses developed through the Economic Development Strategy for this area.

FINANCIAL IMPACT
None

ADDITIONAL INFORMATION

Attached:	Ordinance with Exhibits A and B Development Plan (6 pages) Case Information with P&Z Summary AISD Letter
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACTS

Gincy Thoppil, AICP
Assistant Director, Land Development
Community Development and Planning
817-459-6662
Gincy.Thoppil@arlingtontx.gov

Jennifer Pruitt, AICP, LEED AP
Planning Manager, Land Development
Community Development and Planning
817-459-6138
Jennifer.Pruitt@arlingtontx.gov

Ordinance No. 16-

An ordinance changing the zoning classification on certain property known as 131 and 175 East Bardin Road to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan; amending the Zoning District Map accordingly; authorizing the building official to issue permits upon the effective date; providing for a fine of up to $2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication; and providing an effective date.

WHEREAS, after notice and public hearing the Planning and Zoning Commission heard and recommended approval of Zoning Case PD15-13 on April 20, 2016; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens that the zoning amendment be approved. Now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

The zoning classification of certain property known as 131 and 175 East Bardin Road, described in Exhibit A, is hereby changed to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan by the approval of PD15-13, and the Zoning District Map shall be amended to reflect the zoning change made by this ordinance. Development and use of the property shall be in compliance with this ordinance and the attached Development Plan and Exhibit B.

2.

The Building Official is hereby authorized and directed to issue permits in compliance with this ordinance, including all exhibits attached to this ordinance, immediately after the effective date of this ordinance. In the event of a conflict between the provisions in Exhibit B and the provisions in any other exhibit, the provisions in Exhibit B control.

3.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof

shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

4.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

5.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

6.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

7.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

8.

The caption and penalty of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

This ordinance shall become effective upon second publication.

PRESENTED AND GIVEN FIRST READING on the 10th day of May, 2016 at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 24th day of May, 2016 by a vote of ___ayes and ___ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY _____

PD15-2

EXHIBIT “A”

BEING approximately 9.089 acres of land with frontage of East Bardin Road and is commonly known as Lot 3A3 and 2, Block 8 of the Westway Addition, an addition to the City of Arlington, Texas;

AND being generally located north of East Bardin Road and east of Matlock Road.

PD15-13

EXHIBIT "B"

1. Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living facility, with a Development Plan.

2. Following are the excluded uses: Halfway House, Domestic violence shelter, Kennel, Commercial, Motor Vehicle rental, Bail Bond service, Country club, Marina, Tattoo parlor or Piercing studio, Bingo Parlor, Billiard Parlor, Gun range (indoor), Nightclub, Specialty paraphernalia sales, Pawn shop, Wrecker service, Food processing, Firearm sales, Second-hand good store, Self-storage facility and Alternative Financial Institution.

3. Proposed Independent Senior Living facility with 180 units.

4. Following are the development characteristics for the facility:
    a. Four story building
    b. Brick, stone and stucco will be the primary building materials
    c. Asphalt shingle and Standing seam metal roofing for the main structure.
    d. Forecourt with landscaping.
    e. Amenities such as Swimming Pool, Spa, Outdoor Lounge Seating, Covered Seating Areas, Grills, Community garden, Putting green, and Dog Park Private.
    f. Pedestrian scale lighting throughout development.
    g. Enhanced paving.
    h. Enhanced landscaping at site entrances.

5. The number of required parking spaces is 210, the applicant proposes 211 spaces; 180 spaces for the residents (96 covered (garages), 84 surface), 31 guest.

6. Pedestrian connectivity from the adjacent Matlock Park Place retail center to the development to the west and to East Bardin Road to the south.

7. The site will have two points of access. One access point is from a shared access drive through an existing commercial development from Matlock Road on the west side of the property. The primary existing access point is from East Bardin Road on the south side of the site.

8. All trees on site shall be a minimum of four-inch caliper, at installation, with the exception of the Crape Myrtles, Pecan and Plum Trees.

9. Landscaping shall be installed per the attached Landscape Plan.

10. A six-foot tall iron fence with masonry columns shall be installed per plan submitted.

11. Use and development of the property shall be in compliance with the Development Plan. In the event of a conflict between the provisions in this Exhibit B and any other exhibits to this ordinance, the provisions of Exhibit B control.

DIAL – INDEPENDENT LIVING

CURRENT ZONING
COMMUNITY COMMERCIAL (CC)

PROPOSED ZONING
PLANNED DEVELOPMENT FOR LIMITED COMMUNITY COMMERCIAL (CC) USES, PLUS INDEPENDENT SENIOR LIVING FACILITY

OWNER
MATLOCK INVESTMENT COMPANY
3601 E. VICKERY BLVD.
FORT WORTH, TX 76105

DEVELOPER
DIAL SENIOR APARTMENTS, LLC
11506 NICHOLAS STREET, STE. 100
OMAHA, NE 68154
CONTACT: NEIL LABELLE
PH: 402-493-2800

PLANNER/LANDSCAPE ARCHITECT
MYCOSKIE+MCINNIS+ASSOCIATES
200 E. ABRAM STREET
ARLINGTON, TEXAS 76010
CONTACT: JACOB SUMPTER, AICP
PH: 817-469-1671
FAX: 817-274-8757

ARCHITECT
KAZMAIER & ASSOCIATES
13795 S. MUR-LEN ROAD
OLATHE, KANSAS 66062
CONTACT: JEFF KAZMAIER
PH: 913-254-2245

LEGAL
LOT 2 & 3-A3, BLOCK 8
WESTWAY ADDITION

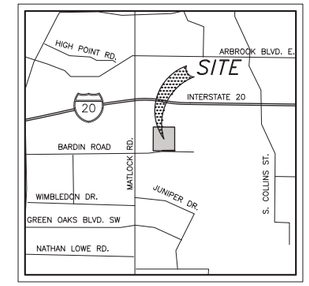
SITE DATA TABLE

1.	AREA OF SUBJECT PROPERTY	9.089 AC, 395,916 SF
2.	# OF DWELLING UNITS	180 UNITS
3.	# OF LOTS	1 (PROPOSED)
4.	DENSITY	20 UNITS/AC
5.	GROSS LIVING AREA (UNITS ONLY)	183,786 SF
6.	GROSS BUILDING SF	265,611 SF
7.	BUILDING HEIGHT	53'-8"

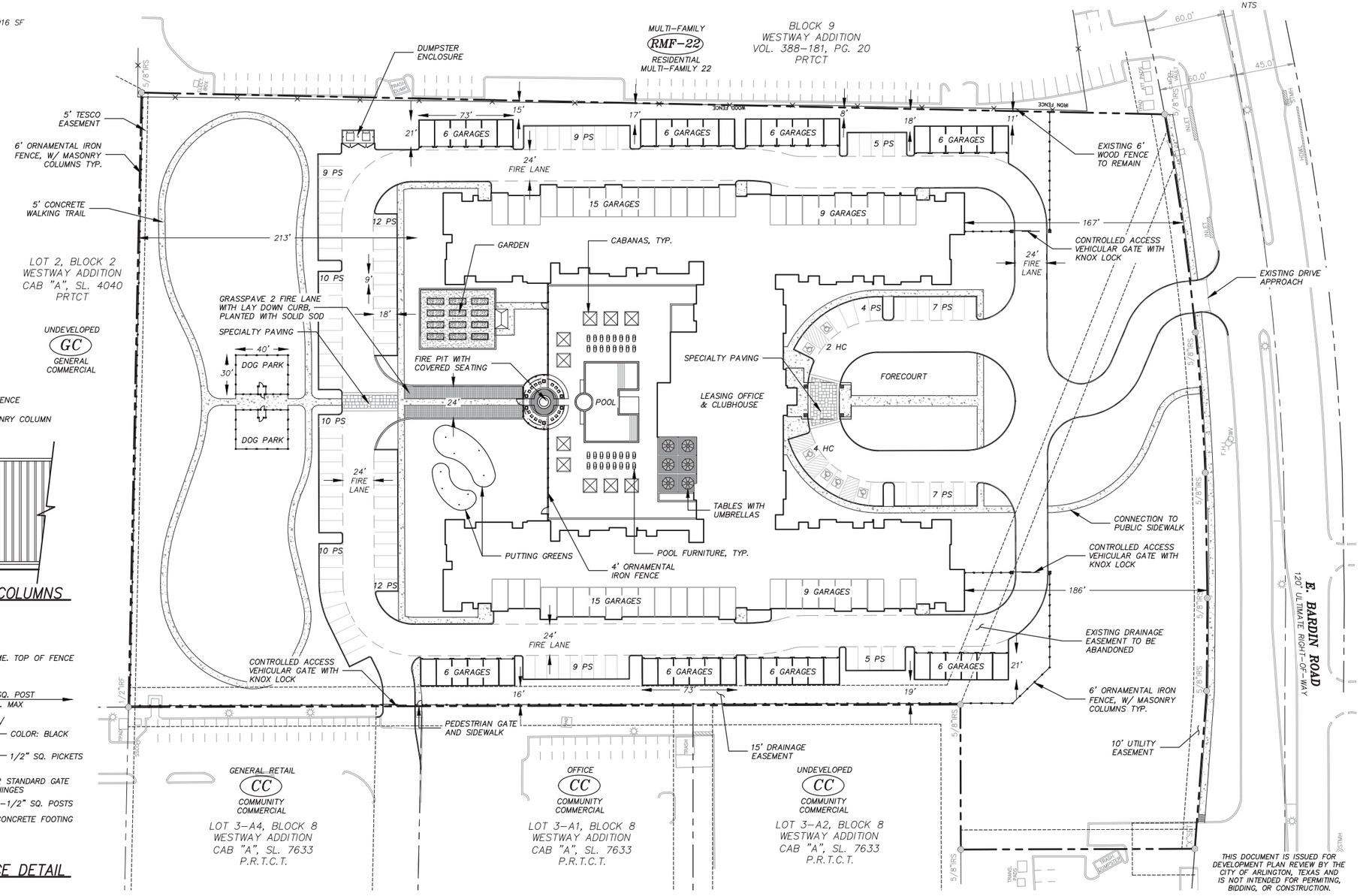
PARKING TABLE

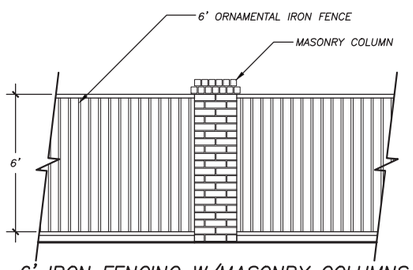
	REQUIREMENT	#	SPACES REQUIRED	SPACES PROVIDED
INDEPENDENT LIVING	1 PS / 1 UNIT	180	180 PS	180 PS
COMMON AREA	1 PS / 100 SF	3,000 SF	30 PS	31 PS
			210 PS	211 PS
ACCESSIBLE	201-300 PS: 7 PS		7 PS	7 PS
COVERED PARKING				96 PS

40 0 220 40 80
1 inch = 40 ft.

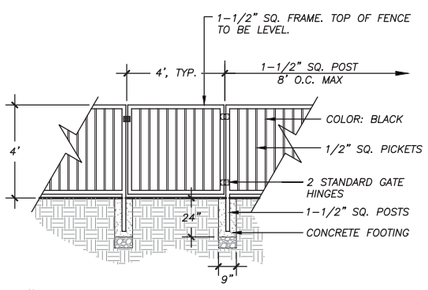


VICINITY MAP
NTS





6' IRON FENCING W/MASONRY COLUMNS
(NOT TO SCALE)



48" POOL AND DOG PARK FENCE DETAIL
(NOT TO SCALE)

THIS DOCUMENT IS ISSUED FOR DEVELOPMENT PLAN REVIEW BY THE CITY OF ARLINGTON, TEXAS AND IS NOT INTENDED FOR PERMITING, BIDDING, OR CONSTRUCTION.

DIAL INDEPENDENT LIVING DEVELOPEMENT PLAN
ARLINGTON, TEXAS

PROJECT TITLE:
DIAL INDEPENDENT LIVING DEVELOPMENT PLAN

mma
mycoskie mcinnis associates
tbpe registration number: f - 2759
200 east abram
arlington, texas 76010
817-469-1671
fax: 817-274-8757
www.mmatexas.com

THIS DOCUMENT IS RELEASED FOR THE PURPOSES OF REVIEW UNDER THE AUTHORITY OF DUWAINE JOINER, RLA NO. 2071 ON 02/17/2016 AND IS NOT TO BE USED FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.

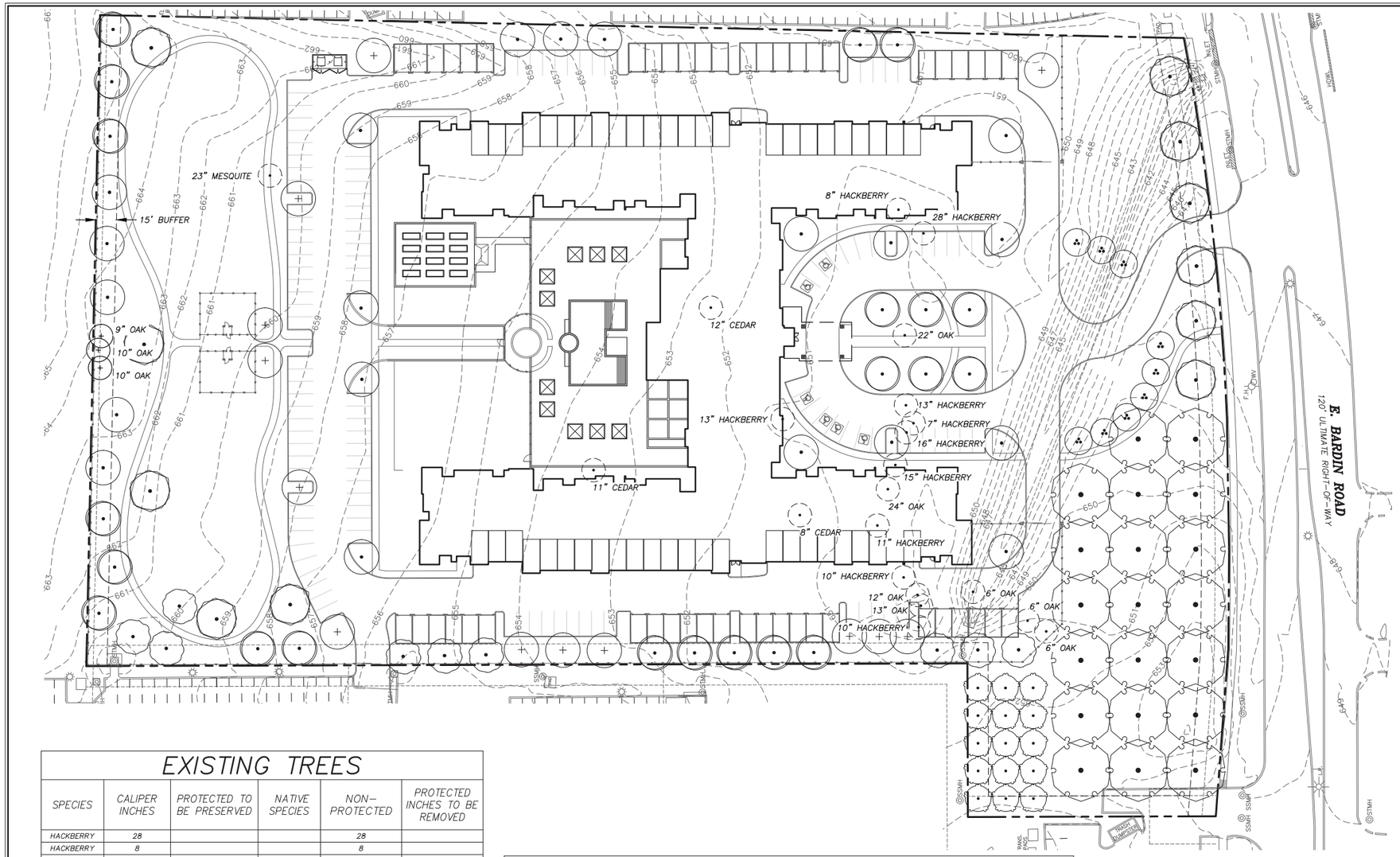
PROJECT NUMBER:	2801-00-01
PROJECT MANAGER:	J. SUMPTER
DRAWN BY:	D. COOPER
CHECKED BY:	J. SUMPTER
ISSUE DATE:	02/17/2016

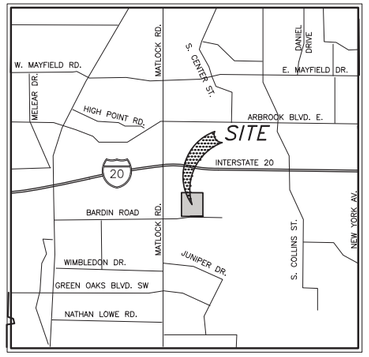
REV.	DATE	DESCRIP.	BY

SHEET CONTENT:
DEVELOPMENT PLAN
PD15-13

SHEET NO:
1

COPYRIGHT © 2016 MMA, INC.





VICINITY MAP
NO SCALE

EXISTING TREES

SPECIES	CALIPER INCHES	PROTECTED TO BE PRESERVED	NATIVE SPECIES	NON-PROTECTED	PROTECTED INCHES TO BE REMOVED
HACKBERRY	28			28	
HACKBERRY	8			8	
CEDAR	12				12
OAK	9	9	4.5		
OAK	10	10	5		
OAK	10	10	5		
MESQUITE	23			23	
CEDAR	11				11
HACKBERRY	13			13	
OAK	22				22
HACKBERRY	13			13	
HACKBERRY	7			7	
HACKBERRY	16			16	
HACKBERRY	15			15	
OAK	24				24
CEDAR	8				8
HACKBERRY	11			11	
HACKBERRY	10			10	
OAK	12				12
OAK	13				13
HACKBERRY	10			10	
OAK	6				6
OAK	6				6
OAK	6				6
	TOTALS:	29	14.5	154	120
	NEGATIVE TREE POINT TOTAL:	**-120**			
	POSITIVE TREE POINT TOTAL:	**+471.5**	POSITIVE TREE POINT TOTAL IS SUM OF PROPOSED CALINCHES + PROTECTED INCHES TO REMAIN + BONUS POINT FOR NATIVE SPECIES		
	TREE POINT TOTAL:	**+351.5**			

PROPOSED TREE SCHEDULE

TREES	CODE	QTY	COMMON NAME / BOTANICAL NAME	CONT	CAL	SIZE
	BO	9	BURR OAK / QUERCUS MACROCARPA	B & B OR CONTAINER	4" CAL.	10'-11' HT., 8' MIN. SPREAD
	CE	20	CEDAR ELM / ULMUS CRASSIFOLIA	B & B OR CONTAINER	4" CAL.	10'-11' HT., 8' MIN. SPREAD
	CM	9	CRAPE MYRTLE / LAGERSTROEMIA X 'TUSCARORA' MIN. 3 CANES, MAX. 6 CANES	B & B OR CONTAINER	3" CAL.	8'-9' HT., 6' MIN. SPREAD
	LE	13	LACEBARK ELM / ULMUS PARVIFOLIA 'LACEBARK ELM'	B & B OR CONTAINER	4" CAL.	10'-11' HT., 8' MIN. SPREAD
	QV	21	LIVE OAK / QUERCUS VIRGINIANA	B & B OR CONTAINER	4" CAL.	10'-11' HT., 8' MIN. SPREAD
	PM2	15	MEXICAN PLUM / PRUNUS MEXICANA	B & B OR CONTAINER	3" CAL.	8'-9' HT., 6' MIN. SPREAD
	CI	20	PECAN / CARYA ILLINOINENSIS	B & B OR CONTAINER	3" CAL.	8'-9' HT., 6' MIN. SPREAD
	RO	11	SHUMARD RED OAK / QUERCUS SHUMARDII	B & B OR CONTAINER	4" CAL.	10'-11' HT., 8' MIN. SPREAD

LEGEND

12" CEDAR — EXISTING TREE TO BE REMOVED

9" OAK, 10" OAK, 10" OAK — EXISTING TREE TO BE PRESERVED

40 0 220 40 80

1 inch = 40 ft.

THIS DOCUMENT IS ISSUED FOR DEVELOPMENT PLAN REVIEW BY THE CITY OF ARLINGTON, TEXAS AND IS NOT INTENDED FOR PERMITING, BIDDING, OR CONSTRUCTION.

DIAL INDEPENDENT LIVING DEVELOPEMENT PLAN

ARLINGTON, TEXAS

PROJECT TITLE:
DIAL INDEPENDENT LIVING DEVELOPMENT PLAN

mmma
mycoskie+mcinnis+associates
tbpe registration number: f - 2759
200 east abram
arlington, texas 76010
817-469-1671
fax: 817-274-8757
www.mmatexas.com

THIS DOCUMENT IS RELEASED FOR THE PURPOSES OF REVIEW UNDER THE AUTHORITY OF DUWAINE JOINER, RLA NO. 2071 ON 02/17/2016 AND IS NOT TO BE USED FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.

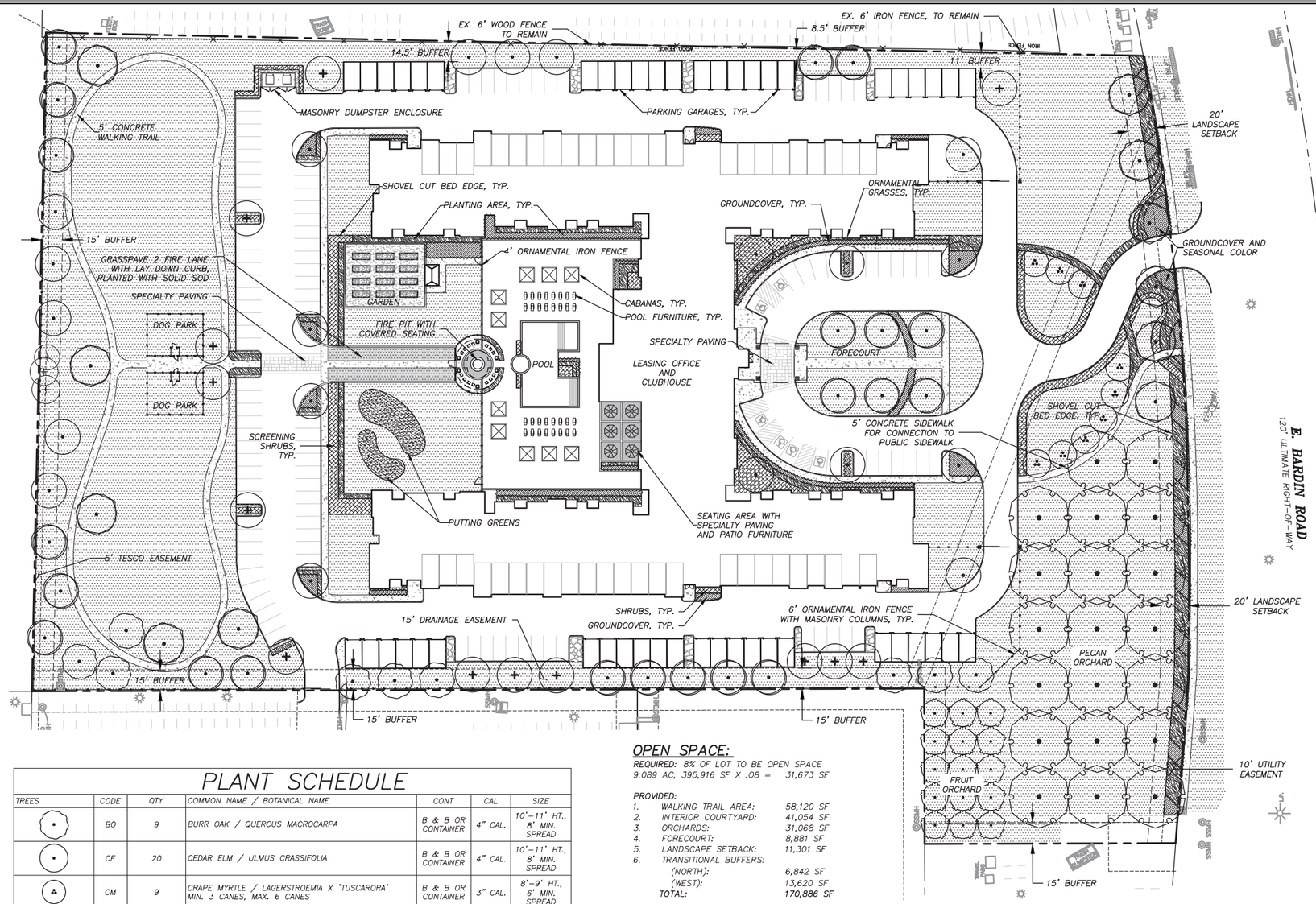
PROJECT NUMBER:	2801-00-01
PROJECT MANAGER:	J. SUMPTER
DRAWN BY:	J. SUMPTER
CHECKED BY:	C. MYCOSKIE
ISSUE DATE:	02/17/2016

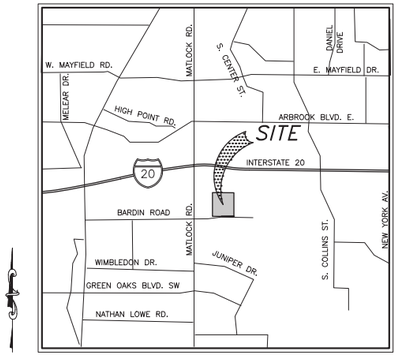
REV.	DATE	DESCRIP.	BY

SHEET CONTENT:
TREE MITIGATION PLAN PD15-13

SHEET NO:
2

COPYRIGHT © 2016 MMA, INC.





VICINITY MAP

NO SCALE

LEGEND

- EXISTING TREE TO BE PRESERVED
- HARDWOOD MULCH, TYP.
- RIVER ROCK, 3"–5" DIA.

PLANT MATERIAL NOTES:

1. ALL TREES TO BE UNIFORM BY SPECIES WITH STRAIGHT TRUNKS, MATCHING CHARACTER, AND FULL BRANCHING STRUCTURE.
2. ALL SHRUBS TO BE FULL AND UNIFORM BY SPECIES WITH MATCHING CHARACTER AND BRANCHING STRUCTURE.
3. EACH PLANT VARIETY MUST COME FROM A SINGLE SOURCE SUPPLIER IN ORDER TO MAINTAIN A CONSISTENT APPEARANCE.
4. ALL TREES, B&B AND CONTAINER TO BE NURSERY GROWN STOCK, WITH A WELL ESTABLISHED ROOT SYSTEM. COLLECTED SPECIMENS WILL BE REJECTED. CONTAINER GROWN PLANT MATERIAL MUST HAVE A WELL-ESTABLISHED ROOT SYSTEM REACHING THE SIDES OF THE CONTAINER, ABLE TO MAINTAIN A FIRM BALL WHEN THE CONTAINER IS REMOVED, BUT SHALL NOT HAVE EXCESSIVE ROOT GROWTH ENCIRCLING THE INSIDE OF THE CONTAINER.
5. ALL PLANT MATERIAL SHALL COMPLY WITH THE MINIMUM REQUIREMENTS AS SET FORTH BY THE AMERICAN ASSOCIATION OF NURSERYMEN, TEXAS ASSOCIATION OF NURSERYMEN STANDARDS AND/OR AS STATED IN THE PLANT SCHEDULE, WHICHEVER IS MORE STRINGENT.

IRRIGATION NOTES:

1. ALL LANDSCAPE PLANTINGS PROPOSED IN THIS PLAN WILL BE IRRIGATED WITH AN AUTOMATIC, UNDERGROUND IRRIGATION SYSTEM.
2. IRRIGATION SYSTEM WILL BE EQUIPPED WITH A RAIN AND FREEZE SENSOR CAPABLE OF SHUTTING DOWN THE SYSTEM WHEN DICTATED BY RAINFALL OR FREEZING CONDITIONS.
3. IRRIGATION SYSTEM DESIGN WILL MEET ALL REQUIREMENTS OF THE CITY OF ARLINGTON, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, AND ALL APPLICABLE PLUMBING CODES.
4. IRRIGATION DESIGN DRAWINGS WILL BE SUBMITTED UNDER A SEPARATE COVER AT A LATER DATE FOR IRRIGATION PERMITTING.

GENERAL UTILITY NOTES:

1. ALL EXISTING UTILITY DATA IS PROVIDED FOR INFORMATION ONLY. ALTHOUGH THIS DATA IS SHOWN AS ACCURATELY AS POSSIBLE, THE CONTRACTOR IS CAUTIONED THAT THE OWNER AND THE ENGINEER NEITHER ASSUMES NOR IMPLIES ANY RESPONSIBILITY FOR THE ACCURACY OF THIS DATA. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO CONTACT THE UTILITY AFFECTED AND VERIFY THESE LOCATIONS AND ELEVATIONS PRIOR TO CONSTRUCTION.
2. CALL 1-800-344-8377 (DIG-TESS) OR OTHER UTILITY LOCATING SERVICES 48 HOURS PRIOR TO CONSTRUCTION ACTIVITY. MYCOSKIE MCINNIS ASSOCIATES, INC. IS NOT RESPONSIBLE FOR KNOWING ALL EXISTING UTILITIES OR DEPICTING EXACT LOCATIONS OF UTILITIES ON DRAWINGS.

811 Know what's below. Call before you dig.

40 0 20 40 80

1 inch = 40 ft.

THIS DOCUMENT IS ISSUED FOR DEVELOPMENT PLAN REVIEW BY THE CITY OF ARLINGTON, TEXAS AND IS NOT INTENDED FOR PERMITING, BIDDING, OR CONSTRUCTION.

OPEN SPACE:

REQUIRED: 8% OF LOT TO BE OPEN SPACE
9.089 AC, 395,916 SF X .08 = 31,673 SF

PROVIDED:

1.	WALKING TRAIL AREA:	58,120 SF
2.	INTERIOR COURTYARD:	41,054 SF
3.	ORCHARDS:	31,068 SF
4.	FORECOURT:	8,881 SF
5.	LANDSCAPE SETBACK:	11,301 SF
6.	TRANSITIONAL BUFFERS:	
	(NORTH):	6,842 SF
	(WEST):	13,620 SF
	TOTAL:	170,886 SF

PLANT SCHEDULE

TREES	CODE	QTY	COMMON NAME / BOTANICAL NAME	CONT	CAL	SIZE
	BO	9	BURR OAK / QUERCUS MACROCARPA	B & B OR CONTAINER	4" CAL.	10'–11' HT., 8' MIN. SPREAD
	CE	20	CEDAR ELM / ULMUS CRASSIFOLIA	B & B OR CONTAINER	4" CAL.	10'–11' HT., 8' MIN. SPREAD
	CM	9	CRAPE MYRTLE / LAGERSTROEMIA X 'TUSCARORA' MIN. 3 CANES, MAX. 6 CANES	B & B OR CONTAINER	3" CAL.	8'–9' HT., 6' MIN. SPREAD
	LE	13	LACEBARK ELM / ULMUS PARVIFOLIA 'LACEBARK ELM'	B & B OR CONTAINER	4" CAL.	10'–11' HT., 8' MIN. SPREAD
	QV	21	LIVE OAK / QUERCUS VIRGINIANA	B & B OR CONTAINER	4" CAL.	10'–11' HT., 8' MIN. SPREAD
	PM2	15	MEXICAN PLUM / PRUNUS MEXICANA	B & B OR CONTAINER	3" CAL.	8'–9' HT., 6' MIN. SPREAD
	CI	20	PECAN / CARYA ILLINOINENSIS	B & B OR CONTAINER	3"CAL	8'–9' HT., 6' MIN. SPREAD
	RO	11	SHUMARD RED OAK / QUERCUS SHUMARDII	B & B OR CONTAINER	4" CAL.	10'–11' HT., 8' MIN. SPREAD
SHRUB AREAS	CODE	QTY	COMMON NAME / BOTANICAL NAME	CONT		
	GC	7,036	GROUNDCOVER	1 GAL.		
	OG	606	ORNAMENTAL GRASS / LINDHEIMER'S MUHLY, MISCANTHUS, TEXAS BEARGRASS, ETC.	3 GAL.		
	SHR	737	SHRUBS / DROUGHT TOLERANT AND/OR EVERGREEN	5 GAL.		
GROUND COVERS	CODE	QTY	COMMON NAME / BOTANICAL NAME	CONT		
	CD	177,221 SF	COMMON BERMUDA / CYNODON DACTYLON	SOLID SOD		

LANDSCAPE DATA

ELEMENT	REQUIRED	PROVIDED
LANDSCAPE SETBACK	E. BARDIN ROAD: 15' SETBACK	E. BARDIN ROAD: 20' SETBACK
LANDSCAPE SETBACK TREES	1, 4" CALIPER STREET TREE PER 45' OF STREET FRONTAGE. E. BARDIN ROAD: 566' FRONTAGE = 566/45 = (13), 4" CAL. TREES REQUIRED	E. BARDIN ROAD: (6), 4" CAL. TREES AND (7), 3" CAL. TREES PROVIDED
LANDSCAPE SETBACK PLANTINGS	REQUIRED LANDSCAPE SETBACK SHRUBS: 14 SHRUBS PER 50 FEET OF R.O.W. FRONTAGE = 566/50 X 14 = 158 SHRUBS (AT LEAST HALF REQ'D TO BE EVERGREEN SHRUBS) GRASS COVERAGE LIMIT: MAXIMUM OF 40% OF 15' LANDSCAPE SETBACK TO BE TURF.	223 SHRUBS PROVIDED, 50% TO BE EVERGREEN. TURF GRASS COVERAGE LIMIT: LANDSCAPE SETBACK CONTAINS 30% TURF.
PARKING REQUIREMENT	TOTAL PARKING REQUIRED: 210 SPACES	211 SPACES PROVIDED
PARKING LOT TREES	ONE (1), 3" CAL. TREE PER 10 PARKING SPACES PROVIDED. PARKING SPACES PROVIDED: 211 PARKING LOT TREES REQUIRED: 1 PER 10 SPACES = (21) PARKING LOT TREES REQ'D	(21) PARKING LOT TREES; NO EXCESS PARKING TREES REQUIRED
LEVEL II TRANSITIONAL BUFFER	(A) 15' TRANSITIONAL BUFFER (B) 4" CAL. TREE PER 450 SQ. FT. OF TRANSITIONAL BUFFER AREA = NORTH: 7,065 SQ. FT., 7,065/450= (16), 4" CAL. TREES REQUIRED. WEST: 13,935 SQ. FT., 13,935/450= (31), 4" CAL. TREES REQUIRED (C) MASONRY, ORNAMENTAL IRON, COMPOSITE, OR CEDAR FENCE, 6'–8' IN HEIGHT	NORTH TRANSITIONAL BUFFER: (A) 15' TRANSITIONAL BUFFER (B) 16, 4" CAL. TREES PROVIDED (C) 6' ORNAMENTAL IRON FENCE WITH MASONRY COLUMNS WEST TRANSITIONAL BUFFER: (A) 15' TRANSITIONAL BUFFER (B) 31 TOTAL TREES PROVIDED (24, 4" CAL. TREES AND 7, 3" CAL. TREES) (C) 6' ORNAMENTAL IRON FENCE WITH MASONRY COLUMNS
OVERALL LANDSCAPE TREES	REQUIRED LANDSCAPE TREES: LANDSCAPE SETBACK: (13) 3" CAL. TREES = 39 CAL. INCHES TRANSITIONAL BUFFER TREES: (47), 3" CAL. TREES = 141 CAL. INCHES PARKING LOT TREES (21) 3" CAL. TREES = 63 CAL. INCHES TOTAL: (81) 4" CAL. TREES = 243 CAL. INCHES TOTAL REQ'D	PROVIDED LANDSCAPE TREES: (74) 4" CAL. TREES = 296 CALIPER INCHES (44), 3" CAL. TREES = 132 CALIPER INCHES TOTAL PROVIDED = 428 CALIPER INCHES

DIAL INDEPENDENT LIVING DEVELOPEMENT PLAN

ARLINGTON, TEXAS

PROJECT TITLE:
DIAL INDEPENDENT LIVING DEVELOPMENT PLAN

mmla
mycoskie • mcinnis • associates
tbpe registration number: f – 2759
200 east abram
arlington, texas 76010
817-469-1671
fax: 817-274-8757
www.mmatexas.com

THIS DOCUMENT IS RELEASED FOR THE PURPOSES OF REVIEW UNDER THE AUTHORITY OF DUWAINE JOINER, RLA NO. 2071 ON 02/17/2016 AND IS NOT TO BE USED FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.

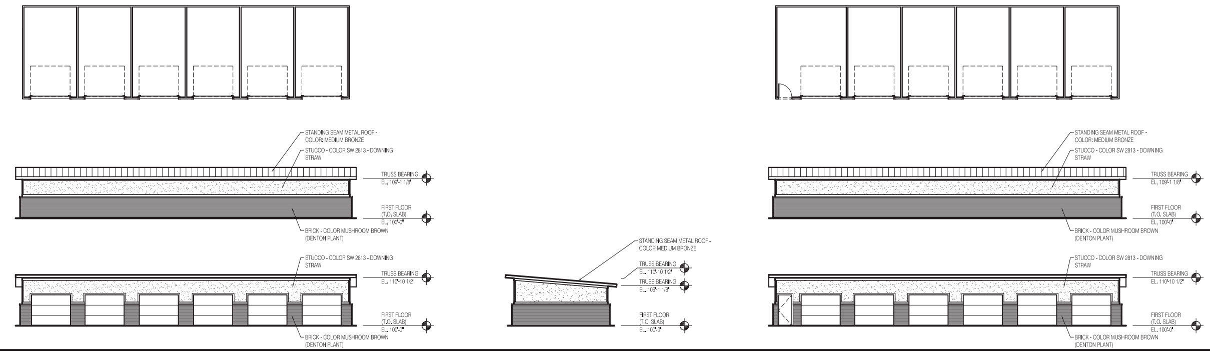
PROJECT NUMBER:	2801-00-01
PROJECT MANAGER:	J. SUMPTER
DRAWN BY:	D. JOINER
CHECKED BY:	C. MYCOSKIE
ISSUE DATE:	02/17/2016

REV.	DATE	DESCRIP.	BY

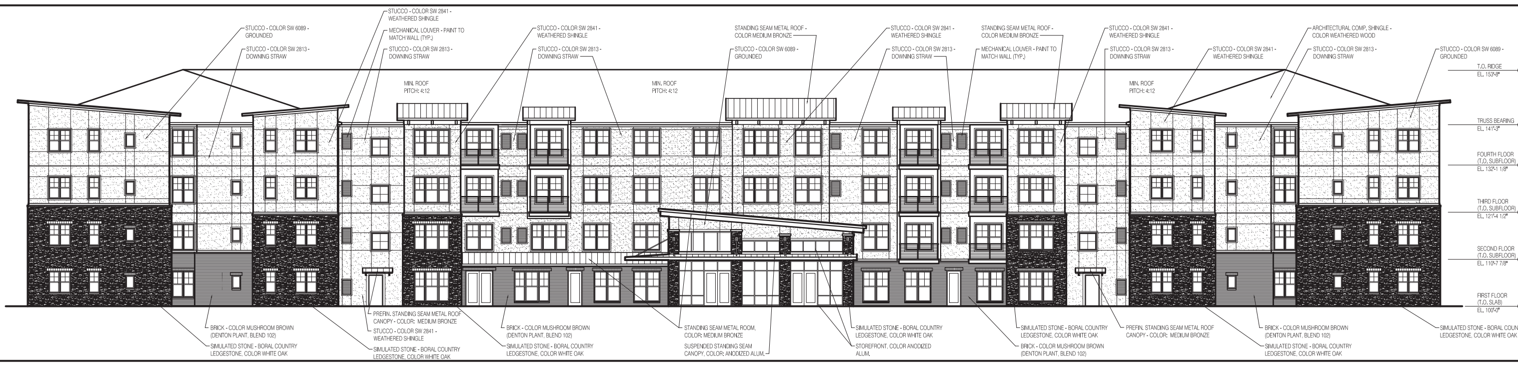
SHEET CONTENT:
LANDSCAPE PLAN PD15-13

SHEET NO: 3

COPYRIGHT © 2016 MMA, INC.

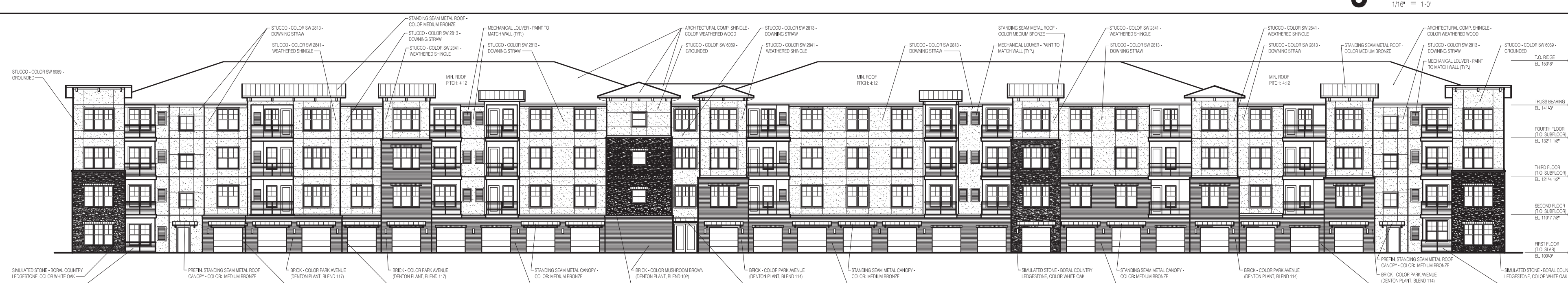


5 GARAGE ELEVATIONS/PLANS
1/16" = 1'-0"

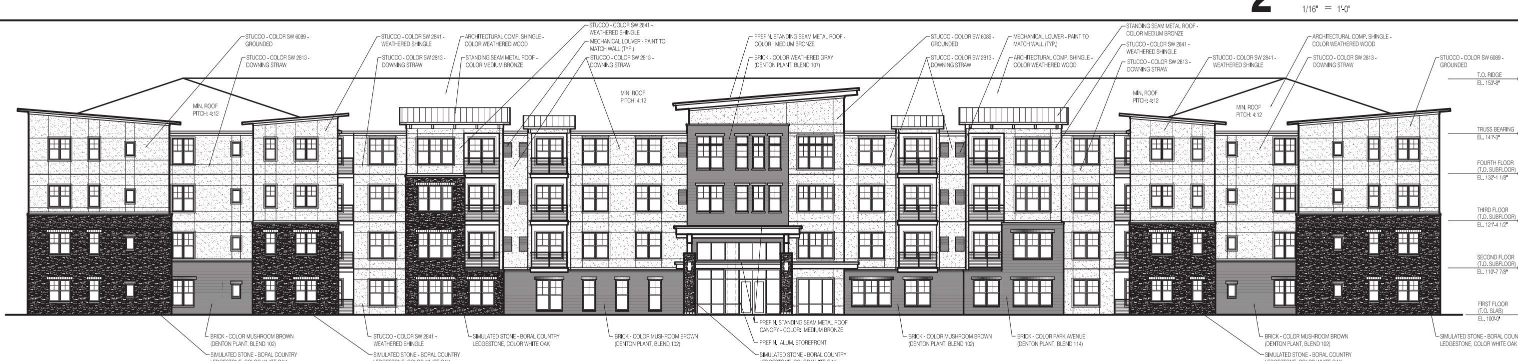


4 FRONT EXTERIOR ELEVATION
1/16" = 1'-0"

3 SIDE EXTERIOR ELEVATION
1/16" = 1'-0"



2 SIDE EXT. ELEVATION - COURTYARD
1/16" = 1'-0"



1 REAR EXTERIOR ELEVATION
1/16" = 1'-0"

	UNIT TYPE	UNITS PER FLOOR 1	2	3	4	TOTAL	%	ENCLOSED AREA	DECK AREA	TOTAL RENTABLE UNIT AREA	TOTAL AREA
1 BED/1 BATH	1A1	2	2	2	2	8	4.4%	746 GSF	52 SF	798 SF	6,384 GSF
	1A2	4	4	4	4	16	8.9%	775 GSF	52 SF	827 SF	13,232 GSF
	1A3	4	4	4	4	16	8.9%	785 GSF	52 SF	837 SF	13,392 GSF
	1B1	2	3	3	3	11	6.1%	708 GSF	52 SF	760 SF	8,360 GSF
	1B2	2	4	4	4	14	7.8%	733 GSF	52 SF	785 SF	10,990 GSF
	1C	0	0	1	1	2	1.1%	857 GSF	-	857 SF	1,714 GSF
2 BED/2 BATH	2A1	0	6	6	6	18	10.0%	1,103 GSF	58 SF	1,161 SF	20,898 GSF
	2A2	0	2	2	2	6	3.3%	1,105 GSF	58 SF	1,163 SF	6,978 GSF
	2B1	0	5	5	5	15	8.3%	1,080 GSF	52 SF	1,132 SF	16,980 GSF
	2B2	0	4	4	4	12	6.7%	1,106 GSF	52 SF	1,158 SF	13,896 GSF
	2B3	0	1	1	1	3	1.7%	1,106 GSF	52 SF	1,158 SF	3,474 GSF
	2B4	0	0	1	1	2	1.1%	1,140 GSF	-	1,140 SF	2,280 GSF
2 BED/1 ½ BATH	2C1	4	5	5	5	19	10.6%	1,044 GSF	50 SF	1,094 SF	20,786 GSF
	2C2	4	6	6	6	22	12.2%	1,071 GSF	50 SF	1,121 SF	24,662 GSF
2 BED/2 BATH	2D	4	4	4	4	16	8.9%	1,113 GSF	132 SF	1,245 SF	19,920 GSF
	TOTAL	26	50	52	52	180	100%				183,786 GSF

AMENITY					
PUBLIC COMMONS (INCLUDES LEASING					3,000 NSF
RESIDENT COMMONS					6,932 NSF
RES. STOR.	-	2	2	2	3,072 NSF
PARK-UNDER GARAGES				48 @ 275 SF EA	13,200 NSF
PARK-UNDER GARAGE STORAGE				48 @ 48 SF EA	2,304 NSF
STORM SH.				4 @ 512 EA	2,048 GSF

UNIT TYPE	GOAL	ACTUAL
1 BED/1 BATH	40 %	37.2 %
2 BED/1 ½ BATH	20 %	22.8 %
2 BED/2 BATH	40 %	40 %

FLOOR AREA		PATIO AREA	DECK AREA	TOTAL
FIRST FLOOR:	66,143 SF	1,952 SF		68,095 SF
SECOND FLOOR:	61,464 SF		3,348 SF	64,812 SF
THRID FLOOR:	63,004 SF		3,348 SF	66,352 SF
FOURTH FLOOR:	63,004 SF		3,348 SF	66,352 SF
	253,615 SF	1,952 SF	10,044 SF	265,611 SF

AREA MATRIX
=

MATERIAL	MANUFACTURER	COLOR	FINISH
FIELD BRICK (BR-1)	ACME BRICK (DENTON)	MUSHROOM BROWN (BLEND 102)	WIRE CUT
ACCENT BRICK (BR-2)	ACME BRICK (DENTON)	PARK AVENUE (BLEND 114)	WIRE CUT
MANUFACTURED STONE	BORAL/CULTURED STONE	COUNTRY LEDGESTONE, WHITE OAK	
MANUFACTURED STONE ACCESSORIES	CULTURED STONE	CHAMPAIGN	
BEAMS	FYPON	PAINTED	RUSTIC WOODGRAIN
GUTTERS AND DOWNSPOUTS		TBD	PREFINISHED
VINYL SINGLE-HUNG WINDOWS	VINYL	WHITE	
STOREFRONG	KAWNEER	ANODIZED ALUM.	PREFINISHED
FIBERGLASS EXTERIOR DOORS	PELLA FIBERGLASS	WHITE	
ARCHITECTURAL COMPOSITION SHINGLE	GAF	WEATHERED WOOD	
STANDING SEAM MTL. ROOF	BERRIDGE TEE-PANEL	MEDIUM BRONZE	KYNAR 500

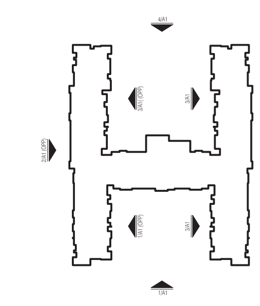
EXTERIOR FINISH PERCENTAGES

FRONT ELEVATION (INCLUDES SIDE COURTYARD ELEVATIONS):
STUCCO: 69 %
BRICK: 15 %
STONE: 16 %

SIDE ELEVATION (BOTH SIDES ARE IDENTICAL):
STUCCO: 66 %
BRICK: 25 %
STONE: 9 %

REAR ELEVATION (INCLUDES SIDE COURTYARD ELEVATIONS):
STUCCO: 70 %
BRICK: 14 %
STONE: 16 %

MATERIAL SCHEDULE
=



KEY PLAN
=

Kazmaier & Associates, LLC
Architects
13795 S. Mur-Len Rd I Olathe, Kansas 66062 I P 913 254 2245 I F 913 254 2295

Owner/Developer:
Dail Senior Apartment Development Group, LLC
Civil Engineer:
Cates-Clark & Associates, LLC
Structural Engineer
Bob D. Campbell & Co.
MEP Engineer:
Kucirek Engineering, Inc

Dial Senior Apartment
131 East Bardin
Arlington, Texas

REVISION	DATE
△	
△	
△	
△	
△	
△	
△	

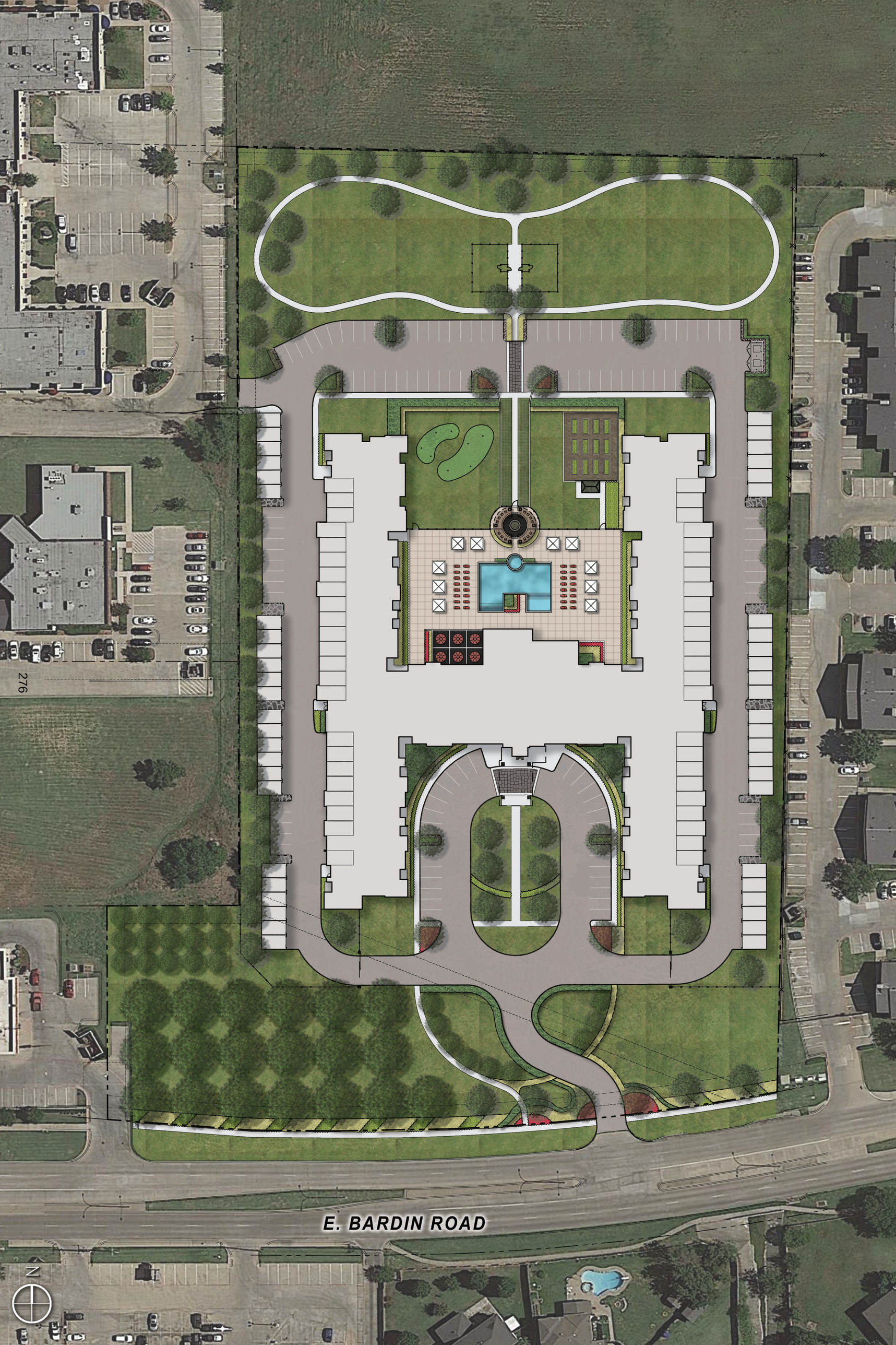
PROJECT NO: SL-1601
DATE: December 9, 2015

Exterior Elevations

A1

DEVELOPMENT PACKAGE

R. Frye 2016


276
E. BARDIN ROAD
N

Case Information

Applicant: Mycoskie McInnis Associates represented by Cliff Mycoskie, RLA

Property Owner: Matlock Investments Company

Council District: 3

Allowable Uses: All uses as itemized in attachment ii.

Development History: The subject site is currently platted and commonly known as the Westway Addition Lots 3-A3 and Lot 2.

No previous zoning cases have occurred in the general vicinity within the past five years.

Transportation: The proposed development has two points of access. One point of access is from Matlock Road, through an existing development. The primary access point is from East Bardin Road.

Thoroughfare	Existing	Proposed
East Bardin Road	80-foot, 4 lanes divided Major Arterial	80-foot, 4 lanes divided Major Arterial

Traffic Impact: The proposed PD zoning for assisted living will generate less traffic than the existing CC zoning and will not impact the adjacent street system.

Water & Sewer: Water is available from a 12-inch water line in East Bardin Road. Sanitary Sewer is available from an 8-inch sanitary sewer line in E Barding Rd.

Drainage: The site is located within the South Fish Creek drainage basin. No portion of the site is located in a floodplain. No significant drainage impacts are expected to result from development of this site as long as the site complies with relevant city ordinances.

Fire: Fire Station Number 9, located at 909 Wimbledon Drive, provides protection to this site. The estimated fire response time is less than five minutes, which is in keeping with recommended standards.

School District: Arlington Independent School District.

The proposed zoning request is located in the Arlington Independent School District (AISD) and AISD has provided comments see attached.

Case Information

Notices Sent:

Neighborhood Associations:	ACTION North Arlington Arlington Independent School District (AISD) Arlington Alliance for Responsible Government East Arlington Review Far South Arlington Neighborhood Association Forest Hills Home Owners Association Harold Patterson Community Association North Cravens Community Group Northern Arlington Ambience Summerwood Community Watch Villages of Fairfield Neighborhood Association West Citizen Action Network (WeCan)
Property Owners:	14
Letters of Support:	0
Letter of Opposition:	0

PLANNING AND ZONING COMMISSION SUMMARY:

Public Hearing: April 20, 2016

Zoning Case PD15-13 (Dial Independent Living – 131 and 175 East Bardin Road)

Application to change the zoning on approximately 9.089 acres from Community Commercial (CC) to Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living Facility, with a Development Plan; generally located north of East Bardin Road and east of Matlock Road.

Present to speak in support of this case were Jacob Sumpter, 200 East Abram Street, 76010; and Neil Labella, 11506 Nicholas Street, Omaha, NE, 68154. Also present in support of this case was Allen Waddell, 3601 East Vickery Boulevard, Fort Worth, 76105. Present to speak about his concerns with the proposal was Phillip Bacon, 311 Chasemore Lane, 76018.

Commissioner Ron Smith moved to Approve Zoning Case PD15-13. Seconded by Commissioner Smith III, the motion was approved by a vote of 8-1-0.

AYES: Fowler, McAlister, Croxton, Reilly, Talambas, Myers, Ron Smith, Smith III
NAYES: McCurdy
ABSTAIN: None

APPROVED

Itemized Allowable Uses

Allowable Uses:

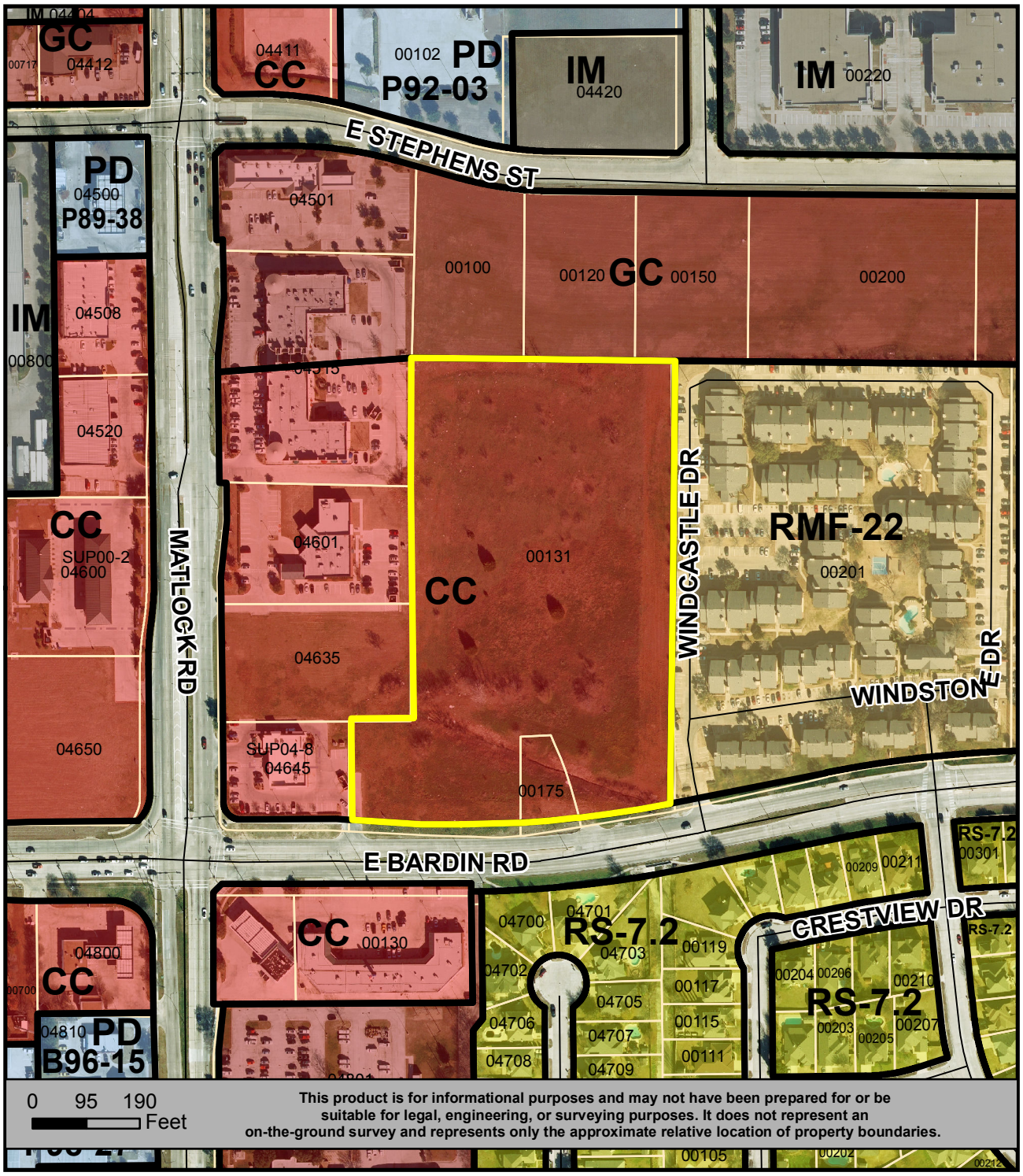
Planned Development (PD) for limited Community Commercial (CC) uses plus an Independent Senior Living Facility, with a Development Plan

Permitted - Art gallery or museum, Business school, Public or private school, Government administration and civic buildings, Philanthropic institution (other than listed), Religious assembly, Medical or dental office or clinic, Community garden, Public park or playground Restaurant, Utility lines, towers or metering station, Day care center, General personal services (other than listed), Massage therapy clinic, Private club/lodge/fraternal organization, General retail store (other than listed), Medical or scientific research laboratory and Independent Senior Living Facility.

Specific Use Permit (SUP) – Gas well, University/ college/ seminary, cemetery, Telecommunication Facilities, Cemetery, Bed and breakfast inn, Towers >75 ft., Stealth towers >100 ft.

Conditions (C) - Dwelling, live/work, Veterinary clinic, Financial services, Sidewalk café, Telecommunication Facilities, Hotel, full service, Office, business or professional, Building-mounted antennae and towers, Telecommunication Facilities Towers ≤75 ft., Stealth towers ≤100 ft.

Excluded Uses: Halfway House, Domestic violence shelter, Kennel, Commercial, Motor Vehicle rental, Bail Bond service, Country club, Marina, Tattoo parlor or Piercing studio, Bingo Parlor, Billiard Parlor, Gun range (indoor), Nightclub, Specialty paraphernalia sales, Pawn shop, Wrecker service, Food processing, Firearm sales, Wrecker service, Second-hand good store and Self-storage facility.



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

LOCATION MAP
PD15-13

Planned Development (PD) for limited Community Commercial (CC) uses plus a Senior Independent Living Facility
9.089 ACRES

N
W E
S

PD15-13

North of East Bardin Road and east of Matlock Road.

View of from subject site. View north

View of site from Bardin. View South.

View of commercial development to the west.

View west. Multi-family use.

Arlington
INDEPENDENT SCHOOL DISTRICT
More Than a Remarkable Education

January 19, 2016

Jennifer Pruitt, Principal Planner
Community Development and Planning
City of Arlington
101 W. Abram Street, Mail Stop 01-0241
Arlington, TX 76010

Re: Zoning Case PD15-3

Dear Ms. Pruitt,

The Arlington Independent School District (AISD) has learned that Mycoskie McInnis Associates has filed an application for a zoning change on approximately 9.089 acres located at 131 and 175 E. Bardin Road. The application seeks to have the subject property zoned "Planned Development (PD) for Limited Community Commercial (CC) uses plus Independent Senior Living." As submitted, the plan proposes construction of approximately 180 one- and two-bedroom apartment units planned initially as an independent senior living complex.

We understand that the proposed development is intended initially for independent senior living. We are concerned, however, that the use of the property could change from strictly senior living to traditional multi-family housing in the future. Additional multi-family units will strain the District's ability to provide adequate educational facilities for the area subject to this zoning case.

Following is a summary of the building capacities and enrollments for the schools that serve the property subject to zoning request PD15-3.

School	Enrollment Capacity	Enrollment 2015-16	Projected Enrollment 2024-25
Williams Elementary	1,059	764	723
Ousley Jr. High	1,301	1,003	921
Seguin High School	2,021	1,658	1,679

Industry standards generally hold that schools are full when enrollment reaches 85% of capacity. The long-range enrollment projections for Ousley and Seguin are close to the 85% utilization threshold.

AISD's voters approved a $663.1 million bond proposition in May 2014 that includes campus renovations and new facilities to meet program needs and help relieve crowding at the elementary schools in the east part of the district and at all six AISD high schools. Projects in the bond package will affect each of the schools that serve the property subject to zoning case PD15-3:

- Two STEM labs and one acoustically-appropriate strings room will be created at each elementary school, including Williams Elementary. Renovation work at Williams is scheduled to begin spring 2016 and will be complete by spring 2017. These new spaces will reduce Williams' capacity by approximately 66 students, for a new capacity of 993 in spring 2017.

- Ferguson Jr. High closed following the 2014-15 school year and the Ferguson students have been rezoned to Ousley Jr. High beginning with the 2015-16 school year.

- Three new facilities - a career and technical education center, fine arts center and an athletics complex - will be constructed to serve students from all six of our high schools. Students will remain enrolled in their home campuses and will be shuttled to/from these central facilities for specialized classes. Additionally, a multi-purpose activity center will be constructed on each high school campus. These new facilities will enhance our program offerings and will lessen utilization of our high school buildings.

The new facilities included in our bond program will help relieve crowding at our schools; however, new multi-family developments that have not been factored into this long-range facilities plan will make it difficult to achieve the lasting relief we are seeking.

For the reasons stated above, AISD opposes the zoning change requested in case PD15-3. Please contact me if you need any additional information regarding AISD's position on this zoning case.

Sincerely,

Cindy Powell

Cindy Powell, CPA
Chief Financial Officer

Staff Report

Police Intelligence Consultant Contract	
City Council Meeting Date: 05-24-16	Document Being Considered: Resolution

RECOMMENDATION

Approve a resolution authorizing the City Manager or his designee to execute a professional services contract with an Intelligence Consultant.

PRIOR BOARD OR COUNCIL ACTION

Council approved a similar resolution on March 17, 2015 via resolution #15-057.

ANALYSIS

The Arlington Police Department continues to receive information from a variety of sources that are utilized by a number of different internal business units including patrol, investigations, crime prevention, tactical intelligence, crime analysis, and homeland security/special events. Many of these information sources have particular federal and state guidelines mandating the use and storage of the information. These different requirements and databases can create "informational silos" within the organization and reduce effective communications.

With the assistance of the intelligence consultant, an efficient intelligence-gathering process has been assembled that allows access to all available information throughout the department, the city, and other regional and national data sources to manage suspicious activity reporting. This process has a component that manages the rapid dissemination of information through social media by impromptu gatherings in the city and criminal organizations. The comprehensive intelligence system also retrieves and pushes real-time information to internal customers.

As we continue to host multiple national and international events welcoming hundreds of thousands of visitors to Arlington, the services of our current intelligence consultant continues to be essential to develop and revise current policies, strategies and methods related to collection, analysis and dissemination of information relevant to intelligence and analysis. Furthermore, the continued assistance of an intelligence consultant will further enhance the knowledge and understanding of new leaders within our intelligence teams.

With the guidance of our intelligence consultant, we have strengthened our position with our federal and state partners and advanced on our opportunity to sit on the executive board of the North Central Texas Fusion Center (NCTFC) as well as increased participation with state corrections entities. For these reasons, renewing the contract will ensure the continued development of our intelligence team's function. Specifically, the consultant will continue to serve as an operational and training liaison with other state and local fusion centers, providing and expanding regular situational awareness reporting, and weekly operational development discussions supporting a systematic intelligence operating process.

FINANCIAL IMPACT

The City of Arlington will pay the Intelligence Consultant the fee of $3,000 per month for a total of 12 months (or $36,000) for services rendered as outlined in the contract. Funds for this purpose are located in Urban-Area Security Initiative (UASI grant) account 228601-60014-228927.

ADDITIONAL INFORMATION

Attached:	Resolution; Contract
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACT(S)

Will Johnson	Chavela Hampton
Police Chief	Deputy Chief
817-459-5702	817-459-5614
Will.Johnson@arlingtontx.gov	Chavela.Hampton@arlingtontx.gov

Resolution No. _____

A resolution authorizing the execution of a retroactive Consultant Contract with Michael K. Winograd relative to intelligence consultant services for the Arlington Tactical Intelligence Unit, for an amount not to exceed $36,000

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That the City Manager or his designee is hereby authorized to execute a retroactive Consultant Contract with Michael K. Winograd relative to intelligence consultant services for the Arlington Tactical Intelligence Unit, for an amount not to exceed $36,000. The agreement is effective April 1, 2016 and will terminate on March 31, 2017. Funds are available in Urban-Area Security Initiative (UASI grant) account 228601-60014-228927.

II.

A substantial copy of the contract is attached hereto and incorporated herein for all intents and purposes.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY _____

STATE OF TEXAS §
§ CONSULTANT CONTRACT
COUNTY OF TARRANT §

THIS CONTRACT is made and entered into by and between the CITY OF ARLINGTON, a Texas municipal corporation, of TARRANT County ("City"), and MICHAEL K. WINOGRAD ("Consultant"), a licensed Texas Private Security Bureau Security Consultant (License DD 01693).

W I T N E S S E T H

1. Consultant shall perform the services identified in Consultant's Agreement attached hereto and incorporated herein as Exhibit A. Consultant agrees to perform the services in accordance with the terms of this Contract and with Consultant's proposal. Should there be any conflict between the terms of Consultant's proposal and the terms of this Contract, the terms of this Contract shall control. This Contract shall be administered on behalf of the City by its Director of Police ("Director").

2. For the performance of the Work by Consultant, City agrees to pay Consultant for all services approved by the Director, a sum not to exceed $36,000.00. City may, at its option, offset any amounts due and payable under this Contract against any debt (including taxes) lawfully due to City from Consultant, regardless of whether the amount due arises pursuant to the terms of this Contract or otherwise and regardless of whether or not the debt due to City has been reduced to judgment by a court. Payment will be made in accordance with the following schedule:

Refer to Exhibit A attached.

3. The term of this Contract (which is renewable) shall begin on 1 April 2016, and terminate on 31 March 2017. The Work is to be completed for City as specified in a written order to proceed from the Director.

4. The Director may terminate the performance of this Contract in whole or in part on ten (10) days advance written notice to Consultant. City agrees to pay Consultant for all services approved by the Director and properly completed prior to the effective date of such notice.

5. Indemnification. Consultant agrees to defend, indemnify and hold City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by Consultant's breach of any of the terms or provisions of this Contract, or by any negligent or strictly liable act or omission of Consultant, its officers, agents, associates, employees or subconsultants, in the performance of this Contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence

of City, its officers, agents, employees or separate contractors, and in the event of joint and**.** concurrent negligence of both the Consultant and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas 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.

6. This Contract is made subject to the Charter and ordinances of City, as amended, and all applicable laws of the State of Texas. This Contract is performable in Tarrant County, Texas, and venue for any legal action under this Contract shall lie exclusively in Tarrant County, Texas. In construing this Contract, the laws and court decisions of the State of Texas shall control. Consultant also agrees to comply with the provisions of Attachment 1, attached to and made a part of this Contract, concerning conflicts of interest, gifts to public servants, and notices of contract claims.

7. All of Consultant's work product under this Contract shall become the property of the City, without restriction on future use. Copies may be retained by Consultant. By execution of this Contract and in consideration of the fee for services to be paid under the Contract, Consultant hereby conveys, transfers and assigns to City all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the training materials and other agreed deliverables developed under this Contract. Consultant shall retain all records relating to this Contract for three (3) years following termination, during which time City reserves the right to audit such records at its election.

8. In performing services under this Contract, the relationship between City and Consultant is that of an independent contractor. Consultant shall exercise independent judgment in performing duties under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining how the Work is to be prepared. No term or provision of this Contract shall be construed as making Consultant the agent, servant or employee of City, or making Consultant or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which City provides its employees.

9. Consultant maintains insurance as required for Security Consultant licensing through the Texas Department of Public Safety, Texas Private Security Bureau.

EXECUTED this the ___ day of , by CITY, signing by and through its City Manager, duly authorized to execute same by Administrative Action No._____, approved on _____, and by CONSULTANT.

APPROVED AS TO FORM:

City Attorney

BY_____
Assistant City Attorney

CITY OF ARLINGTON

City Manager

BY_____
Deputy City Manager

ATTEST:

BY_____
Mary W. Supino, City Secretary

CONSULTANT:

BY_____
Michael K. Winograd

Resolution or AA No._____

ATTACHMENT I

A. CONFLICT OF INTEREST

The following shall be one of the conditions, and a part of, the consideration of this Contract, to wit:

No officer or employee shall have any financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit the officer's or employee's office or position with the City. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council. The prohibitions shall not apply to the participation by City employees in federally-funded housing programs, to the extent permitted by applicable federal or state law.

B. GIFT TO PUBLIC SERVANT

City may terminate this Contract immediately if Consultant has offered, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

For purposes of this section, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

Notwithstanding any other legal remedies, City may require Consultant to remove any employee of Consultant from the Project who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

C. NOTICE OF CONTRACT CLAIM

This Contract is subject to requirements for filing a notice of a breach of contract claim against the City as may be mandated by the law of the State of Texas or the City of Arlington.

TASKS, DELIVERABLES AND COMPENSATION SCHEDULE

This contract contemplates compensation to the Contractor (Michael K. Winograd) on a monthly basis at the satisfactory completion of that month's activity and at no time shall the City of Arlington be obligated to compensate the Contractor for work which is less than satisfactory.

The contract work will begin on 1 April 2016, and continue until 31 March 2017. The contract work will be on a direct service basis to the consultant and on a fixed-price Contract basis, not to exceed $36,000; paid on a monthly basis of $3,000 per month.

The contract work will be highlighted by the Arlington Tactical Intelligence Unit (ATIU). Specifically, this work will include taking the approved Department plan and ensuring its implementation as follows:

Task 1: Develop and institute standardized intelligence procedures for the ATIU which meet or exceed the Bureau of Justice Administration and Department of Homeland Security base line Fusion Center guidelines.
Task 2: Provide ATIU personnel with one-on-one tactical and strategic intelligence tutorials on key issues in support of the Department's intelligence strategy.
Task 3: Provide regular Situational Awareness reporting.
Task 4: Expand the Suspicious Activity Reporting program through mobile software implementation.
Task 5: Support weekly ATIU operational development discussions.
Task 6: Provide operational and training liaison with other State and local Fusion Centers.
Task 7: Provide additional Departmental training and support as required.

The Contractor shall promptly inform the Arlington Police Department, in writing, if Contractor anticipates that he will be unable to timely complete all tasks outlined above.

Staff Report

Authorize the Request for Proposal (RFP) Procurement Method For Employee Wellness Clinic Services, Bid Project 16-0117	
City Council Meeting Date: 5-24-16	Document Being Considered: Resolution

RECOMMENDATION

Approve a resolution authorizing the Request for Proposal (RFP) procurement method for an employee wellness clinic service.

PRIOR BOARD OR COUNCIL ACTION

As of September 1, 2007, the 80th Legislature of the State of Texas amended Chapter 252 of the Texas Local Government Code to require a municipality's governing body to approve using a procurement method other than competitive sealed bidding for goods and services. Prior to the change in law, the determination of the best method of procurement for goods and services was made by staff.

ANALYSIS

Upon City Council approval, an RFP will be issued to solicit responses from various firms experienced with providing and managing employee wellness clinics. City staff has determined that soliciting employee wellness clinic services using the RFP method, will be in the best interest of, and best value for the City by allowing for negotiation of both price and contract terms. Negotiation is the key to ensuring that the City control cost without sacrificing service quality.

FINANCIAL IMPACT

The financial impact cannot be determined until a contract has been negotiated. This information will be provided to City Council when the negotiated contract is presented for approval.

ADDITIONAL INFORMATION

Attached:	Resolution
Under separate cover:	None
Available in the Purchasing Division:	None

STAFF CONTACT(S)

Kari Zika	Janice Hughes, CPPB	Mike Finley
Director Human Resources	Sr. Purchasing Agent	Director of Finance
817-575-8987	817-459-6304	817-459-6345
Kari.Zika@arlingtontx.gov	Janice.Hughes@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Resolution No. _____

A resolution authorizing the competitive sealed proposal (Request for Proposal) procurement method for an employee wellness clinic service

WHEREAS, Chapter 252 of the Texas Local Government Code requires the approval of a municipality's governing body to use a procurement method other than competitive sealed bidding for goods and services; and

WHEREAS, the City desires to issue competitive sealed proposals to solicit responses from various firms experienced with providing and managing employee wellness clinics; and

WHEREAS, negotiation will ensure that the City controls cost without sacrificing service quality; and

WHEREAS, competitive sealed proposals allow for negotiation of both price and contract terms after proposals are submitted; and

WHEREAS, the competitive sealed proposal method is in the best interest of and best value to the City; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That the City Council hereby finds that the competitive sealed proposal (Request for Proposal) procurement method provides the best value for the City relative to the procurement of an employee wellness clinic service, and hereby authorizes the City Manager or his designee to proceed with such procurement.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY Eddie Martin

Staff Report

Continued Participation in the Oncor Cities Steering Committee and Payment of the Participation Fee	
City Council Meeting Date: 05-24-16	Document Being Considered: Resolution

RECOMMENDATION

Authorize the continued participation in the Oncor Cities Steering Committee (OCSC) and the payment of 11 cents per capita to OCSC to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC (Oncor).

PRIOR BOARD OR COUNCIL ACTION

The City of Arlington has participated with the OCSC for over 20 years.

ANALYSIS

The City is a member of the 156-member city coalition known as the Oncor Cities Steering Committee (OCSC). Municipalities have original jurisdiction over the electric transmission and distribution rates and services within the city. OCSC has been in existence since the late 1980s. It took on a formal structure in the early 1990s. Empowered by city resolutions and funded by *per capita* assessments, OCSC has been the primary public interest advocate before the Public Utility Commission, ERCOT, the Courts, and the Legislature on electric utility regulation matters for over two decades.

OCSC is actively involved in rate cases, appeals, rulemakings, and legislative efforts impacting the rates charged by Oncor within the City. OCSC representation is also strong at ERCOT. It is possible that additional efforts will be necessary on new issues that arise during the year, and it is important that OCSC be able to fund its participation on behalf of its member cities. A per capita assessment has historically been used, and is a fair method for the members to bear the burdens associated with the benefits received from that membership.

FINANCIAL IMPACT

The 11 cents per capita assessment for the City of Arlington is $42,152.44. These funds are available in account 1000 61014.

ADDITIONAL INFORMATION

Attached:	Resolution
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACT(S)

Teris Solis	David Barber
City Attorney	Assistant City Attorney
817-459-6878	817-459-6878
teris.solis@arlingtontx.gov	david.barber@arlingtontx.gov

Resolution No. _____

A resolution authorizing continued participation with the Oncor Cities Steering Committee; and authorizing the payment of 11 cents per capita to the Steering Committee to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC

WHEREAS, the City of Arlington is a regulatory authority under the Public Utility Regulatory Act (PURA) and has exclusive original jurisdiction over the rates and services of Oncor Electric Delivery Company, LLC (Oncor) within the municipal boundaries of the city; and

WHEREAS, the Oncor Cities Steering Committee (Steering Committee) has historically intervened in Oncor rate proceedings and electric utility related rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and

WHEREAS, the Steering Committee is participating in Public Utility Commission dockets and projects, as well as court proceedings, and legislative activity, affecting transmission and distribution utility rates; and

WHEREAS, the City is a member of the Oncor Cities Steering Committee; and

WHEREAS, the Steering Committee functions under the direction of an Executive Committee which sets an annual budget and directs interventions before state and federal agencies, courts and legislatures, subject to the right of any member to request and cause its party status to be withdrawn from such activities; and

WHEREAS, the Executive Committee in its December 2015 meeting set a budget for 2016 that compels an assessment of eleven cents ($0.11) per capita; and

WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That the City is authorized to continue its membership with the Oncor Cities Steering Committee to protect the interests of the City of Arlington and protect the

interests of the customers of Oncor Electric Delivery Company, LLC residing and conducting business within the City limits.

II.

The City is further authorized to pay its assessment to the Steering Committee of eleven cents ($0.11) per capita based on the population figures for the City shown in the latest TML Directory of City Officials. The eleven cents ($0.11) per capita assessment for Arlington is $42,152.44. These funds are available in account 1000 61014.

III.

A copy of this Resolution and the assessment payment check made payable to *"Oncor Cities Steering Committee"* shall be sent to Brandi Stigler, Oncor Cities Steering Committee, c/o City Attorney's Office, Mail Stop 63-0300, Post Office Box 90231, Arlington, Texas 76004-3231.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY_____

Staff Report

Stadium Drive (Abram Street to Division Street) – BSL, Inc. Project No. PWST09001	
City Council Meeting Date: 5/24/16	Document Being Considered: Resolution

RECOMMENDATION

Approve a resolution authorizing the settlement of negotiations with BSL, Inc. relative to the acquisition of five (5) parcels containing right-of-way and temporary construction easements for the Stadium Drive (Abram Street to Division Street) project.

PRIOR BOARD OR COUNCIL ACTION

Parcel 2-4

On May 13, 2014, City Council passed Resolution No. 14-099, determining the necessity of acquiring 7,720 square feet of right-of-way and 11,898 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

On June 24, 2014, City Council passed Resolution No. 14-153, ordering condemnation of 7,720 square feet of right-of-way and 11,898 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

Parcel 2-3

On May 13, 2014, City Council passed Resolution No. 14-100, determining the necessity of acquiring 8,715 square feet of right-of-way and 18,345 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

On June 24, 2014, City Council passed Resolution No. 14-152, determining the necessity of acquiring 8,715 square feet of right-of-way and 18,345 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

Parcel 2-2

On May 13, 2014, City Council passed Resolution No. 14-101, determining the necessity of acquiring 6,474 square feet of right-of-way and 20,586 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

On June 24, 2014, City Council passed Resolution No. 14-151, determining the necessity of acquiring 6,474 square feet of right-of-way and 20,586 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

Parcel 2-1

On May 13, 2014, City Council passed Resolution No. 14-102, determining the necessity of acquiring 4,664 square feet of right-of-way and 22,572 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

On June 24, 2014, City Council passed Resolution No. 14-150, determining the necessity of acquiring 4,664 square feet of right-of-way and 22,572 square feet of temporary

construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

Parcel 1-1

On June 24, 2014, City Council passed Resolution No. 14-159, determining the necessity of acquiring 5,749 square feet of right-of-way, 68 square feet of pedestrian and 1,433 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

On August 5, 2014, City Council passed Resolution No. 14-183, determining the necessity of acquiring 5,749 square feet of right-of-way, 68 square feet of pedestrian and 1,433 square feet of temporary construction easement rights for the Stadium Drive (Abram Street to Division Street) project.

ANALYSIS

The City of Arlington plans to reconstruct and widen Stadium Drive (Abram Street to Division Street), including the construction of a quiet zone at the railroad crossing. Additional improvements include storm drainage, water and sanitary sewer renewals and bike trails. A settlement with the property owner has been reached in the amount of $3,337,997 as outlined below.

Property Owner: BSL, Inc.

Property Descriptions: Being tracts of land out of the Joel Blackwell Survey, Abstract No. 147, City of Arlington, Tarrant County, Texas and being out of Block 4, Hillview Addition and generally known as 122, 118, 114, 110 and 134 Stadium Drive, City of Arlington, Tarrant County Texas

Parcel No.	Interests	Square Feet	Valuation
1-1 ROW/TCE 2-1 ROW/TCE 2-2 ROW/TCE 2-3 ROW/TCE 2-4 ROW/TCE	Right-of-Way and Temporary Construction Easements	108,156	$3,337,977
TOTAL			**$3,337,977**

FINANCIAL IMPACT

Funds for these acquisitions, including closing costs, are available in Street Bond Funds Account No. 358504-68000-65240698.

ADDITIONAL INFORMATION

Attached: Resolution
Legal Descriptions & Site Map
Under separate cover: None
Available in the City Secretary's office: None

STAFF CONTACTS

Stuart Young
Real Estate Manager
Community Development and Planning
817-459-6581
Stuart.Young@arlingtontx.gov

David Wynn
Interim Director
Public Works and Transportation
817-459-6560
David.Wynn@arlingtontx.gov

John M. Dugan, AICP
Director
Community Development and Planning
817-459-6527
John.Dugan@arlingtontx.gov

Resolution No.

A resolution authorizing the settlement of five condemnation cases for the acquisition of street easements and temporary construction easements in, under, and through land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Block 4, Hillview Addition, and generally known as 122, 118, 114, 110, and 134 Stadium Drive in the City of Arlington, Tarrant County, Texas, for the Stadium Drive (Abram Street to Division Street) street reconstruction project.

WHEREAS, for the purposes of this resolution, the following definitions of terms shall apply:

"CITY": The City of Arlington;

"COMMISSIONERS' AWARDS":

parcel	award
2-1	$569,056
2-2	$574,417
2-3	$660,000
2-4	$507,000
1-1	$157,977

"CONDEMNATION SUITS":
Each styled *City of Arlington v. BSL Inc.*, filed in Tarrant County courts,

parcel	cause no.	County Court at Law no.
2-1	2015-000025-2	2
2-2	2015-000027-3	3
2-3	2015-000028-1	1
2-4	2015-000029-2	2
1-1	2015-001295-2	2

"DESIGNATED ACCOUNT": Street Bond Funds Account No. 358504-68000-65240698;

"OWNER": BSL, Inc.; provided, however, that the term "OWNER" as used in this resolution means all persons having an ownership interest, regardless of whether those persons are actually named herein;

"PROJECT": Stadium Drive (Abram Street to Division Street) project, in the City of Arlington, Tarrant County, Texas;

"PROPERTY INTERESTS":

Parcel 2-1; A street easement in, over and through 4,664 square feet of land as described in Exhibit A attached and incorporated herein for all purposes, and otherwise known as 122 Stadium Drive, City of Arlington, including the right to remove and dispose of any building and improvements located on the land described in Exhibit A, together with a temporary construction easement in, over and through approximately 22,572 square feet of land at the said 122 Stadium Drive,

Parcel 2-2; A street easement in, over and through 6,474 square feet of land as described in Exhibit B attached and incorporated herein for all purposes, and otherwise known as 118 Stadium Drive, City of Arlington, including the right to remove and dispose of any building and improvements located on the land described in Exhibit B, together with a temporary construction easement in, over and through approximately 20,586 square feet of land at the said 118 Stadium Drive,

Parcel 2-3; A street easement in, over and through 8,715 square feet of land as described in Exhibit C attached and incorporated herein for all purposes, and otherwise known as 114 Stadium Drive, City of Arlington, including the right to remove and dispose of any building and improvements located on the land described in Exhibit C, together with a temporary construction easement in, over and through approximately 18,345 square feet of land at the said 114 Stadium Drive,

Parcel 2-4; A street easement in, over and through 7,720 square feet of land as described in Exhibit D attached and incorporated herein for all purposes, and otherwise known as 110 Stadium Drive, City of Arlington, including the right to remove and dispose of any building and improvements located on the land described in Exhibit D, together with a temporary construction easement in, over and through approximately 11,898 square feet of land at the said 110 Stadium Drive,

Parcel 1-1; A street easement in, over and through 5,749 square feet of land as described in Exhibit E attached and incorporated herein for all purposes, and otherwise known as 134 Stadium Drive, City of Arlington, together with a temporary construction easement in, over and through approximately 1,433 square feet of land at the said 134 Stadium Drive,

"SETTLEMENT AMOUNT": a total of $3,337,977 for all parcels described herein, including the COMMISSIONERS' AWARDS;

"SETTLEMENT BALANCE": a total of $869,527 for all parcels described herein, allocated substantially as follows:

parcel	allocation
2-1	$217,384
2-2	$217,381
2-3	$217,381
2-4	$217,381
1-1	$0

and

WHEREAS, the City Council previously passed the following resolutions determining a necessity to acquire the PROPERTY INTERESTS:

parcel	resolution number	date
2-1	14-102	May 13, 2014
2-2	14-101	May 13, 2014
2-3	14-100	May 13, 2014
2-4	14-099	May 13, 2014
1-1	14-159	June 24, 2014

and

WHEREAS, the City Council thereafter passed the following resolutions ordering condemnation for the PROPERTY INTERESTS:

parcel	resolution number	date
2-1	14-150	June 24, 2014
2-2	14-151	June 24, 2014
2-3	14-152	June 24, 2014
2-4	14-153	June 24, 2014
1-1	14-183	August 5, 2014

and

WHEREAS, the CONDEMNATION SUITS were filed and thereafter the COMMISSIONERS' AWARDS were deposited, and

WHEREAS, the parties have negotiated an agreement to settle the CONDEMNATION SUITS; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That the City Attorney and City Manager are hereby authorized to settle the CONDEMNATION SUITS and acquire the PROPERTY INTERESTS for the SETTLEMENT AMOUNT and to pay all closing costs.

II.

That the City Attorney and the City Manager are authorized to prepare and execute such documents as may be necessary to effect the settlements and acquisitions described herein.

III.

That funds for the total SETTLEMENT BALANCE are available in the DESIGNATED ACCOUNT.

IV.

That the Director of Finance is hereby directed to withdraw from the DESIGNATED ACCOUNT funds in the amount of the total SETTLEMENT BALANCE and deliver such funds to a title company designated by the City Manager or his designee.

V.

That this Resolution shall be effective from and after its passage by the City Council and approval by the Mayor in accordance with law and the provisions of the Charter of the City of Arlington, and it is accordingly so resolved.

PRESENTED AND PASSED on this the ____ day of April, 2016, by a vote of __ ayes and __ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY:_____

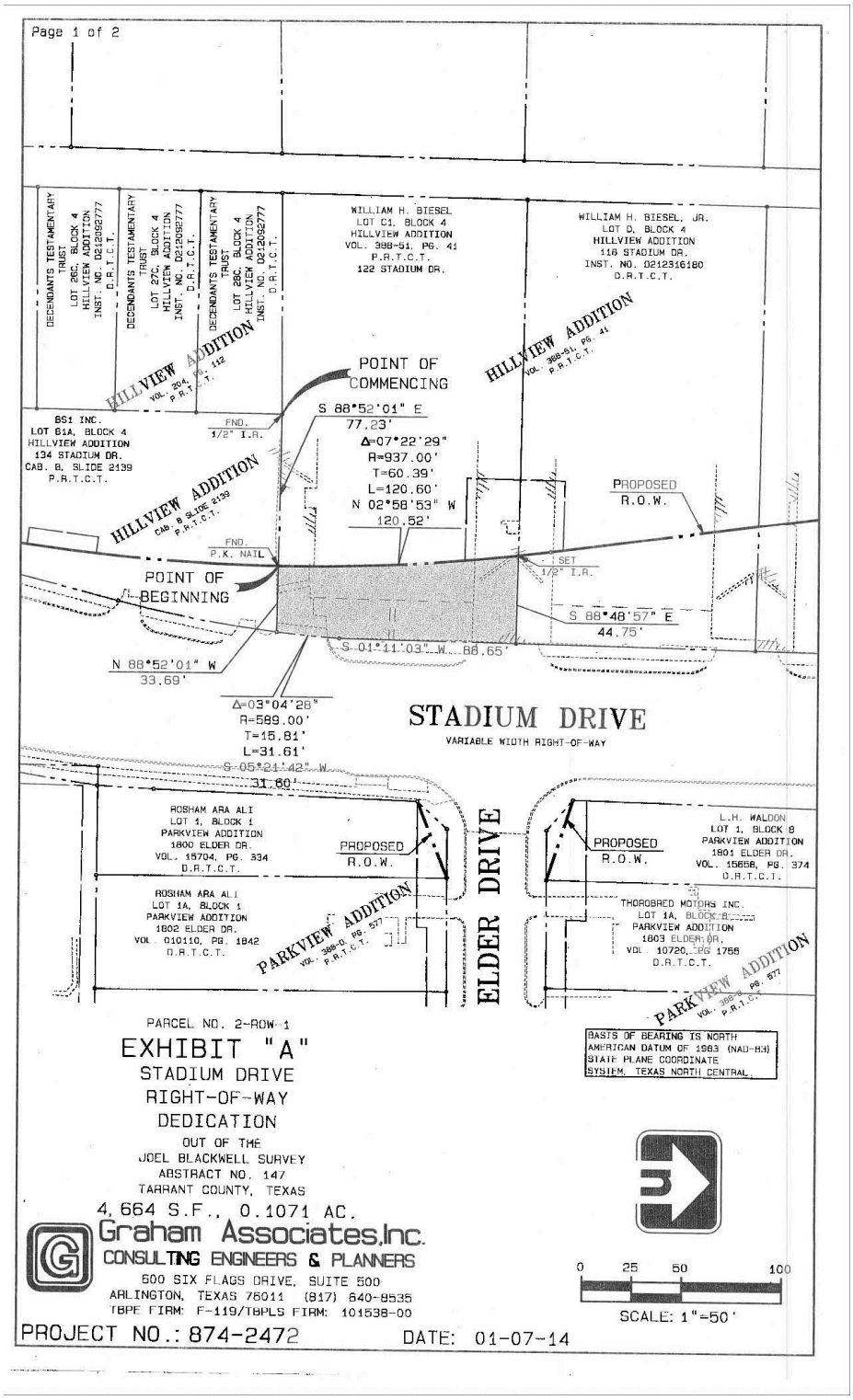


EXHIBIT A
PAGE 1 OF 4

RIGHT-OF-WAY
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-ROW-1

BEING a 0.1071 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot C1, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Vol. 388-51, Pg. 41, Plat Records, Tarrant County, Texas, conveyed by deed to William H. Biesel. Said 0.1071 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found 1/2 inch iron rod, being in the south line of said Lot C1, Block 4, being the northwest corner of Lot B1A, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Cabinet B, Slide 2139, Plat Records, Tarrant County, Texas, and being the northeast corner Lot 28C, Block 4 of Hillview Addition, an addition to the City of Arlington, as recorded in Volume 204, Page 112, Plat Records, Tarrant County, Texas;

THENCE South 88°52'01" East, along the north line of said Lot B1A and said south line of Lot C1, being a common line, for a distance of 77.23 feet to a set P.K. nail for corner, being the POINT OF BEGINNING, and being in the proposed west right-of-way line of Stadium Drive (a variable width right-of-way), being the beginning of a non-tangent curve to the left having a radius of 937.00 feet, a central angle of 7°22'29" and a long chord which bears North 02°58'53" West, 120.52 feet;

THENCE northwesterly, leaving said common line, and following along said proposed west right-of-way line and said non-tangent curve to the left, an arc distance of 120.60 feet to a set 1/2 inch iron rod with GAI cap for corner; being in the south line of Lot D, Block 4 of said Hillview Addition, as recorded in Vol. 388-51, Pg. 41, Plat Records, Tarrant County, Texas;

THENCE South 88°48'57" East, leaving said proposed west right-of-way line and following along the common line of said Lots C1 and D, for a distance of 44.75 feet to a point for corner, being in the existing west right-of-way line of said Stadium Drive (a variable width right-of-way);

THENCE South 01°11'03" West, leaving said common line and following along said existing west right-of-way line, for a distance of 88.65 feet to a point for corner, being the beginning of a non-tangent curve to the right having a radius of 589.00 feet, a central angle of 3°04'28" and a long chord which bears South 05°21'42" West, 31.60 feet;

THENCE southwesterly, along said existing west right-of-way line and said non-tangent curve to the right, an arc distance of 31.61 feet to a point for corner, being the southeast corner of said C1 and the northeast corner of said Lot B1A;

THENCE North 88°52'01" West, leaving said existing west right-of-way line and following along said common line of Lots C1 and B1A, for a distance of 33.69 feet to the POINT OF BEGINNING and CONTAINING 4,664 square feet or 0.1071 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

01/07/14

EXHIBIT A
PAGE 2 OF 4

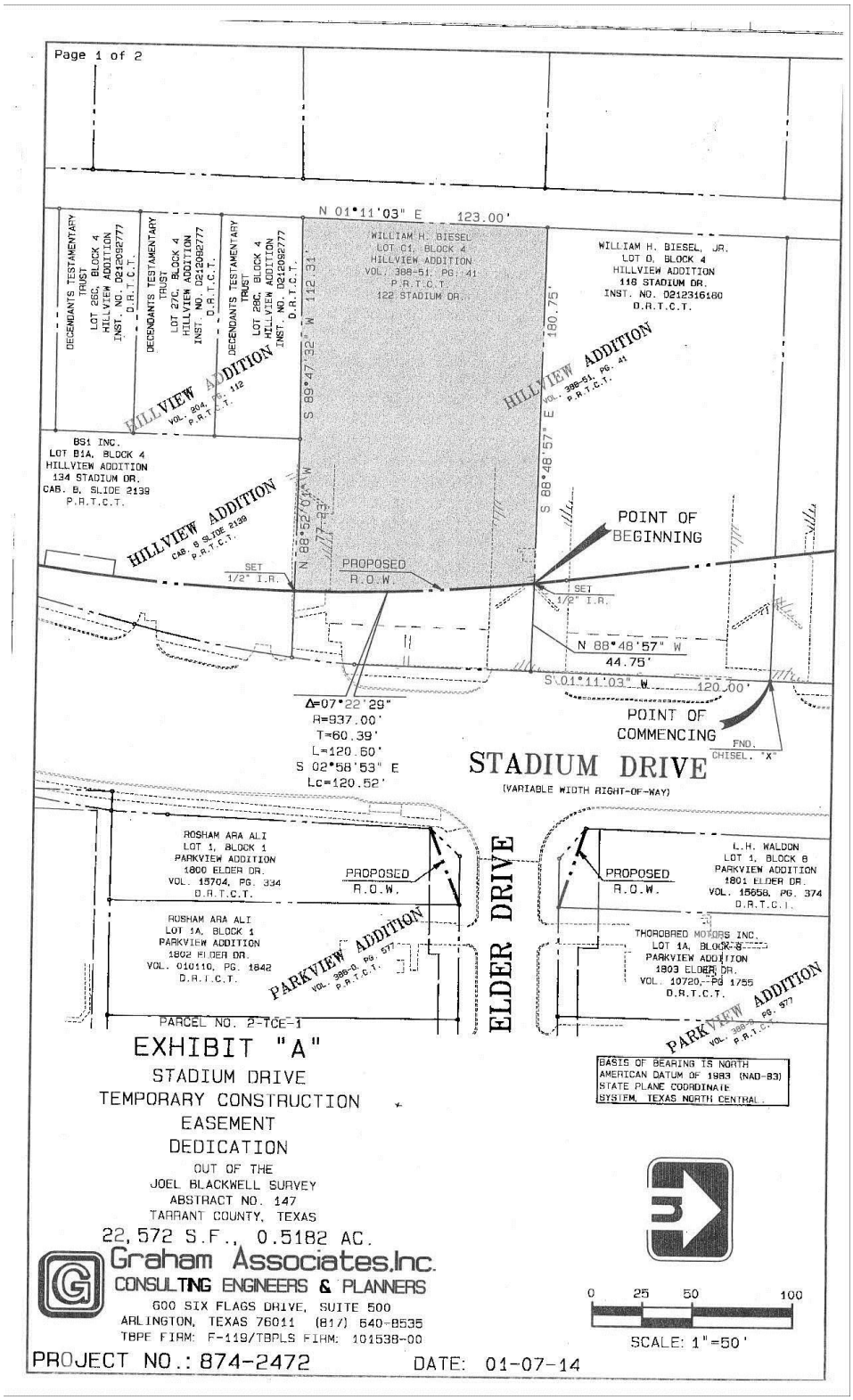


EXHIBIT A
PAGE 3 OF 4

TEMPORARY CONSTRUCTION EASEMENT
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-TCE-1

BEING a 0.5182 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot C1, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas, conveyed by deed to William H. Biesel. Said 0.5182 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found chiseled "x" for the northeast corner of Lot D, Block 4 of said Hillview Addition, also being in the existing west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE South 01°11'03" West, along said existing west right-of-way line, for a distance of 120.00 feet to a point, being the northeast corner of said Lot C1;

THENCE North 88°48'57" West, leaving said existing west right-of-way line, and following along the common line of said Lots D and C1, for a distance of 44.75 feet to a point for corner, being the POINT OF BEGINNING, being in the proposed west right-of-way line of said Stadium Drive (a variable width R.O.W.), and being the beginning of a non-tangent curve to the right having a radius of 937.00 feet, a central angle of 07°22'29" and a long chord which bears South 02°58'53" East, 120.52 feet;

THENCE southeasterly, leaving said common line, and following along said proposed west right-of-way line and said non-tangent curve to the right, an arc distance of 120.60 to a point for corner;

THENCE North 88°52'01" West, leaving said proposed west right-of-way line, for a distance of 77.23 feet to a point for corner;

THENCE South 89°47'32" West, for a distance of 112.31 feet to a point for corner;

THENCE North 01°11'03" East, for a distance of 123.00 feet to a point for corner, being in said common line of Lots D and C1;

THENCE South 88°48'57" East, along said common line, for a distance of 180.75 feet to the POINT OF BEGINNING and CONTAINING 22,572 square feet or 0.5182 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

03/17/14

EXHIBIT A
PAGE 4 OF 4

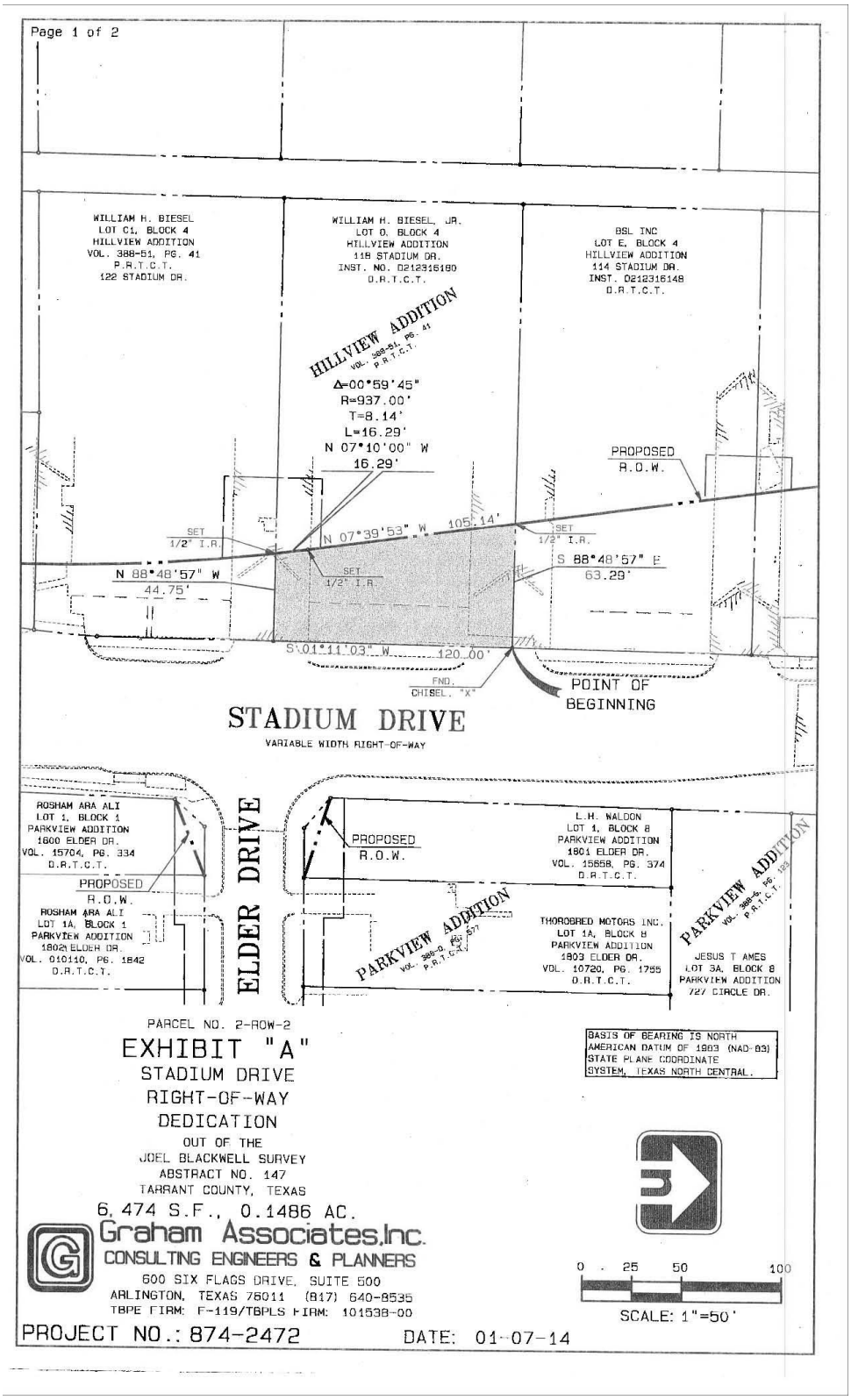


EXHIBIT B
PAGE 1 OF 4

RIGHT-OF-WAY
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-ROW-2

BEING a 0.1486 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot D, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas, conveyed by deed to William H. Biesel, Jr. as recorded in Instrument No. D212316181, Deed Records, Tarrant County, Texas. Said 0.1486 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a found chiseled "x" for the northeast corner of said Lot D and the southeast corner of Lot E, Block 4 of said Hillview Addition, also being in the existing west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE South 01°11'03" West, along said existing west right-of-way line, for a distance of 120.00 feet to a point for corner, being the northeast corner of Lot C1, Block 4 of said Hillview Addition;

THENCE North 88°48'57" West, leaving said existing west right-of-way line, and following along the common line of said Lots D and C1, for a distance of 44.75 feet to a set 1/2 inch iron rod with GAI cap for corner, being in the proposed west right-of-way line of said Stadium Drive (a variable width R.O.W.), being the beginning of a non-tangent curve to the left having a radius of 937.00 feet, a central angle of 0°59'45" and a long chord which bears North 07°10'00" West, 16.29 feet;

THENCE northwesterly, leaving said common line, and following along said proposed west right-of-way line and said non-tangent curve to the left, an arc distance of 16.29 feet to a set 1/2 inch iron rod with GAI cap for corner;

THENCE North 07°39'53" West, continuing along said proposed west right-of-way line, for a distance of 105.14 feet to a set 1/2 inch iron rod with GAI cap for corner, being in the common line of said Lots D and E;

THENCE South 88°48'57" East, leaving said proposed west right-of-way line and following along said common line, for a distance of 63.29 feet to the POINT OF BEGINNING and CONTAINING 6,474 square feet or 0.1486 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

01/07/14

EXHIBIT B
PAGE 2 OF 4

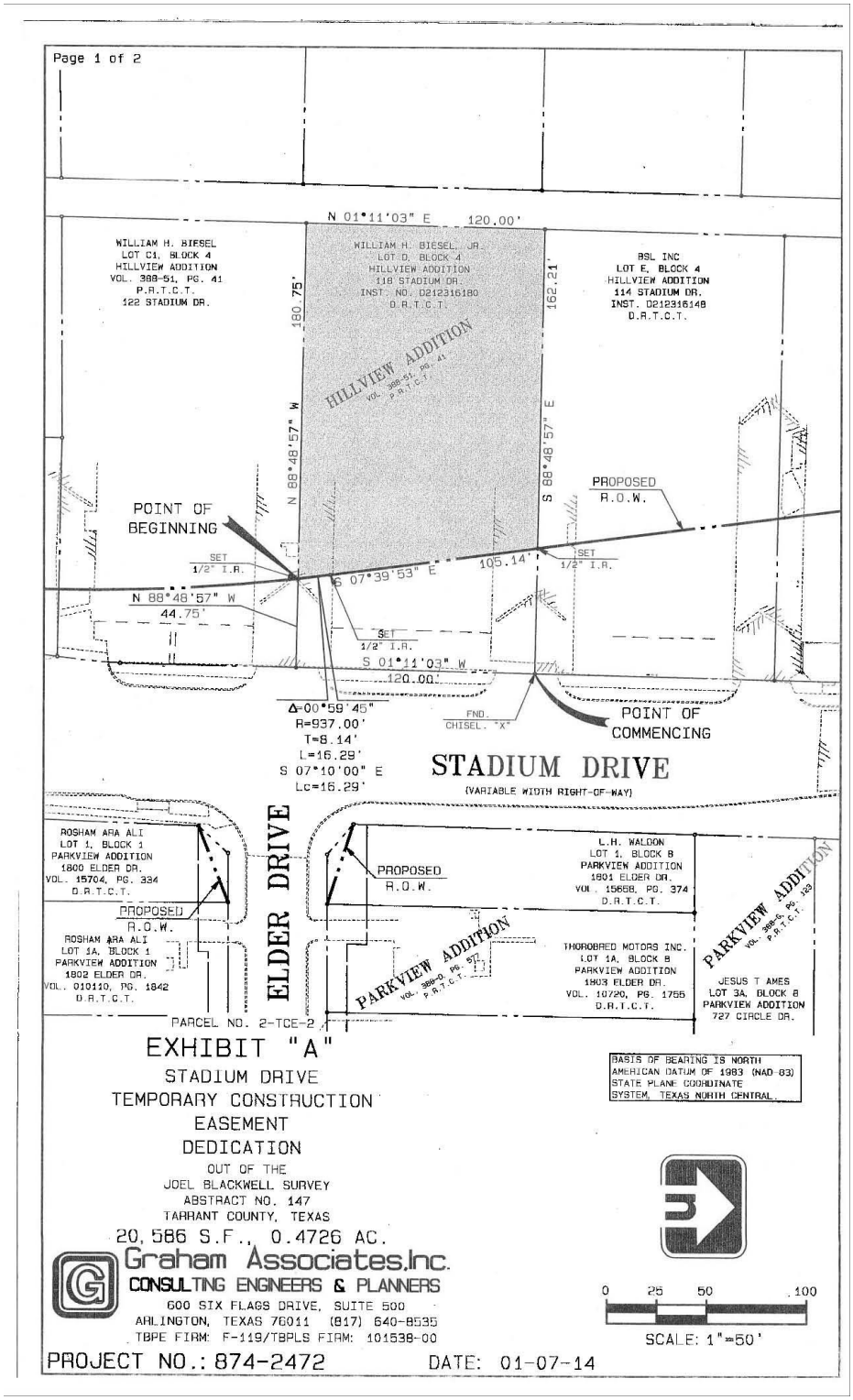


EXHIBIT B
PAGE 3 OF 4

TEMPORARY CONSTRUCTION EASEMENT
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-TCE-2

BEING a 0.4726 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot D, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas, conveyed by deed to William H. Biesel, Jr. as recorded in Instrument No. D212316180, Deed Records, Tarrant County, Texas. Said 0.4726 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found chiseled "x" for the northeast corner of said Lot D, also being in the existing west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE South 01°11'03" West, along said existing west right-of-way line, for a distance of 120.00 feet to a point, being the northeast corner of Lot C1, Block 4 of said Hillview Addition;

THENCE North 88°48'57" West, leaving said existing west right-of-way line, and following along the common line of said Lots D and C1, for a distance of 44.75 feet to a point for corner, being the POINT OF BEGINNING and being in the proposed west right-of-way line of said Stadium Drive (a variable width R.O.W.);

THENCE North 88°48'57" West, leaving said proposed west right-of-way line and continuing along said common line, for a distance of 180.75 feet to a point for corner;

THENCE North 01°11'03" East, leaving said common line, for a distance of 120.00 feet to a point for corner;

THENCE South 88°48'57" East, for a distance of 162.21 feet to a point for corner, being in said proposed west right-of-way line of Stadium Drive;

THENCE South 07°39'53" East, along said proposed west right-of-way line, for a distance of 105.14 feet to a point for corner, being the beginning of a tangent curve to the right having a radius of 937.00 feet, a central angle of 0°59'45" and a long chord which bears South 07°10'00" East, 16.29 feet;

THENCE southeasterly, along said proposed west right-of-way line and said tangent curve to the right, an arc distance of 16.29 feet to the POINT OF BEGINNING and CONTAINING 20,586 square feet or 0.4726 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

03/17/14

EXHIBIT B
PAGE 4 OF 4

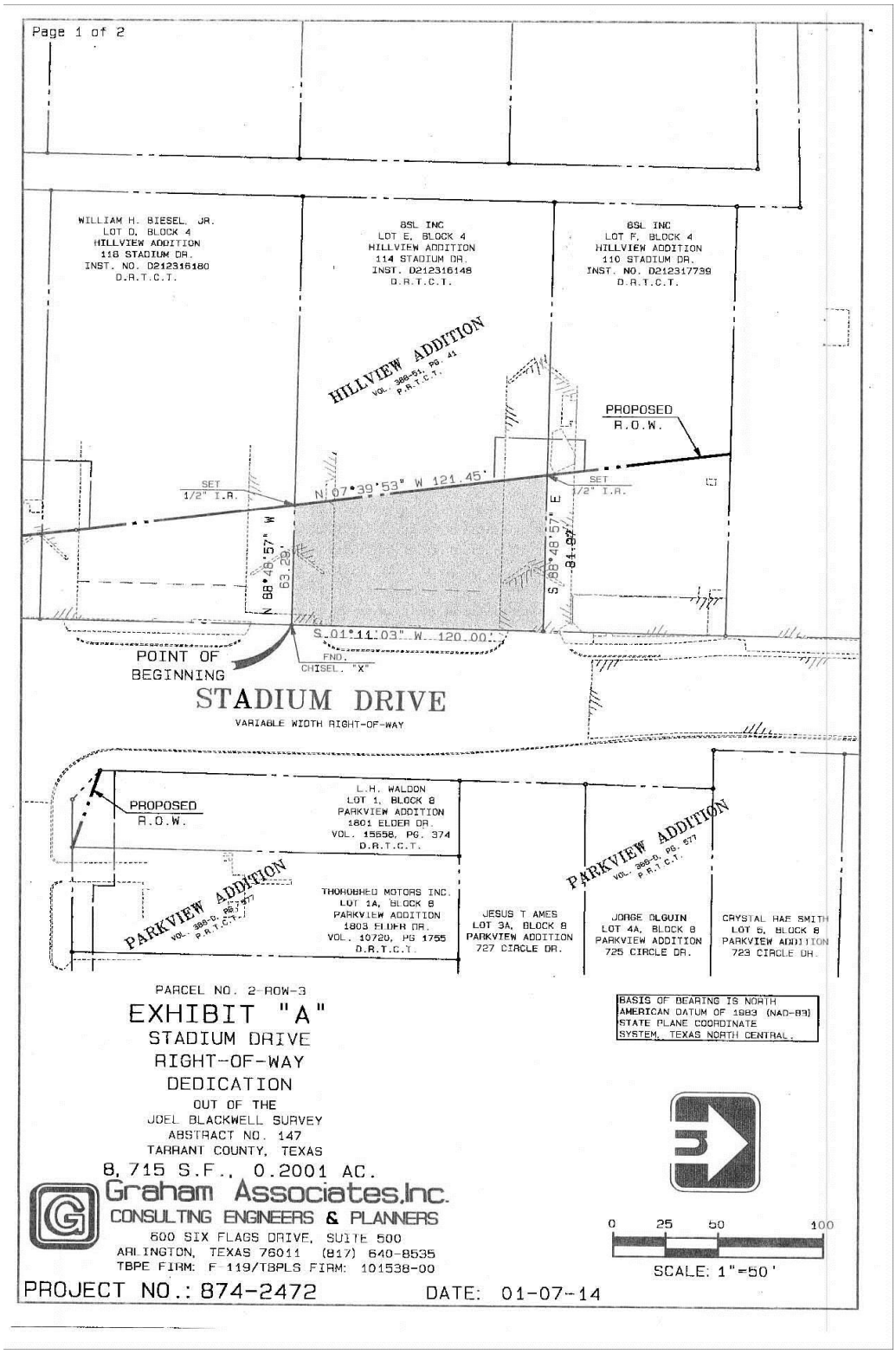


EXHIBIT C
PAGE 1 OF 4

RIGHT-OF-WAY
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-ROW-3

BEING a 0.2001 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot E, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas, conveyed by deed to BSL Inc. as recorded in Instrument No. D212316148, Deed Records, Tarrant County, Texas. Said 0.2001 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a found chiseled "x" for the southeast corner of said Lot E and the northeast corner of Lot D, Block 4 of said Hillview Addition, also being in the existing west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE North 88°48'57" West, leaving said existing west right-of-way line, and following along the common line of said Lots E and D, for a distance of 63.29 feet to a set 1/2 inch iron rod with GAI cap for corner, being in the proposed west right-of-way line of said Stadium Drive (a variable width R.O.W.);

THENCE North 07°39'53" West, leaving said common line and following along said proposed west right-of-way line, for a distance of 121.45 feet to a set 1/2 inch iron rod with GAI cap for corner, being in the south line of Lot F, Block 4 of said Hillview Addition;

THENCE South 88°48'57" East, leaving said proposed west right-of-way line, and following along the common line of said Lots E and F, for a distance of 81.97 feet to a point for corner, being in said existing west right-of-way line of Stadium Drive;

THENCE South 01°11'03" West, leaving said common line and following along said existing west right-of-way line, for a distance of 120.00 feet to the POINT OF BEGINNING and CONTAINING 8,715 square feet or 0.2001 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

01/07/14

EXHIBIT C
PAGE 2 OF 4

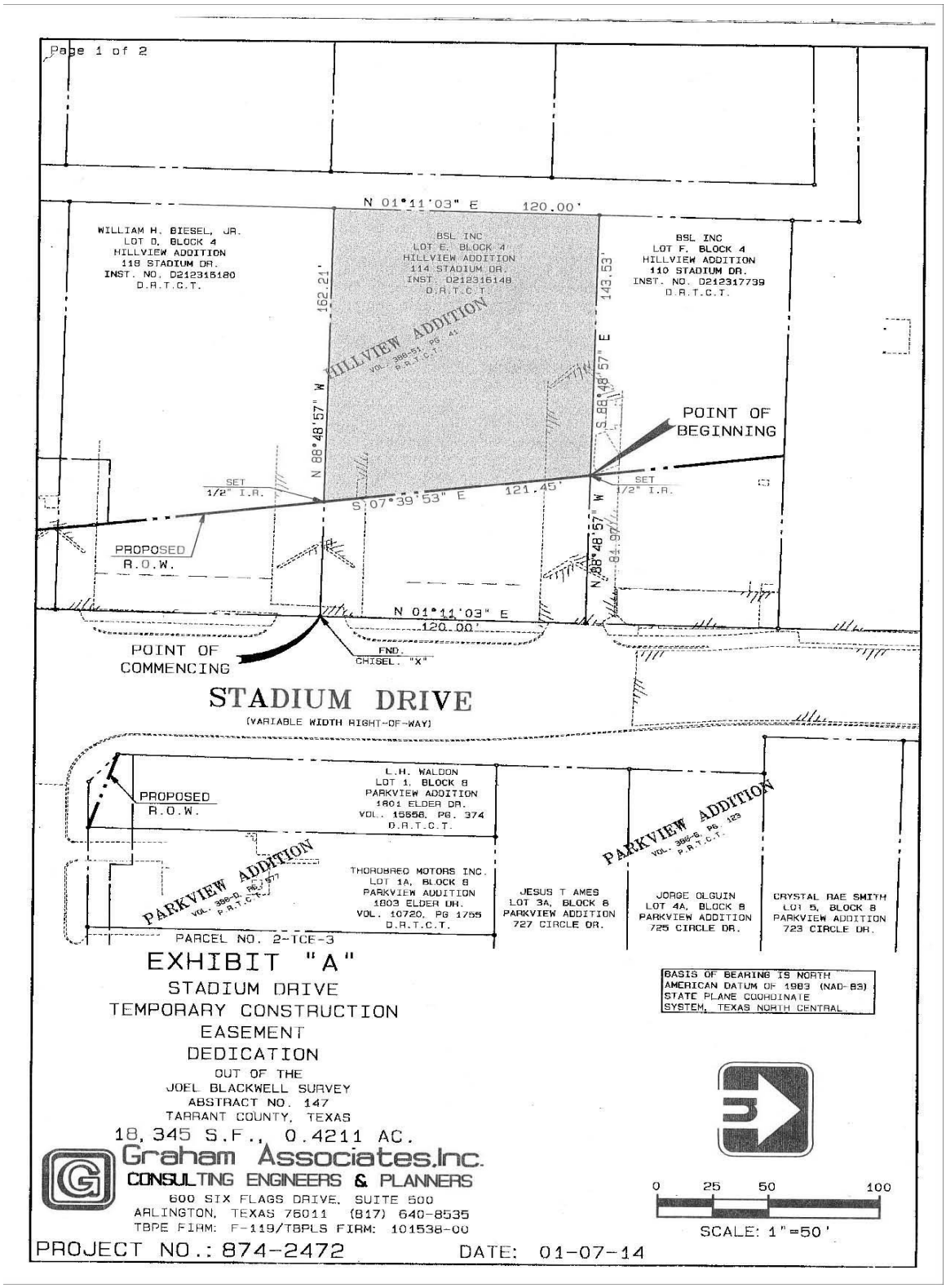


EXHIBIT C
PAGE 3 OF 4

TEMPORARY CONSTRUCTION EASEMENT
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-TCE-3

BEING a 0.4211 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot E, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas, conveyed by deed to BSL Inc. as recorded in Instrument No. D212316148, Deed Records, Tarrant County, Texas. Said 0.4211 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found chiseled "x" for the southeast corner of said Lot E and the northeast corner of Lot D, Block 4 of said Hillview Addition, also being in the existing west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE North 01°11'03" East, along said existing west right-of-way line, for a distance of 120.00 feet to a point, being the northeast corner of said Lot E and the southeast corner of Lot F, Block 4 of said Hillview Addition;

THENCE North 88°48'57" West, leaving said existing west right-of-way line, and following along the common line of said Lots E and F, for a distance of 81.97 feet to a point for corner, being the POINT OF BEGINNING and being in the proposed west right-of-way line of said Stadium Drive (a variable width R.O.W.);

THENCE South 07°39'53" East, leaving said common line and following along said proposed west right-of-way line, for a distance of 121.45 feet to a point for corner;

THENCE North 88°48'57" West, leaving said proposed west right-of-way line, for a distance of 162.21 feet to a point for corner;

THENCE North 01°11'03" East, for a distance of 120.00 feet to a point for corner, being in said common line of Lots E and F;

THENCE South 88°48'57" East, along said common line, for a distance of 143.53 feet to the POINT OF BEGINNING and CONTAINING 18,345 square feet or 0.4211 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

03/17/14

EXHIBIT C
PAGE 4 OF 4

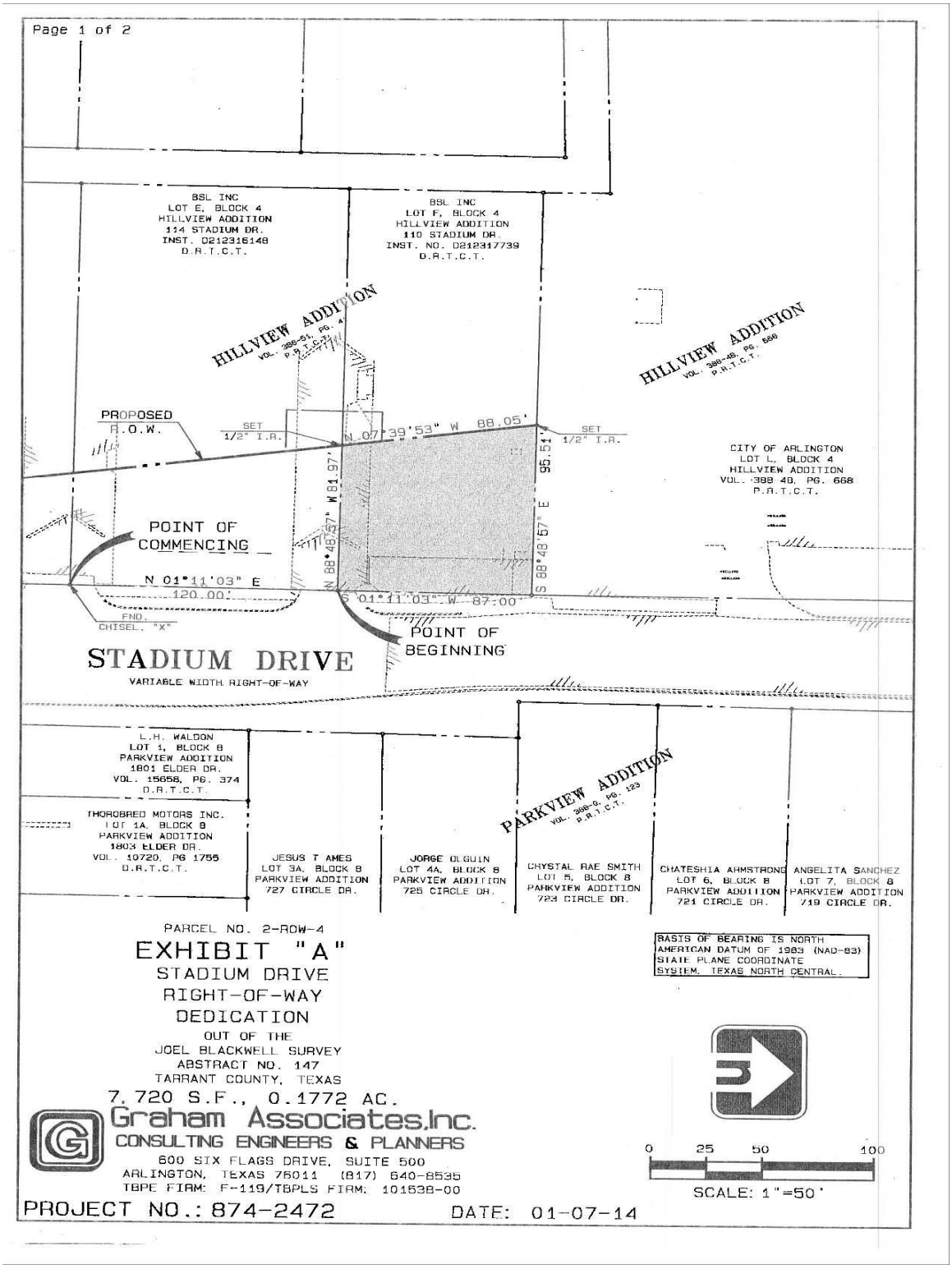


EXHIBIT D
PAGE 1 OF 4

RIGHT-OF-WAY
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-ROW-4

BEING a 0.1772 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot F, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas, conveyed by deed to BSL Inc. as recorded in Instrument No. D212317739, Deed Records, Tarrant County, Texas. Said 0.1772 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found chiseled "x" for the southeast corner of Lot E, Block 4 of said Hillview Addition, also being in the existing west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE North 01°11'03" East, along said existing west right-of-way line, for a distance of 120.00 feet to a point for corner, being the POINT OF BEGINNING, and being the southeast corner of said Lot F and the northeast corner of said Lot E;

THENCE North 88°48'57" West, leaving said existing west right-of-way line and following along the common line of said Lots F and E, for a distance of 81.97 feet to a set 1/2 inch iron rod with GAI cap for corner, being in the proposed west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE North 07°39'53" West, leaving said common line and following along said proposed west right-of-way line, for a distance of 88.05 feet to a set 1/2 inch iron rod with GAI cap for corner, being in the south line of Lot L, Block 4 of said Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-48, Page 668, Plat Records, Tarrant County, Texas;

THENCE South 88°48'57" East, leaving said proposed west right-of-way line, and following along the common line of said Lots F and L, for a distance of 95.51 feet to a point for corner, being in said existing west right-of-way line of Stadium Drive;

THENCE South 01°11'03" West, leaving said common line and following along said existing west right-of-way line, for a distance of 87.00 feet to the POINT OF BEGINNING and CONTAINING 7,720 square feet or 0.1772 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

01/07/14

EXHIBIT D
PAGE 2 OF 4

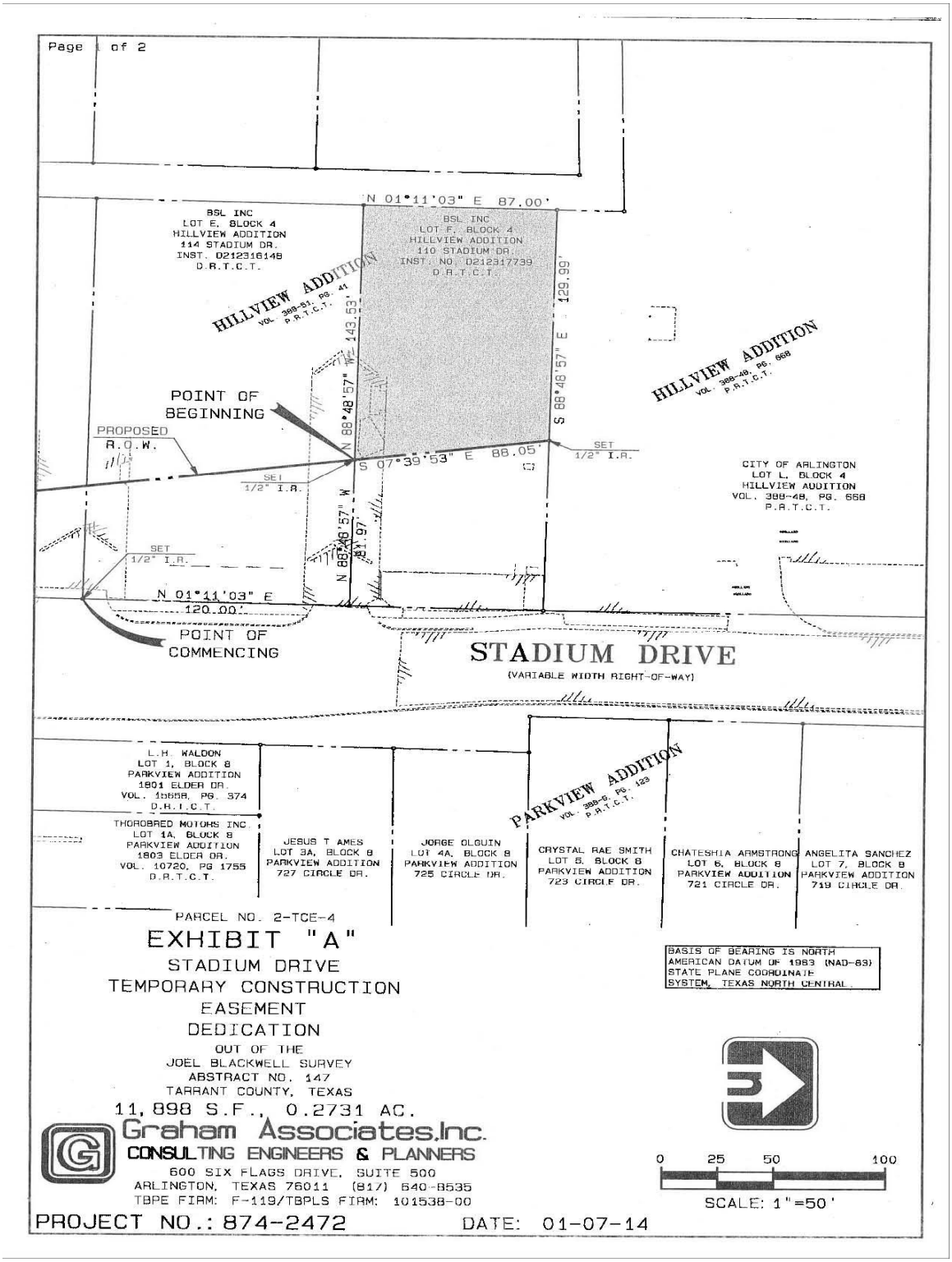


EXHIBIT D
PAGE 3 OF 4

TEMPORARY CONSTRUCTION EASEMENT
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 2-TCE-4

BEING a 0.2731 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot F, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas, conveyed by deed to BSL Inc. as recorded in Instrument No. D212317739, Deed Records, Tarrant County, Texas. Said 0.2731 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found chiseled "x" for the southeast corner of Lot E, Block 4 of said Hillview Addition, and being in the existing west right-of-way line of Stadium Drive (a variable width R.O.W.);

THENCE North 01°11'03" East, along said existing west right-of-way line, for a distance of 120.00 feet to a point, being the southeast corner of said Lot F, Block 4;

THENCE North 88°48'57" West, leaving said existing west right-of-way line, and following along the common line of said Lots E and F, for a distance of 81.97 feet to a point for corner, being the POINT OF BEGINNING and being in the proposed west right-of-way line of said Stadium Drive (a variable width R.O.W.);

THENCE North 88°48'57" West, leaving said proposed west right-of-way line and continuing along said common line, for a distance of 143.53 feet to a point for corner;

THENCE North 01°11'03" East, leaving said common line, for a distance of 87.00 feet to a point for corner;

THENCE South 88°48'57" East, for a distance of 129.99 feet to a point for corner, being in said proposed west right-of-way line of Stadium Drive;

THENCE South 07°39'53" East, along said proposed west right-of-way line, for a distance of 88.05 feet to the POINT OF BEGINNING and CONTAINING 11,898 square feet or 0.2731 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

03/17/14

EXHIBIT D
PAGE 4 OF 4

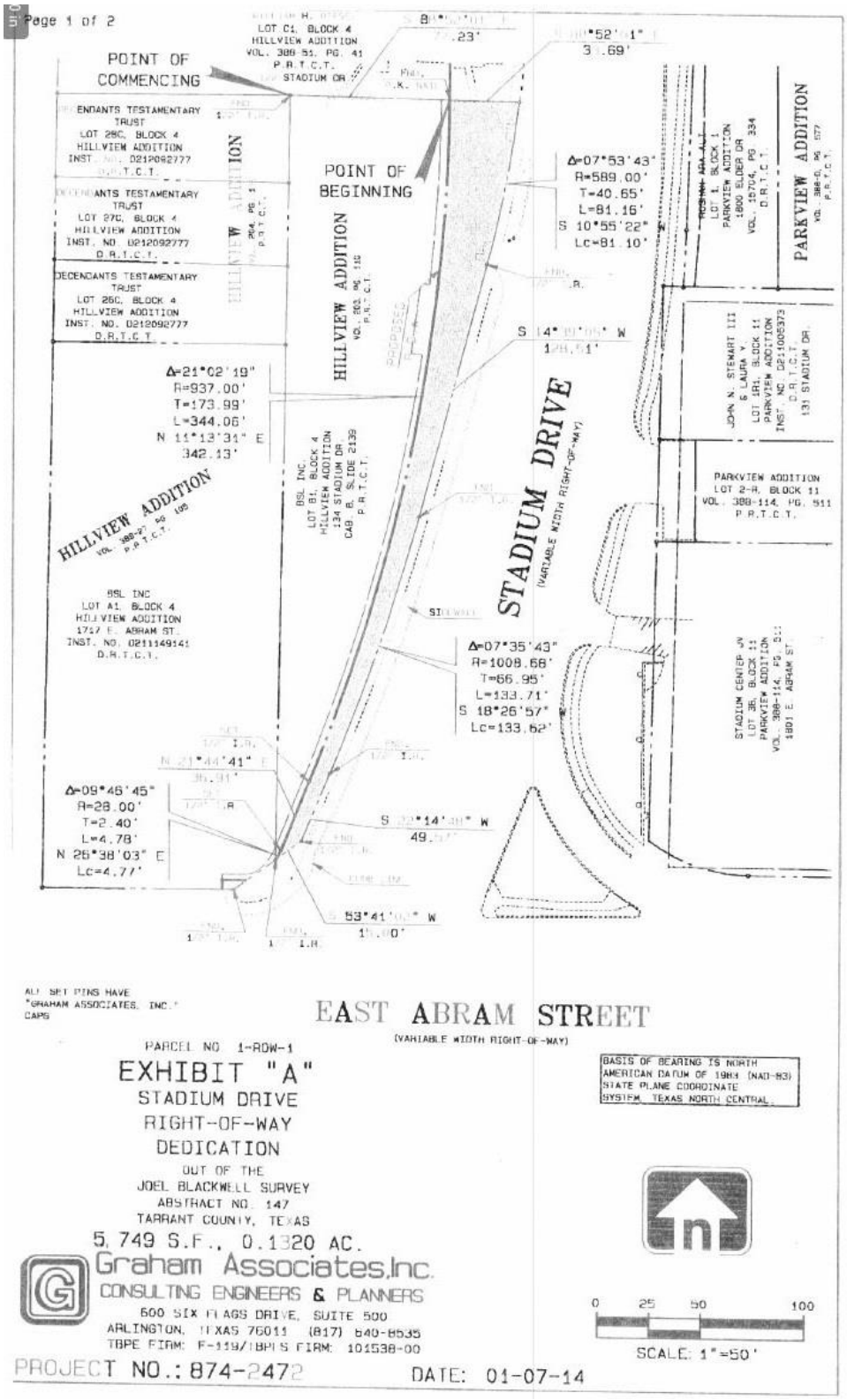


EXHIBIT E
PAGE 1 OF 4

RIGHT-OF-WAY
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT **"A"**
PARCEL 1-ROW-1

BEING a 0.1320 acre tract of land situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot B1 , Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Cabinet B, Slide 2139, Plat Records, Tarrant County, Texas, conveyed by deed to BSL Inc,. Said 0.1320 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found 1/2 inch iron rod, being the northwest corner of said Lot B1 , being in the south line of Lot C1, Block 4 of Hillview Addition, an addition to the City of Arlington, as recorded in Volume 388-51, Page 41, Plat Records, Tarrant County, Texas and being the northeast corner Lot 28C, Block 4 of Hillview Addition, an addition to the City of Arlington, as recorded in Volume 204, Page 112, Plat Records, Tarrant County, Texas;

THENCE South 88°52'01" East, along the north line of said Lot B1 , for a distance of 77.23 feet to a found P.K. nail for corner, being the POINT OF BEGINNING, and being in the proposed west right-of-way line of Stadium Drive (a variable width right-of-way);

THENCE South 88°52'01" East, leaving said proposed west right-of-way line and continuing along said north line, for a distance of 33.69 feet to a point for corner, being the northeast corner of said Lot B1 , being in the existing west right-of-way line of Stadium Drive (a variable width right-of-way) and being the beginning of a non-tangent curve to the right having a radius of 589.00 feet, a central angle of 07°53'43" and a long chord which bears South 10°55'22" West, 81.10 feet;

THENCE southwesterly, leaving said north line, and following along said existing west right-of-way line of Stadium Drive and said non-tangent curve to the right, an arc distance of 81.16 feet to a found 1/2 inch iron rod for corner;

THENCE South 14°39'05" West, continuing along said existing west right-of-way line, for a distance of 128.51 feet to a found 1/2 inch iron rod for corner, being the beginning of a tangent curve to the right having a radius of 1008.68 feet, a central angle of 07°35'43" and a long chord which bears South 18°26'57" West, 133.62 feet;

THENCE southwesterly, along said existing west right-of-way line and said tangent curve to the right, an arc distance of 133.71 feet to a found 1/2 inch iron rod for corner;

THENCE South 22°14'48" West, continuing along said existing west right-of-way line, for a distance of 49.57 feet to a found 1/2 inch iron rod for corner, being the most northerly point of a corner-clip;

THENCE South 53°41'02" West, along said corner-clip, for a distance of 15.00 feet to a set 1/2 inch iron rod with GAI cap for corner, being in said proposed west right-of-way line of Stadium Drive, and being the beginning of a non-tangent curve to the left having a radius of 28.00 feet, a central angle of 09°46'45" and a long chord which bears North 26°38'03" East, 4.77 feet;

THENCE northeasterly, along said proposed west right-of-way line and said non-tangent curve to the left, an arc distance of 4.78 feet to a set 1/2 inch iron rod with GAI cap for corner;

THENCE North 21°44'41" East, continuing along said proposed west right-of-way line, for a distance of 36.91 feet to a set 1/2 inch iron rod with GAI cap for corner, being the beginning of a tangent curve to the left having a radius of 937.00 feet, a central angle of 21°02'19" and a long chord which bears North 11°13'31" East, 342.13 feet;

THENCE northeasterly, along said proposed west right-of-way line and said tangent curve to the left, an arc distance of 344.06 feet to the POINT OF BEGINNING and CONTAINING 5,749 square feet or 0.1320 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

05/02/14

EXHIBIT E
PAGE 2 OF 4

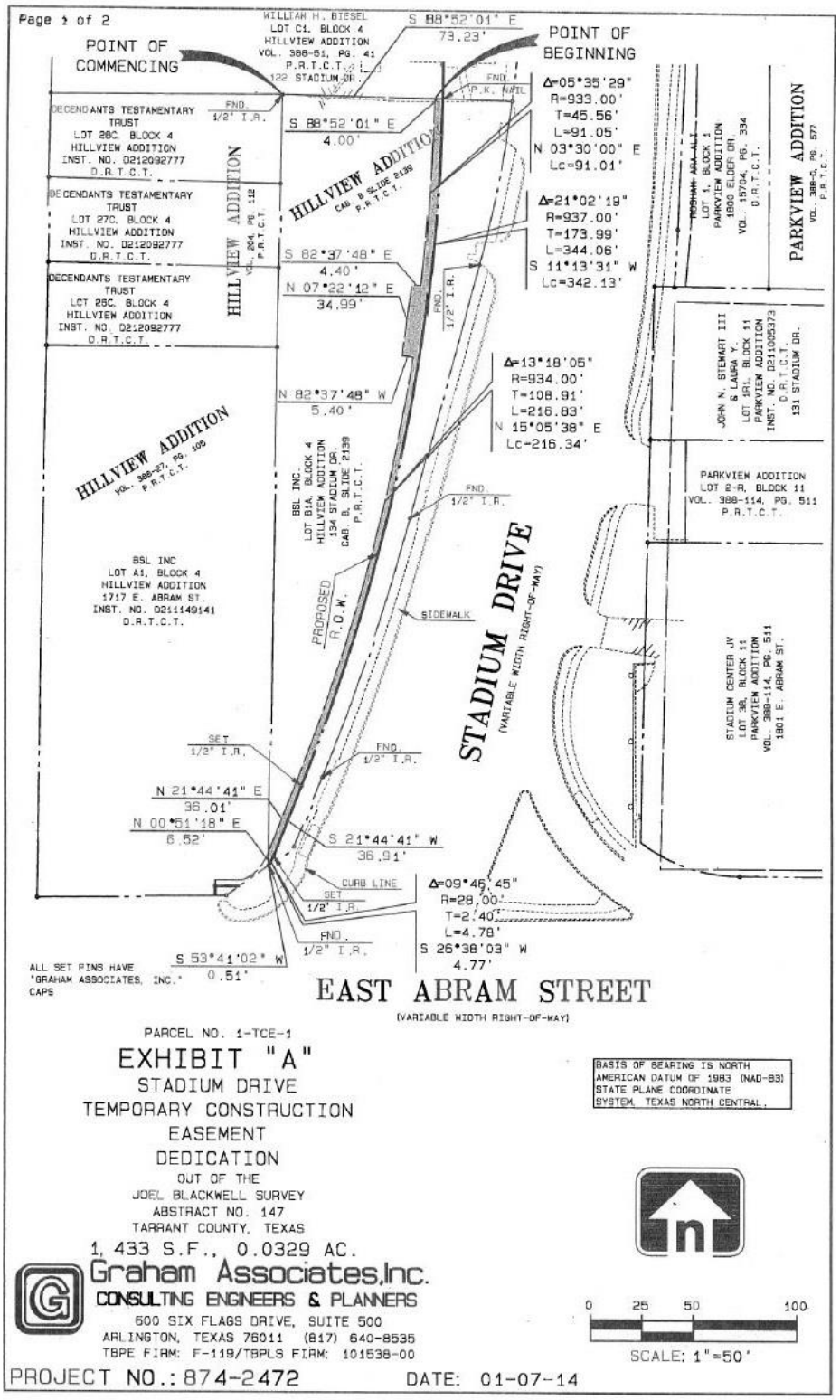


EXHIBIT E
PAGE 3 OF 4

TEMPORARY CONSTRUCTION EASEMENT
STADIUM DRIVE
CITY OF ARLINGTON

EXHIBIT "A"
PARCEL 1-TCE-1

BEING a 0.0329 acre tract of land, situated in the Joel Blackwell Survey, Abstract No. 147, Tarrant County, Texas, being out of Lot B1A, Block 4 of the Hillview Addition, an addition to the City of Arlington, as recorded in Cabinet B, Slide 2139, Plat Records, Tarrant County, Texas. Said 0.0329 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a found 1/2 inch iron rod for corner, said point being the northwest corner of said Lot B1A, also being in the south boundary line of Lot C1, Block 4 of said Hillview Addition, and also being the northeast corner Lot 28C, Block 4 of Hillview Addition, an addition to the City of Arlington, as recorded in Volume 204, Page 112, Plat Records, Tarrant County, Texas;

THENCE South 88°52'01" East, along the north boundary line of said Lot B1A, for a distance of 73.23 feet to a point for corner, being the POINT OF BEGINNING;

THENCE South 88°52'01" East, continuing along said north boundary line, a distance of 4.00 feet to a found P.K. nail for corner, being in the proposed west right-of-way line of Stadium Drive (a variable width right-of-way), and being the beginning of a non-tangent curve to the right having a radius of 937.00 feet, a central angle of 21°02'19" and a long chord which bears South 11°13'31" West, 342.13 feet;

THENCE southwesterly, along said proposed west right-of-way line and said non-tangent curve to the right, an arc distance of 344.06 feet to a set 1/2 inch iron rod with GAI cap for corner;

THENCE South 21°44'41" West, continuing along said proposed west right-of-way line, a distance of 36.91 feet to a set 1/2 inch iron rod with GAI cap for corner, being the beginning of a tangent curve to the right having a radius of 28.00 feet, a central angle of 09°46'45" and a long chord which bears South 26°38'03" West, 4.77 feet;

THENCE southwesterly, along said proposed west right-of-way line and said tangent curve to the right, an arc distance of 4.78 feet to a set 1/2 inch iron rod with GAI cap for corner;

THENCE South 53°41'02" West, continuing along said proposed west right-of-way line, a distance of 0.51 feet to a point for corner, being the common corner of said Lot B1A and Lot A1, Block 4, of said Hillview Addition, conveyed by deed to BSL Inc., as recorded in Instrument No. D211149141, Deed Records, Tarrant County, Texas;

THENCE North 00°51'18" East, leaving said proposed west right-of-way line, and following along the common line of said Lot B1A and Lot A1, a distance of 6.52 feet to a point for corner;

THENCE North 21°44'41" East, leaving said common line, a distance of 36.01 feet to a point for corner, being the beginning of a tangent curve to the left having a radius of 934.00 feet, a central angle of 13°18'05" and a long chord which bears North 15°05'38" East, 216.34 feet;

THENCE northeasterly, along said tangent curve to the left, an arc distance of 216.83 feet to a point for corner;

THENCE North 82°37'48" West, a distance of 5.40 feet to a point for corner;

THENCE North 07°22'12" East, a distance of 34.99 feet to a point for corner;

THENCE South 82°37'48" East, a distance of 4.40 feet to a point for corner, being the beginning of a non-tangent curve to the left having a radius of 933.00 feet, a central angle of 5°35'29" and a long chord which bears North 03°30'00" East, 91.01 feet;

THENCE northeasterly, along said non-tangent curve to the left, an arc distance of 91.05 feet to the POINT OF BEGINNING and CONTAINING 1,433 square feet or 0.0329 acres of land, more or less.

STATE OF TEXAS
REGISTERED
M.L. PETERSON
5999
PROFESSIONAL
LAND SURVEYOR

05/02/14

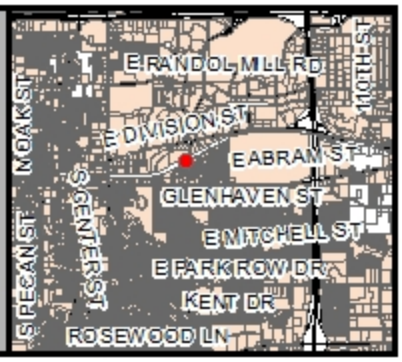
EXHIBIT E
PAGE 4 OF 4

SITE MAP

Right-of-Way

Temporary Construction Easement

N
W E
S



Prepared 2-3-2016

Staff Report

LOAN FORGIVENESS AGREEMENT WITH THE TEXAS WATER DEVELOPMENT BOARD RELATIVE TO THE ISSUANCE OF WATER AND WASTEWATER REVENUE BONDS, SERIES 2016	
City Council Meeting Date: 5-24-2016	Document Being Considered: Resolution

RECOMMENDATION

Approve a resolution for an agreement with the Texas Water Development Board (TWDB) authorizing the City to execute the loan forgiveness agreement for $359,700 relating to the issuance of $2,080,000 Water and Wastewater System Revenue Bonds, Series 2016

PRIOR BOARD OR COUNCIL ACTION

On January 26, 2016, City Council passed resolution 16-012 authorizing the filing of an application for financial assistance from the Texas Water Development Board (TWDB) for a maximum of $2,439,700.

On May 10, 2016, City Council passed ordinance 16-026 providing for the issuance of $2,080,000 Water and Wastewater System Revenue Bonds, Series 2016.

ANALYSIS

On October 27, 2015, Arlington Water Utilities department submitted a Project Information Form to TWDB in order to be considered for ranking and inclusion on the fiscal year 2016 CWSRF Intended Use Plan. The Intended Use Plan includes a priority list of projects rated and ranked in accordance with Administrative Rule, Chapter 371.19. The priority list is used to invite the submittal of applications for financial assistance in priority ranking order. On February 19, 2016, the Texas Water Development Board (TWDB) approved a $2,439,700 commitment for the City consisting of a $359,700 Loan Forgiveness and a $2,080,000 loan from the Clean Water State Revolving Fund (CWSRF) for construction of wastewater collection system improvements.

FINANCIAL IMPACT

No financial impact.

ADDITIONAL INFORMATION

Attached:	Draft Resolution Loan Forgiveness Agreement
Under separate cover:	None
Available in the City Secretary's office	None

STAFF CONTACT(S)

Walter J. Pishkur	Mike Finley
Director of Water Utilities	Director of Finance
817-459-6603	817-459-6345
Buzz.Pishkur@arlingtontx.gov	Mike.Finley@arlingtontx.gov

Resolution No. _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS APPROVING A LOAN FORGIVENESS AGREEMENT WITH THE TEXAS WATER DEVELOPMENT BOARD AND AUTHORIZING THE MAYOR AS THE DESIGNATED REPRESENTATIVE OF THE CITY TO EXECUTE THE LOAN FORGIVENESS AGREEMENT FOR FUNDING IN THE AMOUNT OF $359,700; AND APPROVING OTHER MATTERS RELATED THERETO

WHEREAS, the Texas Water Development Board (the "TWDB") has made a commitment to provide financial assistance in the form of a loan forgiveness in the amount of $359,700 from the Clean Water State Revolving Fund (the "Grant") to the City of Arlington, Texas (the "City") to finance the construction and equipment of wastewater system improvements for the project identified by the TWDB as Project No. 73723; and

WHEREAS, the City Council of the City desires to appoint Mayor W. Jeff Williams, or any successor as Mayor of the City, as the representative of the City (the "Authorized Representative") who is authorized to enter into an agreement related to the Loan Forgiveness (the "Loan Forgiveness Agreement") with the TWDB on behalf of the City; and

WHEREAS, the meeting at which this Resolution is being considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1. Authorized Representative. The Mayor of the City is hereby appointed as the Authorized Representative of the City.

2. Approval of Loan Forgiveness Agreement. The Loan Forgiveness Agreement between the TWDB and the City in substantially the form presented to City Council is approved, and the Authorized Representative is authorized to execute the Loan Forgiveness Agreement on behalf of the City.

3. Effective Date. This Resolution shall become effective immediately after its adoption.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____

W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY_____

Loan Forgiveness Agreement
Clean Water State Revolving Fund

TEXAS WATER DEVELOPMENT BOARD

AND

THE CITY OF ARLINGTON

TWDB COMMITMENT NO. LF1000498

TWDB PROJECT NO. 73723 (IUP FISCAL YEAR 2016)

TWDB RESOLUTION NO. 16-009

CFDA No. 66.458

THE CITY OF ARLINGTON
TWDB COMMITMENT NO. LF1000498
TWDB PROJECT NO. 73723
TWDB RESOLUTION NO. 16-009

LOAN FORGIVENESS AGREEMENT

TABLE OF CONTENTS

ARTICLE I. DEFINITIONS 3
ARTICLE II. AUTHORITY AND RECITALS 5
ARTICLE III. LEGAL REQUIREMENTS 6
ARTICLE IV. PLANNING, ACQUISITION, DESIGN AND CONSTRUCTION 8
ARTICLE V. SPECIAL COVENANTS AND REPRESENTATIONS 8
ARTICLE VI. NON-PERFORMANCE AND REMEDIES 11
ARTICLE VII. GENERAL TERMS AND CONDITIONS 12

EXHIBITS

TWDB Resolution No. 16-009 ..... **EXHIBIT A**

City of Arlington's Resolution ..... **EXHIBIT B**

List of Federal Laws and Authorities (Cross-Cutters) ..... **EXHIBIT C**

Davis-Bacon Contract and Subcontract Provisions ..... **EXHIBIT D**

Project Schedule ..... **EXHIBIT E**

Project Budget ..... **EXHIBIT F**

Escrow Agreement ..... **EXHIBIT G**

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

TWDB Commitment No. LF1000498

LOAN FORGIVENESS AGREEMENT BETWEEN THE TEXAS WATER DEVELOPMENT BOARD AND THE CITY OF ARLINGTON

WHEREAS, the City of Arlington (City) has filed an application with the Texas Water Development Board (TWDB) for financial assistance in the amount of $2,439,700 from the Clean Water State Revolving Fund (CWSRF) to finance wastewater system improvements for the project identified as Project No. 73723; and

WHEREAS, on February 18, 2016, the TWDB determined that the City qualifies for a subsidy because it meets Green Project requirements pursuant to 31 Texas Administrative Code (TAC) § 375.18 and the criteria set forth in the 2016 CWSRF Intended Use Plan (IUP), and agreed, pursuant to the TWDB Resolution, to provide financial assistance in the amount of $2,439,700 to the City and further agreed that $359,700 will be forgiven; and

WHEREAS, the TWDB and the City are the Parties to this Agreement.

NOW, THEREFORE, the Parties mutually agree to adhere to the terms of this Agreement and to administer the Loan Forgiveness Funds provided through this Agreement in conformance with all applicable state and federal laws and regulations, the TWDB Resolution, and all terms and conditions set forth herein.

ARTICLE I. DEFINITIONS

The following terms, as used in this Agreement, have the meanings assigned below:

Agreement means this Loan Forgiveness Agreement and the attached exhibits.

CFR means the Code of Federal Regulations.

Construction Account means an account dedicated to the payment of Project costs, as defined by 31 TAC § 375.1(16) and required by the TWDB Resolution.

CWSRF means the Clean Water State Revolving Fund, a program of financial assistance administered by the TWDB for wastewater projects pursuant to the Federal Water Pollution Control Act, 33 U.S.C.A. §§ 1251 *et seq.*; applicable federal regulations; Texas Water Code, Chapter 15, §§ 15.601 – 15.618; and 31 TAC Chapter 375.

Disadvantaged Community means an area that meets the requirements of a disadvantaged community as defined in 31 TAC § 375.1(21) and the criteria identified in the 2016 CWSRF IUP.

Eligible Expenses means the expenses allowed by TWDB program requirements and authorized by the TWDB in the approved Project Budget.

EPA means the U.S. Environmental Protection Agency.

Escrow Account means an account established by the City that will be used to manage the Loan Forgiveness Funds in accordance with an escrow agreement acceptable to the Executive Administrator, which is attached hereto as **EXHIBIT G**, until such time as the Executive Administrator authorizes the release of the Loan Forgiveness Funds to the Construction Account.

Executive Administrator means the Executive Administrator of the TWDB or designated representative.

Force Majeure means a failure or delay in a Party's performance under this Agreement that is caused by acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such Party is unable to overcome.

Green Project means a project or portion of a project that meets the EPA criteria for inclusion in the Green Project Reserve, including green infrastructure, water or energy efficiency improvements or other environmentally innovative activities.

Green Project Reserve means the equivalent amount of the EPA capitalization grant that is reserved for projects that meet the EPA's criteria for green projects.

IUP means the Intended Use Plan, State Fiscal Year 2016, approved by the TWDB and the EPA in which the Project was prioritized for funding.

Loan means the total amount of financial assistance from the TWDB under numbers L1000491 and LF1000498, in $2,439,7000 from the CWSRF to finance the Project.

Loan Forgiveness Funds means the portion of the Loan that is forgiven identified as LF1000498, in an amount not to exceed $359,700.

Obligations means the $2,080,000 City of Arlington Water and Wastewater System Revenue Bonds, Proposed Series 2016, together with all authorizing documents, which evidence the portion of the Loan that is not forgiven, identified as L1000491.

Outlay Report means the TWDB form regarding the total amount of costs incurred by the City relating to the Project for the specified period.

Parties or Party means the TWDB and the City and their authorized successors and assignees.

Project means the project for which the TWDB is providing financial assistance under this Agreement and as further described in the TWDB Resolution and identified as Project No. 73723.

State means the State of Texas.

TAC means the Texas Administrative Code.

TWDB means the Texas Water Development Board.

TWDB Resolution means TWDB Resolution No. 16-009, dated February 18, 2016, approving the application for financial assistance filed by the City and authorizing the execution of this Agreement.

ARTICLE II. AUTHORITY AND RECITALS

2.01. AUTHORITY. This Agreement is authorized and required by the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, and is also governed by the terms of the IUP; Texas Water Code, Chapter 6; Texas Water Code; Chapter 15, §§ 15.601 – 15.618; 31 TAC Chapter 375; and the TWDB Resolution.

2.02. RECITALS. The Parties agree that the following representations are true and correct and form the basis of this Agreement.

A. The TWDB may provide financial assistance in the form of a subsidy, such as loan forgiveness, for all or a portion of the Project costs in an amount which the TWDB has determined to be eligible.

B. On February 18, 2016, the TWDB considered an Application filed by the City for financial assistance from the CWSRF program. Based on the representations made by the City in that Application, the TWDB adopted the TWDB Resolution in which the TWDB:

1. determined that the City qualifies for loan forgiveness and is eligible for financial assistance; and

2. made a commitment to provide financial assistance in the form of a loan in an amount not to exceed $2,439,700 for the construction of the Project and to provide a subsidy in the form of loan forgiveness to the City in an amount not to exceed $359,700 as Loan Forgiveness Funds without the expectation of repayment.

C. The TWDB and the City enter this Agreement to memorialize and set forth the terms and conditions for the Loan Forgiveness Funds in an amount not to exceed $359,700. The Executive Administrator is authorized to execute this Agreement on behalf of the TWDB

pursuant to the TWDB Resolution, which is attached to this Agreement as **EXHIBIT A**. The City is authorized to execute this Agreement through its authorized representative designated in a resolution duly adopted by the governing body of the City, a copy of which is attached hereto as **EXHIBIT B**.

D. Nothing in this Agreement supersedes or affects any provisions of the Obligations relating to the Loan amount not forgiven.

ARTICLE III. LEGAL REQUIREMENTS

3.01. APPLICABLE LAWS. In consideration of the performance of the mutual agreements set forth in this Agreement, the City, by and through its designated and authorized representatives, agrees to plan, design, and construct the Project in compliance with the following:

A. the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, and EPA regulations at 40 CFR Part 35;

B. all federal laws and regulations identified on **EXHIBIT C**;

C. Texas Water Code, Chapter 15, §§ 15.601 – 15.618; and

D. 31 TAC Chapter 375.

3.02. LABOR STATUTES AND REGULATIONS. The City agrees to comply with the following statutes and regulations, and shall execute the certifications required by the TWDB related to same. Further, the City shall ensure that each contract for work on the Project shall also contain the following requirements.

A. Equal Employment Opportunity. The City shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and U.S. Department of Labor regulations at 41 CFR Chapter 60, relating to Office of Federal Contract Compliance, EEO. The City shall include this provision in any contract or subcontract in excess of $10,000 as required by 40 CFR § 31.36.

B. Davis-Bacon Act Wage Rates. The City, its contractors and its subcontractors, for the Project that is funded in whole or in part with Loan Forgiveness Funds, shall pay all laborers and mechanics at rates not less than those prevailing on similar projects in the same locality, as determined by the U.S. Secretary of Labor's Wage and Hour Division, in conformance with the Davis–Bacon Act, 40 U.S.C. §§ 3141 - 3148, 29 CFR Part 5, relating to Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction, and 29 CFR Part 3, relating to Contractors and Subcontractors on Public Work Financed in Whole or in Part by Loans or Grants from the United States. All contracts and subcontracts for the construction of the Project carried out in whole or in part with assistance made available as stated herein shall insert

in full in any contract in excess of $2,000 the contracts clauses as attached hereto as **EXHIBIT D**.

C. Contract Work Hours and Safety Standards Act. The City shall ensure that its contractors and subcontractors comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 3701 - 3708 and 29 CFR Part 5.

3.03. NO LOBBYING. The City agrees to comply with 40 CFR Part 34, relating to New Restrictions on Lobbying. The City understands and agrees that none of the Loan Forgiveness Funds provided under this Agreement shall be expended to pay any person for influencing or attempting to influence an officer or employee of any federal entity, or a Member of Congress, with regard to the awarding of any federal contract, federal grant, federal loan, or the extension, continuation, renewal, amendment or modification of any federal contract, loan, or grant. The City shall require that all contracts in excess of $100,000 for work implementing the Project contain the following statement: IN ACCORDANCE WITH THE BYRD ANTI-LOBBYING AMENDMENT, ANY RECIPIENT WHO MAKES A PROHIBITED EXPENDITURE UNDER TITLE 40 CFR PART 34 OR FAILS TO FILE THE REQUIRED CERTIFICATION OR LOBBYING FORMS SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN $10,000 AND NOT MORE THAN $100,000 FOR EACH SUCH EXPENDITURE.

3.04. IRON AND STEEL. The City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States as required by the 2014 Federal Appropriations Act, related EPA SRF Policy Guidelines and the TWDB American Iron and Steel Guidance, unless the City has requested and obtained a waiver from EPA pertaining to the Project. This section applies in a manner consistent with United States obligations under international agreements. If the City is a signatory to such an agreement, then the City is under the obligation to determine its applicability and requirements and document the actions taken to comply for the TWDB.

3.05. PROCUREMENT. The City shall comply with the following when procuring goods and services for work on the Project according to the requirements in this section.

A. Debarred and Suspended Vendors. Prior to selecting any contractor, the City shall ensure that the contractor is not listed on the federal Excluded Parties List System and is not suspended or disbarred by either the State or the federal government. See the following websites for lists of suspended and debarred federal and State vendors: www.sam.gov and www.window.state.tx.us/procurement/prog/vendor_performance/debarred.

B. State Procurement Requirements. All purchases for goods, services or commodities made with funds provided under this Agreement shall comply with State and local procurement and contracting laws.

C. Disadvantaged Business Enterprises. The City agrees to comply with 40 CFR Part 33, relating to Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs.

D. Contracts for Architectural or Engineering Professional Services. The City agrees to comply with CWA Section 602(b)(14) and 40 U.S.C. 1101*et seq.*, relating to the Selection of Architects and Engineers.

ARTICLE IV. PLANNING, ACQUISITION, DESIGN AND CONSTRUCTION

4.01. PROJECT REQUIREMENTS. The City shall comply with the following:

A. Plans and Specifications. The City shall construct the Project in accordance with the plans and specifications as sealed by a State licensed engineer and as approved by the Executive Administrator in compliance with 31 TAC §§ 375.80-375.83.

B. Changes to Plans and Specifications. The City shall not make or implement any changes to the scope of the Executive Administrator's approved Project or to the specifications for the Project including, but not limited to, changes to the Green Project Reserve portion of the Project without the written approval of the Executive Administrator.

C. Project Schedule. The City shall adhere to the TWDB approved Project schedule, attached as **EXHIBIT E**, and shall timely and expeditiously use loan proceeds and complete the Project. The City shall not exceed or revise the Project schedule except upon written approval from the TWDB. The City shall not delay the Project completion date except by Amendment to this Agreement.

D. Project Budget. The City shall be solely responsible for all costs that exceed the TWDB approved Project budget, attached as **EXHIBIT F**. The City shall notify the Executive Administrator immediately when it appears that the Project budget may not be sufficient to complete the Project. The City shall not exceed the Project budget except by Amendment to this Agreement.

E. Environmental Compliance. The City shall comply with all environmental conditions and shall implement environmental mitigation measures as required through TWDB environmental review under 31 TAC Chapter 375, Subchapter E.

4.02. PROGRESS REPORTS. The Executive Administrator may request reports on the progress of the Project at any time. The reports shall contain information as directed by the Executive Administrator and shall be submitted periodically as requested. The City shall respond as requested and a failure to respond may result in withholding the release of funds from the Escrow Account.

ARTICLE V. SPECIAL COVENANTS AND REPRESENTATIONS

5.01. CONDITIONS FOR DISBURSEMENT OF LOAN FORGIVENESS FUNDS. No Loan Forgiveness Funds shall be deposited into the Escrow Account or released until the applicable requirements and conditions in the TWDB Resolution and 31 TAC § 375.92, relating to Disbursement of Funds, are met. Construction funds shall not be released unless the City has complied with 31 TAC Chapter 375, Subchapter E, relating to Environmental Reviews and

Determinations and 31 TAC Chapter 375, §§ 375.80 – 375.83, relating to Engineering Review and Approval. If other conditions affect the release of funds, the Parties agree to negotiate in good faith regarding any new or different terms or conditions that become applicable to the release of Loan Forgiveness Funds.

5.02. DELIVERY OF LOAN FORGIVENESS FUNDS. The TWDB shall deposit the Loan Forgiveness Funds in an approved Escrow Account to be released to the City's Construction Account at the direction of the Executive Administrator.

A. Outlay Reports and Invoices. The City shall submit the following documentation:

1. TWDB Outlay Report forms identifying:

   a. the total amount of expenses incurred by the City for the period covered by the Outlay Report; and

   b. invoices, receipts or other documentation satisfactory in form and in substance to the TWDB sufficient to establish the requested amount as an eligible expense incurred by the City.

2. Outlay Report forms are due to TWDB quarterly during the planning, acquisition and design phases and monthly during the construction phase of the Project until the completion of the Project.

B. Release from Escrow Account. The Executive Administrator shall authorize the release of Loan Forgiveness Funds from Escrow when Outlay Reports have been approved by the TWDB.

5.03. INELIGIBLE EXPENSES. The City must use Loan Forgiveness Funds for Eligible Expenses. The City must return any Loan Forgiveness Funds that are used for expenses that cannot be verified as eligible or that are ineligible. The amount of Loan Forgiveness Funds used for any ineligible or unverified expenses shall be credited against verified Eligible Expenses. If the total amount of Eligible Expenses is insufficient to fully offset the amount of improperly expended Loan Forgiveness Funds, the City must use other funds to fully repay the TWDB.

5.04. MAINTENANCE OF PROJECT ACCOUNTS The City must maintain all project accounts containing funds disbursed for the planning, acquisition, design, or construction of a project, as applicable, in compliance with generally accepted accounting principles (GAAP), including the reporting of underlying infrastructure assets.

5.05. FINAL ACCOUNTING. The City shall provide a final accounting of funds expended on the Project pursuant to 31 TAC § 375.106 and return any remaining Loan Forgiveness Funds in a manner determined by the Executive Administrator.

5.06. LEGAL STATUS. The City must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility.

5.07. WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN. If applicable, the City shall adopt and implement a water conservation and drought contingency plan that complies with Texas Water Code §§ 11.1271 and 11.1272 and 31 TAC §§ 363.15 and 375.43.

5.08. WATER AUDIT. If the City is a retail public utility as defined in Texas Water Code § 13.002 and the City provides potable water, then the City annually shall perform and file a water audit computing the City's most recent annual system water loss with the TWDB. The first water audit shall be submitted by May 1st following the passage of one year after the effective date of this Agreement and then by May 1st every year thereafter during the term of this Agreement. The City agrees to comply with 31 TAC § 358.6 relating to water audits.

5.09. REGISTRATION REQUIREMENT. Pursuant to the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252, the City shall obtain a Data Universal Numbering System (DUNS) Number and shall maintain registration in the System for Award Management (SAM).

5.10. ANNUAL FINANCIAL AUDIT. During the Term of this Agreement, the City shall submit an annual audit of the general purpose financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) by a certified public accountant or licensed public accountant. Audits shall be submitted to the TWDB no later than 180 days after the close of the City's fiscal year.

5.11. INVESTMENT AND COLLATERALIZATION OF PUBLIC FUNDS. Loan proceeds are public funds and, as such, these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.

5.12. SPECIAL CONDITIONS.

A. Fiscal Sustainability Plan. Prior to final disbursement of payment, the City will submit a certification related to the development and implementation of a fiscal sustainability plan as required by 33 U.S.C. § 1383 and related TWDB State Revolving Fund Policy Guidelines. Signature of an official representative or duly authorized representative to this agreement indicates compliance with the requirements in 33 U.S.C. § 1383.

B. Environmental Findings. The City will comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources, as more fully specified in the final environmental finding of the Executive Administrator.

ARTICLE VI. NON-PERFORMANCE AND REMEDIES

6.01. STOP WORK ORDERS.

A. Stop Work Order (SWO). The Executive Administrator may issue a written SWO to the City at any time for failure to comply with any provision of this Agreement. The SWO shall provide the City with notice of the facts supporting the determination to issue the SWO. The SWO may require cessation of work immediately or at a definite future date. The SWO shall provide the City with a specified time to cure.

B. City's Response. The City shall provide a written response to the SWO and shall provide the Executive Administrator with a detailed plan to address and cure the conditions causing the SWO. The City shall provide the response within five business days from its receipt of the SWO.

C. Executive Administrator's Reply. The Executive Administrator may accept, reject or amend the City's plan and shall provide notice of such action to the City within five business days of receipt of the plan. The Executive Administrator may issue an amended SWO that allows resumption of work contingent upon the City's execution of the plan to cure. The Executive Administrator may modify the City's plan to cure only in a manner consistent with the terms and conditions of this Agreement.

D. City's Option. The City shall notify the Executive Administrator within five business days whether it accepts the amended plan. If the City does not accept the amended plan, the Executive Administrator may terminate this Agreement. Upon successful completion of the plan to cure the conditions causing the SWO, the City shall continue work to complete all obligations under this Agreement.

6.02. TERMINATION. The TWDB may terminate this Agreement in writing at any time. Upon receipt of a notice of termination, the City shall immediately discontinue all work in connection with the performance of this Agreement and shall promptly cancel all existing orders or other financial commitments chargeable to funding provided pursuant to this Agreement, provided, however, that any costs for Eligible Expenses incurred prior to the receipt of such written notice by the City shall be payable from the funding provided pursuant to this Agreement.

Within thirty days of the notice of termination, the City shall submit a statement showing in detail the work performed, all payments received by the City, and all payments made by or due from the City to any contractor prior to the date of termination.

6.03. SURVIVAL OF TERMS AND CONDITIONS.

A. Termination or expiration of this Agreement for any reason shall not release either Party from any liabilities or obligations set forth in this Agreement that:

1. the Parties have expressly agreed shall survive any such termination or expiration, if any; or

2. by their nature, would be intended to be applicable following any such termination or expiration.

B. The Parties expressly agree that the following terms and conditions survive the termination or expiration of this Agreement.

1. Article V, Sections 5.03, 5.04, 5.05, 5.07, 5.08, and 5.09.

2. Article VII, General Terms and Conditions.

6.04. REAL ESTATE. If the City purchases real estate for the Project with Loan Forgiveness Funds and any of the real estate or portion of the real estate is not used for the Project, the City shall repay to the TWDB the full amount of the Loan Forgiveness Funds for purchase of the real estate that is not used for the Project. Such amount shall be due and payable within 90 days after termination or expiration of this Agreement.

6.05. REMEDIES.

A. The City shall have all remedies available in law or equity.

B. The TWDB shall have all remedies available in law or equity, including remedies available under Texas Water Code §§ 6.114 and 6.115.

ARTICLE VII. GENERAL TERMS AND CONDITIONS

7.01. INSURANCE AND INDEMNIFICATION.

A. The City shall at all times keep insured with a responsible insurance company or companies such portions of the Project as are customarily insured by political subdivisions in the State that operate like properties in similar locations under similar circumstances. The City shall insure against risks, accidents, casualties or loss in an amount that is customarily carried by such municipalities and political subdivisions and is at least sufficient to protect the TWDB's interest in the Project.

B. The City is solely responsible for liability resulting from acts or omissions of the City, its employees, contractors, or agents. The City shall indemnify and hold the TWDB and the State harmless to the extent that the City may do so in accordance with State law.

C. Loan Forgiveness proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated

sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law.

7.02. PERMITS. The City shall be responsible for timely filing applications for all licenses, permits, registrations and other authorizations that the City has identified in the application for financial assistance as required for the planning, acquisition, design, and construction of the Project. The City shall submit copies of all of these final licenses, permits, registrations and other authorizations issued by local, state and federal agencies to the TWDB within thirty (30) days of receipt from the issuing agency.

7.03. RECORDS. The City shall comply with all terms and conditions relating to records of the Project as follows:

A. Duty to Maintain Records. The City shall maintain financial accounting records relating to the Project in accordance with Generally Accepted Accounting Principles. The City shall also require its contractors to maintain financial accounting records consistent with Generally Accepted Accounting Principles and with State laws applicable to government accounting. All accounting and other financial documentation shall be accurate, current, and shall reflect recordation of the transactions at or about the time the transactions occurred;

1. Single Audit Act, 31 U.S.C. §§ 7501 - 7507. The City shall comply with the Single Audit Act, and with Office of Management and Budget (OMB) Circular A-133 ensuring an audit is conducted in accordance with OMB Circulars.

2. Green Projects. If all or part of the Project is designated as a Green Project, then the City shall maintain separate tracking of the expenses related to that Project or portion of the Project that has been designated as an approved Green Project.

B. Duty to Retain Records. The City shall retain all financial records and supporting documents and any other documents pertinent to the Project in accordance with the requirements of 31 TAC § 375.107, relating to Records Retention. The TWDB requires the City to retain all records related to this Agreement for a period of three (3) years after the Obligations are paid in full.

C. Public Records. The City understands and agrees that all documents relating to this Agreement are subject to the Public Information Act, Texas Government Code, Chapter 552, and that such documents may not be withheld from public disclosure, except in accordance with law and with the rulings of the Texas Attorney General. The City is required to make any information created or exchanged pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge. The City shall promptly respond to a request by the TWDB for copies of any of the City's records related to this Agreement; and

D. Access to Records.

1. State Auditor. By executing this Agreement, the City accepts the authority of the Texas State Auditor's Office to conduct audits and investigations in connection with all Loan Forgiveness Funds received pursuant to this Agreement. The City shall comply with directives from the Texas State Auditor and shall cooperate in any such investigation or audit. The City agrees to provide the Texas State Auditor with access to any information the Texas State Auditor considers relevant to the investigation or audit. The City also agrees to include a provision in any contract or subcontract related to this Agreement that requires the contractor and the subcontractor to submit to audits and investigations by the Texas State Auditor's Office in connection with all Loan Forgiveness Funds received pursuant to the contract or subcontract.

2. TWDB, EPA, and Comptroller General of the United States. The City agrees that the TWDB, the EPA, and the Comptroller General of the United States shall have full access to any books, documents, papers, and records which are related to the funds expended under this Agreement and that further these federal entities may audit, examine, copy excerpts, and make transcriptions of any such books, documents, papers, and records. The standards of administration, property management, audit procedures, procurement and financial management, and the records and facilities of the City and its contractors are subject to audit and inspection by the TWDB and by the EPA and by any other authorized state or federal entity. All books, documents, papers, and records of the City related to this Agreement shall be made available for audit, examination, excerption, and transcription by the staff of the TWDB within a reasonable time after a request from the TWDB. The City understands and agrees that the EPA's Regional Administrator may, after a thirty day written notice, review any records the Regional Administrator deems necessary to determine compliance with all requirements concerning the Loan Forgiveness Funds provided under this Agreement.

7.04. UPDATING INFORMATION. The City shall provide the TWDB with updated information, reports, statements and certifications as requested by the Executive Administrator relating to the financial condition of the City or the Project and the use of Loan Forgiveness Funds. The City shall promptly notify the TWDB of any material change in the activities, prospects or conditions of the City relating to the Project, or its ability to observe and perform its duties, covenants, obligations and agreements under this Loan Forgiveness Agreement.

7.05. FORCE MAJEURE. Unless otherwise provided, neither the City nor the TWDB nor any agency of the State shall be liable to the other for any delay in or failure of performance of a requirement contained in this Agreement caused by *Force Majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing Party exercises all reasonable due diligence to perform. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of such *Force Majeure* or otherwise waive this right as a

defense.

7.06. NON-ASSIGNABILITY. The terms and conditions of the financial assistance provided by this Agreement may not be assigned, transferred, or subcontracted in any manner without the express written consent of the TWDB.

7.07. ENTIRE AGREEMENT AND AMENDMENT. This Agreement, which incorporates all attached Exhibits, constitutes the entire agreement between the Parties. This Agreement may be amended only in writing signed by the Parties. The changes allowed under Section 4.01 do not require an amendment to this Agreement unless a change to the Project Schedule, **EXHIBIT E** or the Project Budget, **EXHIBIT F**, results in a different project completion date or total budget amount.

7.08. NO WAIVER. The failure of any Party to insist upon the strict performance of any of the terms, provisions, or conditions of this Agreement shall not be construed as a waiver or relinquishment for the future of the strict performance of any such term, provision, or condition or any other term, provision, or condition.

7.09. NO DEBT CREATED. Each Party agrees and understands that, by this Agreement, the State, acting through the TWDB, is not lending its credit or in any manner creating a debt on behalf of the State. To the extent that the City is not securing the Obligations with ad valorem taxes, each Party agrees and understands that, pursuant to this Agreement, the City is not lending its credit or in any other manner creating a debt on behalf of the City.

7.10. LAW AND VENUE. The validity, operation, and performance of this Agreement shall be governed and controlled by the laws of the State of Texas and applicable federal regulations, and the terms and conditions of this Agreement shall be construed and interpreted in accordance with the laws of the State. The Parties understand and agree that this Agreement is for the provision of financial assistance for the construction of the Project and as such all or part of the performance of the terms and obligations of the Agreement will be performed in Grayson County, Texas. Notwithstanding the location of the Project, the Parties understand and agree that any proceeding brought for any breach of this Agreement involving the TWDB shall be in Travis County, Texas. This section does not waive the sovereign immunity of the State or the TWDB.

7.11. NOTICES. All notices, notifications, or requests required or permitted by this Agreement shall be in writing and shall be transmitted by personal delivery or transmitted by United States certified mail, return receipt requested, postage prepaid, to the addresses of the Parties shown below. Notice shall be effective when received by the Party to whom notice is sent.

Texas Water Development Board
Attn: Executive Administrator
1700 N. Congress Ave., 6th Floor
Austin, Texas 78701-1496

City of Arlington
Attn: Ms. Julie Partain
1445 Ross Avenue, Suite 3800
Dallas, Texas 75202

7.12. **TERM**. This Agreement is effective on the date signed by the Executive Administrator. The Agreement shall expire upon the successful completion of the Project and Final Accounting in accordance with Section 5.05 of this Agreement.

TEXAS WATER DEVELOPMENT BOARD	**CITY OF ARLINGTON**
Kevin Patteson Executive Administrator	W. Jeff Williams Mayor
Date	Date

EXHIBIT A
TWDB Resolution No. 16-009

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
$2,439,700 TO THE CITY OF ARLINGTON
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
$2,080,000 CITY OF ARLINGTON WATER AND WASTEWATER SYSTEM REVENUE BONDS,
PROPOSED SERIES 2016
AND
$359,700 IN LOAN FORGIVENESS

(16-009)

WHEREAS, the City of Arlington (City) has filed an application for financial assistance in the amount of $2,439,700 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 73723; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of $2,080,000 City of Arlington Water and Wastewater System Revenue Bonds, Proposed Series 2016 (together with all authorizing documents, "Obligations"), and the execution of a Loan Forgiveness Agreement in an amount of $359,700, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of the net revenues of the water and wastewater system as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;

2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607;

3. that the City has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;

4. that the City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;

5. that the TWDB has made a timely and concerted effort to solicit projects that address green infrastructure, water, or energy efficiency improvements and other environmentally innovative activities and has determined that the entire Project, or a portion of the Project, satisfies the EPA's criteria for Green Projects; and

6. that the Executive Administrator issued a Categorical Exclusion on December 14, 2015, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

NOW THEREFORE, based on these findings, the TWDB resolves as follows:

A commitment is made by the TWDB to the City of Arlington for financial assistance in the amount of $2,439,700 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of $2,080,000 City of Arlington Water and Wastewater System Revenue Bonds, Proposed Series 2016 and the execution of a Loan Forgiveness Agreement in the amount of $359,700. This commitment will expire on August 31, 2016.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;

2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the City;

3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375;

4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;

5. the City, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the City's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of such rule, such continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the City's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;

6. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues in an amount necessary to meet

the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;

7. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (3) eligible project costs as authorized by the Executive Administrator;

8. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;

9. loan proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

10. loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

11. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements;

12. prior to closing, and if not previously provided with the application, the City shall submit executed contracts for engineering, and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;

13. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the City shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

14. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

Conditions Related To Tax-Exempt Status

15. the City's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the City when rendering this opinion;

16. the City's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the City when rendering this opinion;

17. the Obligations must include a provision prohibiting the City from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

18. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:

    a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;

    b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and

    c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;

19. the Obligations must include a provision requiring the City take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of § 148 of the Code. The Obligations must provide that the City will:

    a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of its loan

with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;

b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its loan, not less frequently than each Computation Date, in accordance with rules set forth in § 148(f) of the Code, § 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date;

c. as additional consideration for the making of the loan, and in order to induce the making of the loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;

d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;

20. the Obligations must include a provision prohibiting the City from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;

21. the Obligations must provide that the City will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;

22. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the City's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;

23. the transcript must include evidence that the information reporting requirements of § 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of § 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;

24. the Obligations must provide that neither the City nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the City by the TWDB;

<u>State Revolving Fund Conditions</u>

25. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;

26. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of $2,000 the contracts clauses as provided by the TWDB;

27. the Obligations must include a provision stating that the City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;

28. the Obligations shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the City will adhere to the approved project schedule;

29. the Obligations and Loan Forgiveness Agreement must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;

30. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;

31. the City shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average estimated useful life of the project, as determined by the schedule;

<u>Clean Water State Revolving Fund Conditions</u>

32. prior to or at closing, the City shall pay a 1.85% origination fee to the TWDB calculated pursuant 31 TAC Chapter 375;

33. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;

34. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;

35. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the City must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq*.

Pledge Conditions For The Loan

36. the Obligations must require the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Obligations;

37. if the City has existing revenue obligations with the same pledge of security as the proposed Obligations that will remain outstanding after any loan(s) made by the TWDB pursuant to this commitment, the lien or liens securing the Obligations issued to the TWDB shall be at least on a parity with lien or liens securing such outstanding obligations;

38. the Obligations must contain a provision providing that additional revenue obligations may only be incurred if the City has secured from a Certified Public Accountant a certificate showing that the Net Earnings of the System for either the completed fiscal year next preceding the date of the Additional Bonds or a consecutive twelve-month period out of the last fifteen months next preceding the date of the Additional Bonds is equal to at least 1.25 times the average annual principal and interest requirements (calculated on a fiscal year basis) of all bonds which will be outstanding after the issuance of the proposed Additional Bonds. However, (A) should the certificate of the accountant certify that the Net Earnings of the System for the period covered thereby were less than required above, and (B) a change in the rates and charges for water and sewer services afforded by the System became effective at least 60 days prior to the last day of the period covered by the accountant's certificate, and (C) an independent engineer or engineering firm having a favorable reputation with respect to such matters will certify that, had such change in rates and charges been effective for the entire period covered by the accountant's certificate, the Net Earnings of the System covered by the accountant's certificate would have been, in his or their opinion, equal to at least 1.25 times the average annual principal and interest requirements (calculated on a fiscal year basis) of the Outstanding Bonds after giving effect to the issuance of the Additional Bonds, then, in such event, the coverage specified in the first sentence of this paragraph (iii) shall not be required for the period specified, and such accountant's certificate will be sufficient if accompanied by an engineer's certificate to the above effect;

PROVIDED, however, the commitment is subject to the following special conditions:

Special Conditions:

39. prior to closing, the City shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

40. the Loan Forgiveness Agreement must include a provision stating that the City shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator;

41. prior to final disbursement, the City Entity shall submit to the TWDB certification that it has developed and is currently implementing a fiscal sustainability plan for critical assets part of the treatment works receiving financial assistance as outlined in 33 U.S.C. §1383; and

42. the City must comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources, as more fully specified in the final environmental finding of the Executive Administrator.

APPROVED and ordered of record this 18th day of February, 2016.

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun

Bech K. Bruun, Chairman

DATE SIGNED: 2-18-16

ATTEST:

Kevin Patteson
Executive Administrator

Please insert the executed version of this document.

Thank you.

EXHIBIT B
City of Arlington's Resolution

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS APPROVING A LOAN FORGIVENESS AGREEMENT WITH THE TEXAS WATER DEVELOPMENT BOARD AND AUTHORIZING THE MAYOR AS THE DESIGNATED REPRESENTATIVE OF THE CITY TO EXECUTE THE LOAN FORGIVENESS AGREEMENT FOR FUNDING IN THE AMOUNT OF $359,700; AND APPROVING OTHER MATTERS RELATED THERETO

WHEREAS, the Texas Water Development Board (the "TWDB") has made a commitment to provide financial assistance in the form of a loan forgiveness in the amount of $359,700 from the Clean Water State Revolving Fund (the "Grant") to the City of Arlington, Texas (the "City") to finance the construction and equipment of wastewater system improvements for the project identified by the TWDB as Project No. 73723; and

WHEREAS, the City Council of the City desires to appoint Mayor W. Jeff Williams, or any successor as Mayor of the City, as the representative of the City (the "Authorized Representative") who is authorized to enter into an agreement related to the Loan Forgiveness (the "Loan Forgiveness Agreement") with the TWDB on behalf of the City; and

WHEREAS, the meeting at which this Resolution is being considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1. Authorized Representative. The Mayor of the City is hereby appointed as the Authorized Representative of the City.

2. Approval of Loan Forgiveness Agreement. The Loan Forgiveness Agreement between the TWDB and the City in substantially the form presented to City Council is approved, and the Authorized Representative is authorized to execute the Loan Forgiveness Agreement on behalf of the City.

3. Effective Date. This Resolution shall become effective immediately after its adoption.

[Execution Page Follows]

PASSED, APPROVED AND EFFECTIVE this _____ day of May, 2016.

City Secretary City of Arlington, Texas	Mayor City of Arlington, Texas

[SEAL]

Signature Page to Resolution Approving Loan Forgiveness Agreement

#5150124.1

EXHIBIT C
List of Federal Laws and Authorities (Cross-Cutters)

The basic rules for complying with cross-cutting federal authorities are set-out in the CWSRF regulations at 40 C.F.R. § 35.3145 and in the DWSRF regulations at 40 C.F.R. § 35.3575. A list of and link to these authorities is provided below and also available from the Environmental Protection Agency (EPA) at: http://water.epa.gov/grants_funding/dwsrf/xcuts.cfm. A handbook on the applicability of the cross-cutting federal authorities is available from EPA at http://www.epa.gov/owm/cwfinance/cwsrf/enhance/DocFiles/Other%20Docs/CrosscutterHandbook.pdf.

Environmental Authorities

- Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended
- Clean Air Act, Pub. L. 84-159, as amended
- Coastal Barrier Resources Act, Pub. L. 97-348
- Coastal Zone Management Act, Pub. L. 92-583, as amended
- Endangered Species Act, Pub. L. 93-205, as amended
- Environmental Justice, Executive Order 12898
- Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- Protection of Wetlands, Executive Order 11990
- Farmland Protection Policy Act, Pub. L. 97-98
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- National Historic Preservation Act of 1966, PL 89-665, as amended
- Safe Drinking Water Act, Pub. L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

Economic and Miscellaneous Authorities

- Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372
- Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- Procurement Requirements for Architectural and Engineering Services under 40 U.S.C. § 1101 and Section 602 of the Clean Water Act
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended
- Debarment and Suspension, Executive Order 12549

Social Policy Authorities

- Age Discrimination Act of 1975, Pub. L. 94-135
- Title VI of the Civil Rights Act of 1964, Pub. L. 88-352 (2)
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)
- Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)
- The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient)
- Equal Employment Opportunity, Executive Order 11246
- Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590
- Anti-Lobbying Provisions (40 CFR Part 30) [applies only to capitalization grant recipients]

The Civil Rights Act and related anti-discrimination statutes apply to all the operations of the SRF program. .

EXHIBIT D
Davis-Bacon Contract and Subcontract Provisions

(a) GENERAL CONTRACT AND SUBCONTRACT PROVISIONS.

The subrecipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses:

(1) Minimum Wages

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage

determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding

The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated

in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts.

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment.

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

b. CONTRACT PROVISIONS FOR CONTRACTS IN EXCESS OF $100,000

Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages.

In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages

The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) MAINTENANCE OF RECORDS

In addition to the clauses contained in Section (a), above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(d) COMPLIANCE VERIFICATION

(1) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(2) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract.[1] Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(3) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(4) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(5) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/esa/contacts/whd/america2.htm.

[1] The provision that read "At a minimum, the subrecipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract" was issued a waiver in EPA Class Deviation memo dated November 16, 2012.

EXHIBIT E
Project Schedule

Project Task	Schedule Date
Design Phase Complete	04/30/2016
Start Construction	05/30/2016
Construction Complete	12/30/2017

EXHIBIT F
Project Budget

Budget Items	TWDB Funds	Other Funds	Total
Construction			
Construction	$2,401,919.00	$348,081.00	$2,750,000.00
Subtotal for Construction	**$2,401,919.00**	**$348,081.00**	**$2,750,000.00**
Basic Engineering Services			
Construction Engineering	$0.00	$40,000.00	$40,000.00
Design	$0.00	$133,500.00	$133,500.00
Subtotal for Basic Engineering Services	**$0.00**	**$173,500.00**	**$173,500.00**
Special Services			
Application	$0.00	$6,000.00	$6,000.00
Inspection	$0.00	$44,000.00	$44,000.00
Project Management (by engineer)	$0.00	$5,500.00	$5,500.00
Testing	$0.00	$24,000.00	$24,000.00
Subtotal for Special Services	**$0.00**	**$79,500.00**	**$79,500.00**
Fiscal Services			
Bond Counsel	$0.00	$15,600.00	$15,600.00
Financial Advisor	$0.00	$20,688.00	$20,688.00
Issuance Costs	$0.00	$13,945.00	$13,945.00
Loan Origination Fee	$37,781.00	$0.00	$37,781.00
Subtotal for Fiscal Services	**$37,781.00**	**$50,233.00**	**$88,014.00**
Total	**$2,439,700.00**	**$651,314.00**	**$3,091,014.00**

Please insert the executed version of this document.

Thank you.

EXHIBIT G
Escrow Agreement

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (Agreement), made by and between City of Arlington, a political subdivision of the State of Texas in Tarrant County, Texas, (City), acting by and through The Bank of New York Mellon Trust Company, N.A., as Escrow Agent together with any successor in such capacity;

W I TN E S S E T H:

WHEREAS, pursuant to a Loan Forgiveness Agreement, the City will accept certain contractual obligations (Obligations) to obtain financial assistance from the Texas Water Development Board (TWDB) for the purpose of funding water or wastewater system improvements (Project); and

WHEREAS, the Escrow Agent is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code, Chapter 404, Subchapter D and is otherwise qualified and empowered to enter into this Agreement, and hereby acknowledges its acceptance of the terms and provisions hereof; and

WHEREAS, a condition of the Obligations is the deposit of the proceeds of the Obligations (Proceeds) in escrow subject to being withdrawn only with the approval of the Executive Administrator or another designated representative; provided, however, the Proceeds can be transferred to different investments so long as all parties hereto consent to such transfer;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and in consideration of the amount of fees to be paid by the City to the Escrow Agent, as set forth on **EXHIBIT A**, the receipt of which is hereby acknowledged, and in order to secure the delivery of the Obligations, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives and successors, as follows:

Section 1. Escrow Account(s). Upon the delivery of the Obligations described above, the Proceeds identified under TWDB Commitment Number LF1000498 shall be deposited to the credit of a special escrow account(s) or escrow subaccount(s) (Escrow Account(s)) maintained at the Escrow Agent on behalf of the City and the TWDB and shall not be commingled with any other accounts or with any other proceeds or funds. The Proceeds received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as Escrow Agent under the terms of this Agreement.

The Escrow Account(s) shall be entitled "City of Arlington, Loan Forgiveness Agreement, Texas Water Development Board L100498 Escrow Account" and shall not be subject to warrants, drafts or checks drawn by the City but shall be disbursed or withdrawn to pay the costs of the Project for which the Obligations were issued or other purposes in accordance with the Loan Forgiveness Agreement and solely upon written authorization from the Executive Administrator or his/her designated representative. The Escrow Agent shall provide to the City and to the TWDB the Escrow Account(s) bank statements upon request.

#5150131.1

Section 2. Collateral. All cash deposited to the credit of such Escrow Account(s) and any accrued interest in excess of the amounts insured by the FDIC and remaining uninvested under the terms of this Agreement shall be continuously secured by a valid pledge of direct obligations of the United States of America or other collateral meeting the requirements of the Public Funds Collateral Act, Texas Government Code, Chapter 2257.

Section 3. Investments. While the Proceeds are held in escrow, the Escrow Agent shall only invest escrowed Proceeds in investments that are authorized by the Public Funds Investment Act, Texas Government Code, Chapter 2256 (PFIA). It is the City's responsibility to provide written direction to the Escrow Agent to invest all public funds in a manner that is consistent not only with the PFIA but also with its own written investment policy.

Section 4. Disbursements. The Escrow Agent shall not honor any disbursement from the Escrow Account(s), or any portion thereof, unless and until it has been supplied with written approval and consent by the Executive Administrator or his/her designated representative. However, no written approval and consent by the Executive Administrator shall be required if the disbursement involves transferring Proceeds from one investment to another within the Escrow Account(s) provided that all such investments are consistent with the PFIA requirements.

Section 5. Unexpended Funds. Any Proceeds remaining unexpended in the Escrow Account(s) after completion of the Project and after the final accounting has been submitted to and approved by the TWDB shall be disposed of pursuant to the provisions of the Loan Forgiveness Agreement. The City shall deliver a copy of such TWDB approval of the final accounting to the Escrow Agent together with instructions concerning the disbursement of unexpended Proceeds hereunder. The Escrow Agent shall have no obligation to ensure that such unexpended Proceeds are used as required by the provisions of the Loan Forgiveness Agreement, that being the sole obligation of the City.

Section 6. Certifications. The Escrow Agent shall be authorized to accept and rely upon the certifications and documents furnished to the Escrow Agent by the City and shall not be liable for the payment of any funds made in reliance in good faith upon such certifications or other documents or approvals, as herein recited.

Section 7. Liability of Escrow Agent. To the extent permitted by law, the Escrow Agent shall not be liable for any act done or step taken or omitted by it or any mistake of fact or law, except for its negligence or default or failure in the performance of any obligation imposed upon it hereunder. The Escrow Agent shall not be responsible in any manner for any proceedings in connection with the Obligations or any recitation contained in the Obligations.

Section 8. Records. The Escrow Agent will keep complete and correct books of record and account relating to the receipts, disbursements, allocations and application of the money deposited to the Escrow Account, and investments of the Escrow Account and all proceeds thereof. The records shall be available for inspection and copying at reasonable hours and under reasonable conditions by the City and the TWDB.

Section 9. Merger/Consolidation. In the event that the Escrow Agent merges or consolidates with another bank or sells or transfers substantially all of its assets or corporate trust

business, then the successor bank shall be the successor Escrow Agent without the necessity of further action as long as the successor bank is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code Chapter 404, Subchapter D. The Escrow Agent must provide the TWDB with written notification within 30 days of acceptance of the merger, consolidation, or transfer. If the merger, consolidation or other transfer has occurred between state banks, the newly-created entity shall forward the certificate of merger or exchange issued by the Texas Department of Banking as well as the statement filed with the pertinent chartering authority, if applicable, to the TWDB within five business days following such merger, consolidation or exchange.

Section 10. Amendments. This Agreement may be amended from time to time as necessary with the written consent of the City and the TWDB, but no such amendments shall increase the liabilities or responsibilities or diminish the rights of the Escrow Agent without its consent.

Section 11. Termination. In the event that this Agreement is terminated by either the City or by the Escrow Agent, the Escrow Agent must report said termination in writing to the TWDB within five business days of such termination. The City is responsible for ensuring that the following criteria are satisfied in selecting the successor escrow agent and notifying the TWDB of the change in escrow agents: (a) the successor escrow agent must be an FDIC-insured state or national bank designated by the Texas Comptroller as a state depository; (b) the successor escrow agent must be retained prior to or at the time of the termination; (c) an escrow agreement must be executed by and between the City and the successor escrow agent and must contain the same or substantially similar terms and conditions as are present in this Agreement; and (d) the City must forward a copy of the executed escrow agreement with the successor escrow agent within five business days of said termination. No funds shall be released by the TWDB until it has received, reviewed and approved the escrow agreement with the successor escrow agent. If the City has not appointed a successor escrow agent within thirty (30) days of the notice of termination, the Escrow Agent may petition any court of competent jurisdiction in Texas for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the City. Whether appointed by the City or a court, the successor escrow agent and escrow agreement must be approved by the TWDB for the appointment to be effective. The Escrow Agent is responsible for performance under this Agreement until a successor has been approved by the TWDB and has signed an acceptable escrow agreement.

Section 12. Expiration. This Agreement shall expire upon final transfer of the funds in the Escrow Account(s) to the City.

Section 13. Point of Contact. The points of contact for the Escrow Agent and the TWDB are as follows:

The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust 2001 Bryan St., 11th Floor Dallas, Texas 75201 (214) 468-6543 _____@bnymellon.com	Executive Administrator Texas Water Development Board 1700 North Congress Avenue Austin, Texas 78701

Section 14. Choice of Law. This Agreement shall be governed exclusively by the applicable laws of the State of Texas. Venue for disputes shall be in the District Court of Travis County, Texas.

Section 15. Assignability. This Agreement shall not be assignable by the parties hereto, in whole or in part, and any attempted assignment shall be void and of no force and effect.

Section 16. Entire Agreement. This Agreement evidences the entire Escrow Agreement between the Escrow Agent and the City and supersedes any other agreements, whether oral or written, between the parties regarding the Proceeds or the Escrow Account(s). No modification or amendment of this Agreement shall be valid unless the same is in writing and is signed by the City and consented to by the Escrow Agent and the TWDB.

Section 17. Validity of Provisions. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Section 18. Compensation for Escrow Services. The Escrow Agent shall be entitled to compensation for its services as stated in **Exhibit A**, which compensation shall be paid by the City but may not be paid directly from the Escrow Account(s).

Section 19. Indemnification. To the extent permitted by law, the City agrees to indemnify the Escrow Agent, its directors, officers and employees, an hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

Section 20. Duties of Escrow Agent. The Escrow Agent undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

Section 21. Rights and Protections. No provisions of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it. The Escrow Agent may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon. The Escrow Agent may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Escrow Agent.

Section 22. Fax/E-mail. "Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Escrow Agent, or another method or system specified by the Escrow Agent as available for use in connection with its services hereunder. The Escrow Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means; provided, however, that the City shall provide to the Escrow Agent an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the City whenever a person is to be added or deleted from the listing. If the City elects to give the Escrow Agent Instructions using Electronic Means and the Escrow Agent in its discretion elects to act upon such Instructions, the Escrow Agent's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Escrow Agent cannot determine the identity of the actual sender of such Instructions and that the Escrow Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Escrow Agent have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Escrow Agent and that the City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the City. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Bank, including without limitation the risk of the Escrow Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Bank and that there may be more secure methods of transmitting Instructions than the method(s) selected by the City; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Bank immediately upon learning of any compromise or unauthorized use of the security procedures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective upon signature of both parties.

CITY OF ARLINGTON

By: _____
Mayor

Date: _____

101 W. Abram Street
Arlington, Texas 76004

(Seal)

BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
AS ESCROW AGENT

By: _____
Title: _____
Date: _____

Address: BNY Mellon
Corporate Trust
2001 Bryan St., 11th Floor
Dallas, Texas 75201

(Bank Seal)

#5150131.1

EXHIBIT A

Fee Schedule

Staff Report

Zoning Case PD14-9R (Legends Express Car Wash)	
City Council Meeting Date: 5-10-16	Document Being Considered: Ordinance

RECOMMENDATION
Following the public hearing, consider Zoning Case PD14-9R, with a Development Plan.

PRIOR BOARD OR COUNCIL ACTION
On October 15, 2014, the Planning and Zoning Commission recommended approval of PD14-9, a planned development for community commercial uses plus a carwash, with the following stipulation, by a vote of 9-0-0: exclude gasoline sales, pawn shop, and second-hand goods store uses from the PD.

On November 4, 2014, the City Council approved first reading by a vote of 9-0-0.

On November 18, 2014, the City Council approved second reading by a vote of 7-0-0.

On April 20, 2016, the Planning and Zoning Commission recommended approval of PD14-9R by a vote of 9-0-0, with the following stipulations:

1. The enclosure wall surrounding the outside run will match the materials of the primary structure
2. A shade structure will be provided to cover the outside run.

On May 10, 2016, the City Council continued first reading by a vote of 9-0-0.

ANALYSIS
Request
The applicant requests to revise the PD on approximately 3.002 acres addressed at 5521, 5523, and 5525 South Cooper Street, and generally located north of West Nathan Lowe Road and east of South Cooper Street.

Current zoning: Planned Development (PD) for Community Commercial (CC) uses plus a Car Wash, with a Development Plan

Requested zoning: Planned Development (PD) for Community Commercial (CC) uses plus a Car Wash and a commercial kennel with an outside run, with a Development Plan

The subject site consists of three undeveloped lots, one fronting on South Cooper Street and the other two behind it, to the east. The total area of the site is just less than two acres. Through this PD revision, the applicant proposes to allow an outside run for a commercial kennel. CC zoning allows for a commercial kennel; however it includes a condition of no outside run.

Adjacent Land Uses
The subject site is surrounded by other commercial properties. To the north is a Firestone Master Car Care Service Center zoned Planned Development (PD) for Community Commercial (CC) uses plus auto parts accessory sales and service. To the south is a Discount Tire store also zoned Planned Development (PD) for Community Commercial (CC) uses plus auto parts accessory sales and service. To the east are the Arlington Skatium and

ASI Gymnastics center zoned Light Industrial (LI), and to the west across South Cooper Street are medical and general business offices zoned Community Commercial (CC).

Development Plan
The applicant is proposing to add an outside run to the proposed commercial kennel use shown on the existing development plan. The applicant proposes to encase the outside run with an eight-foot tall masonry wall and screen the wall with shrubs surrounding it that will grow to at least six-feet tall. The outside run is proposed to be utilized during the hours of 9am to 3pm. The facility is proposed to be approximately 12,000-square-feet and will comply with the Commercial Design Standards of the Unified Development Code (UDC) and incorporate similar elements of the car wash building being constructed on the lot adjacent to South Cooper Street with regards to building materials and style to embody a unified development. The other uses surrounding the lot are a skating rink, gymnastics center, two auto repair shops, and carwash which would be minimally impacted by this addition.

Comprehensive Plan
The proposed revision to the existing PD is to allow the use of outside runs for a commercial kennel which is not permitted under the current PD. The 2015 Comprehensive Plan, *99 Square Miles*, contains goals to develop high-quality residential neighborhoods along with low-intensity commercial development that provides convenient neighborhood services to residents who live there. Due to the lack of residential uses on the surrounding properties and the neighborhood convenience use provided by allowing outside runs with a commercial kennel, the proposed amendment to the PD is in general conformance with the Comprehensive Plan and other relevant plans.

FINANCIAL IMPACT
None

ADDITIONAL INFORMATION

Attached:	Ordinance with Exhibits A and B Case Information with P&Z Summary Development Plan (6 pages)
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACTS

Jennifer Pruitt, AICP, LEED AP
Planning Manager, Land Development
Community Development and Planning
817-459-6138
Jennifer.Pruitt@arlingtontx.gov

Nathaniel Barnett, AICP
Senior Planner
Community Development and Planning
817-459-6670
Nathaniel.Barnett@arlingtontx.gov

Ordinance No. _____

An ordinance changing the zoning classification on certain property known as 5521, 5523 and 5525 South Cooper Street to Planned Development (PD) for Community Commercial (CC) uses plus a car wash and an outside run for a commercial kennel, with a Development Plan; amending the Zoning District Map accordingly; authorizing the building official to issue permits upon the effective date; providing for a fine of up to $2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date.

WHEREAS, after notice and public hearing the Planning and Zoning Commission heard and recommended approval of Zoning Case PD14-9R on April 20, 2016; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens that the zoning amendment be approved. Now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

The zoning classification of certain property known as 5521, 5523 and 5525 South Cooper Street, described in Exhibit A, is hereby changed to Planned Development (PD) for Community Commercial (CC) uses plus a car wash and an outside run for a commercial kennel, with a Development Plan, by the approval of PD14-9R, and the Zoning District Map shall be amended to reflect the zoning change made by this ordinance. Development and use of the property shall be in compliance with this ordinance and the attached Development Plan.

2.

The Building Official is hereby authorized and directed to issue permits in compliance with this ordinance, including all exhibits attached to this ordinance, immediately after the effective date of this ordinance. In the event of a conflict between the provisions in Exhibit B and the provisions in any other exhibit, the provisions in Exhibit B control.

3.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

4.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

5.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

6.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

7.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

8.

The caption and penalty of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

9.

This ordinance shall become effective upon second publication.

PRESENTED AND GIVEN FIRST READING on the 10th day of May, 2016 at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the ___ day of ___, 2016 by a vote of ___ayes and ___ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY _____

PD14-9R
EXHIBIT "A"

BEING approximately 3.002 acres of land with frontage on South Cooper Street and is commonly known as Lots 64A2R1, 64A2R2 and 64A3, of the William Stephens Addition, an addition to the City of Arlington, Texas;

AND being generally located north of West Nathan Lowe Road and east of South Cooper Street, with the approximate address being 5521, 5523 and 5525 South Cooper Street.

PD14-9R
EXHIBIT "B"

1. The zoning of this site is PD (Planned Development) for Community Commercial (CC) uses plus a car wash and an outside run for a commercial kennel, with a Development Plan.

2. The following uses shall not be allowed in this PD; gasoline sales, pawn shop, and second-hand goods store.

3. Lot 64A2R1 will include a car wash use.

4. Lots 64A2R2 and 64A3 will include Community Commercial (CC) uses such as a commercial kennel with an outside run, office, and retail.

5. The exterior building materials for the car wash shall consist of brick, stone, and marble tiles.

6. There shall be no canopies for the parking spaces in front of the building as seen from South Cooper Street.

7. The enclosure wall for the outside run of the commercial kennel shall match the materials of the primary structures within the PD.

8. There shall be a shade structure built over the outside run of the commercial kennel to ensure the outside run is protected from the sun.

9. In addition to complying with the non-residential design standard of the Unified Development Code (UDC), the buildings on Lots 64A2R2 and 64A3 shall also incorporate similar materials and complementary design to the car wash building.

10. Lots 64A2R2 and 64A3 shall incorporate the same type of landscaping as Lot 64A2R1 as part of the unified development.

11. A row of trees shall be planted on lot 64A2R2 between the proposed office/retail buildings and the carwash to create a natural buffer between the uses.

12. Use and development of the property shall be in compliance with the Development Plan.

13. In the event of a conflict between the provisions in this Exhibit B and any other exhibits to this ordinance, the provisions of Exhibit B control.

Case Information

Applicant: Cobb, Fendley & Associates represented by Scott Maynor

Property Owner: Amicus Development Group LLC represented by Ronnie Corbin and Buxton Arlington Pet LLC (Buxton Holding) represented by Bryan Spain

Sector Plan: Southeast

Council District: 2

Allowable Uses: All uses as itemized in attachment ii.

Development History: The subject site is currently platted as Lots 64A2R1, 64A2R2, and 64-A3 of the William Stephens Addition.

Previous zoning cases in the general vicinity in the past five years include:

Case No.	Location	Request	Disposition
PD14-9	Subject Site	Planned Development for Carwash	Approved

Transportation: The proposed development has one point of access. The point of access is from South Cooper Street.

Thoroughfare	Existing	Proposed
South Cooper Street	120-foot, 6-lane divided major arterial	120-foot, 6-lane divided major arterial

Traffic Impact: The proposed Planned Development zoning amendment will generate similar traffic patterns as the existing Planned Development zoning and will not impact the adjacent street system.

Water & Sewer: Water is available from a six-inch water line that has been extended to the property from West Nathan Lowe Road, from a six-inch water line located to the north of lot 64A3 in a utility easement on lot 48R1, and from a 24-inch water line in South Cooper Street. Sanitary Sewer is available from a six-inch sanitary sewer line that has been extended to the property from West Nathan Lowe Road, from a six-inch sanitary sewer line located to the north of lot 64A3 in a utility easement on lot 48R1 and from a six-inch sanitary sewer line in South Cooper Street.

Case Information

Drainage: The site is located within the Rush Creek drainage basin. No portion of the site is located in a FEMA floodplain. No significant drainage impacts are expected to result from development of this site as long as the site complies with relevant city ordinances.

Fire: Fire Station Number 9, located at 909 Wimbledon Drive, provides protection to this site. The estimated fire response time is less than five minutes, which is in keeping with recommended standards.

School District: Arlington Independent School District.

The proposed zoning request is located in the Arlington Independent School District and has no impact on the schools serving this site.

Notices Sent:

Neighborhood Associations:

ACTION North Arlington
AISD
Arlington Alliance for Responsible Government
Arlington Neighborhoods
Deerwood Park Home Owner's Association
East Arlington Review
Emerald Park Neighborhood Organization
Estates Above Wimbledon Home Owner's Association
Fannin Farm Home Owner's Association
Far South Arlington Neighborhood Association
Forest Hills Home Owner's Association
Harold Patterson Community Association
Northern Arlington Ambience
Summerwood Community Watch
SWAPO (Southwest Arlington Property Owners)
Turf Club Estates
WeCan (West Citizen Action Network)
Wimbledon Addition Home Owner's Association
Wimbledon on the Creek

Property Owners: 13
Letters of Support: 0
Letter of Opposition: 0

PLANNING AND ZONING COMMISSION SUMMARY:

Public Hearing: April 20, 2016

Zoning Case PD14-9R (Legends Express Car Wash – 5521 South Cooper Street)

Case Information

Application to change the zoning on approximately 1.786 acres. from Planned Development (PD) for Community Commercial (CC) uses plus a carwash, with a Development Plan to Planned Development (PD) for Community Commercial (CC) uses plus a carwash and a commercial kennel with an outside run, with a Development Plan; generally located north of West Nathan Lowe Road and east of South Cooper Street.

Present to speak in support of this case was Scott Maynor, 2801 Network Boulevard, Suite 800, Frisco, 75034.

Commissioner McAlister moved to Approve Zoning Case PD14-9R with the following stipulations:

- The enclosure wall surrounding the outside run will match the materials of the primary structure
- A shade structure will be provided to cover the outside run.

Seconded by Commissioner Myers, the motion was approved by a vote of 9-0-0.

APPROVED

Itemized Allowable Uses

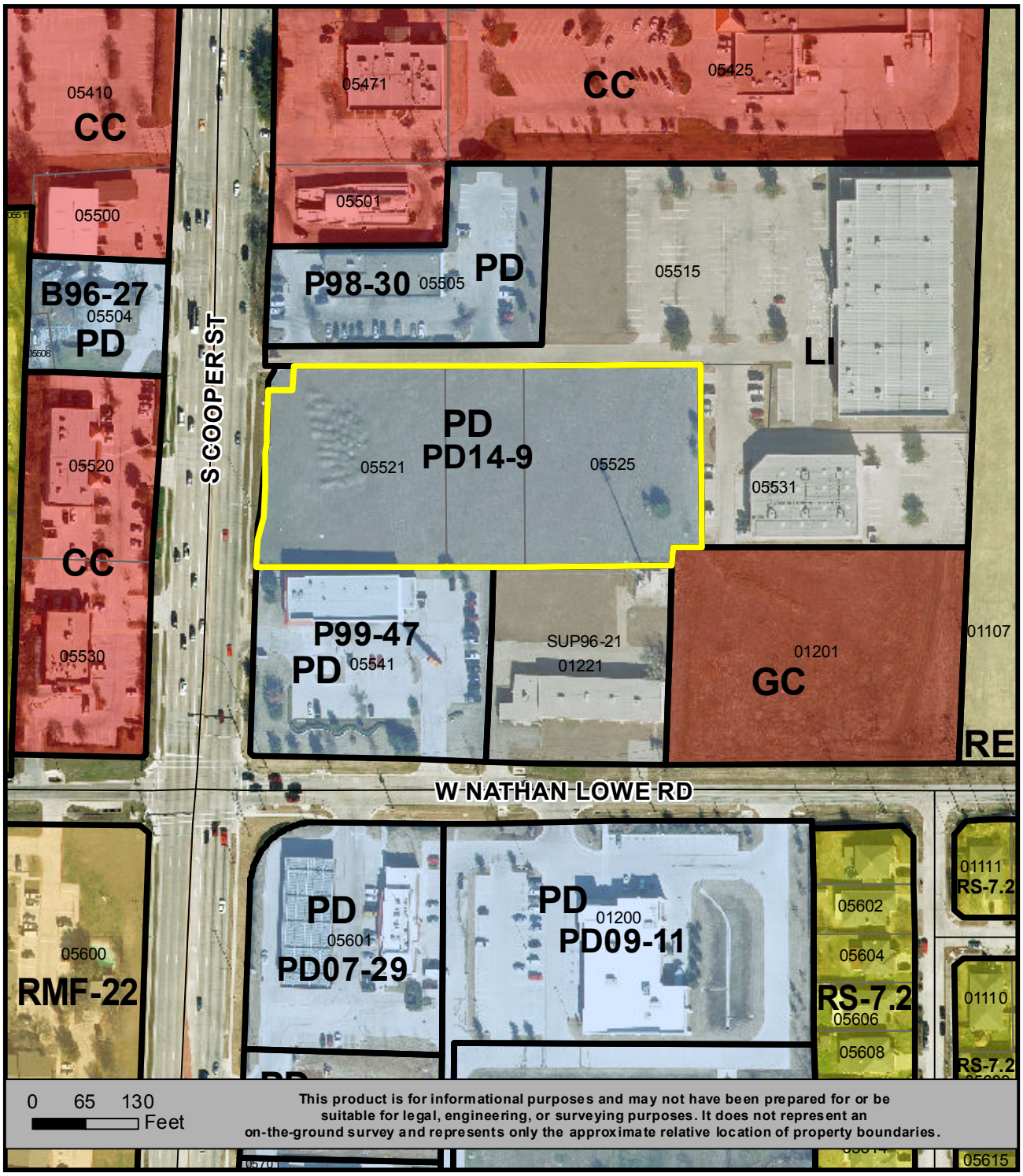
Allowable Uses:

Planned Development (PD) for all Community Commercial (CC) uses plus a car wash and a commercial kennel with an outside run, with a Development Plan

Permitted - Nursing home, Art gallery or museum, Government administration and civic buildings, Domestic violence shelter, Mortuary/crematory/funeral chapel, Philanthropic institution (other than listed), Religious assembly, Business school, Public or private school, University/college/seminary, Hospital, Medical or dental office or clinic, Cemetery, Community garden, Public park or playground, Crop production, Gasoline sales, Catering service, Restaurant, Restaurant/take-out and delivery only, Office/business or professional, Telemarketing call center, Day care center, Private club/lodge/fraternal, General personal services (other than listed), Massage therapy clinic, Recreation/ indoor (other than listed), Wedding chapel, Country club, Golf course, Major tourist attraction, General retail store (other than listed), Firearm sales, Pawn shop, Second-hand goods store, Swimming pool/spa and accessory sales and service, Medical or scientific research laboratory, Electric utility substation, Radio or TV station or studio, Utility lines, towers or metering station, Kennel/commercial with an outside run, and car wash.

Specific Use Permit – Halfway House, Hospital/psychiatric, Hotel/limited service, Residence hotel, Bail bond service, Banquet hall, Billiard parlor, Bowling alley, Bingo hall, Gun range, Night club, Recreation general outdoor (other than listed), Marina, Specialty paraphernalia sales, Wrecker service, Gas well, Transit passenger terminal, Utility installation other than listed, Telecommunication Facilities Towers >75 ft., Stealth towers >100 ft., Self-storage facility.

Conditions - Veterinary clinic, Motor vehicle rental, Financial services, Restaurant with drive-through, Sidewalk café, Hotel/full service, Skating rink, Teen club, Theatre indoor, Building and landscaping materials and lumber sales, Nursery/garden shop or plant sales, Food processing, Custom and craft work, Telecommunication Facilities Building-mounted antennae and towers, Telecommunication Facilities Towers ≤75 ft., Stealth towers ≤100 ft.



LOCATION MAP
PD14-9R

AMENDMENT TO PD
1.786 ACRES

N
W E
S

Prepared: 3-23-2016 **iii-1** **NB**

PD14-9R

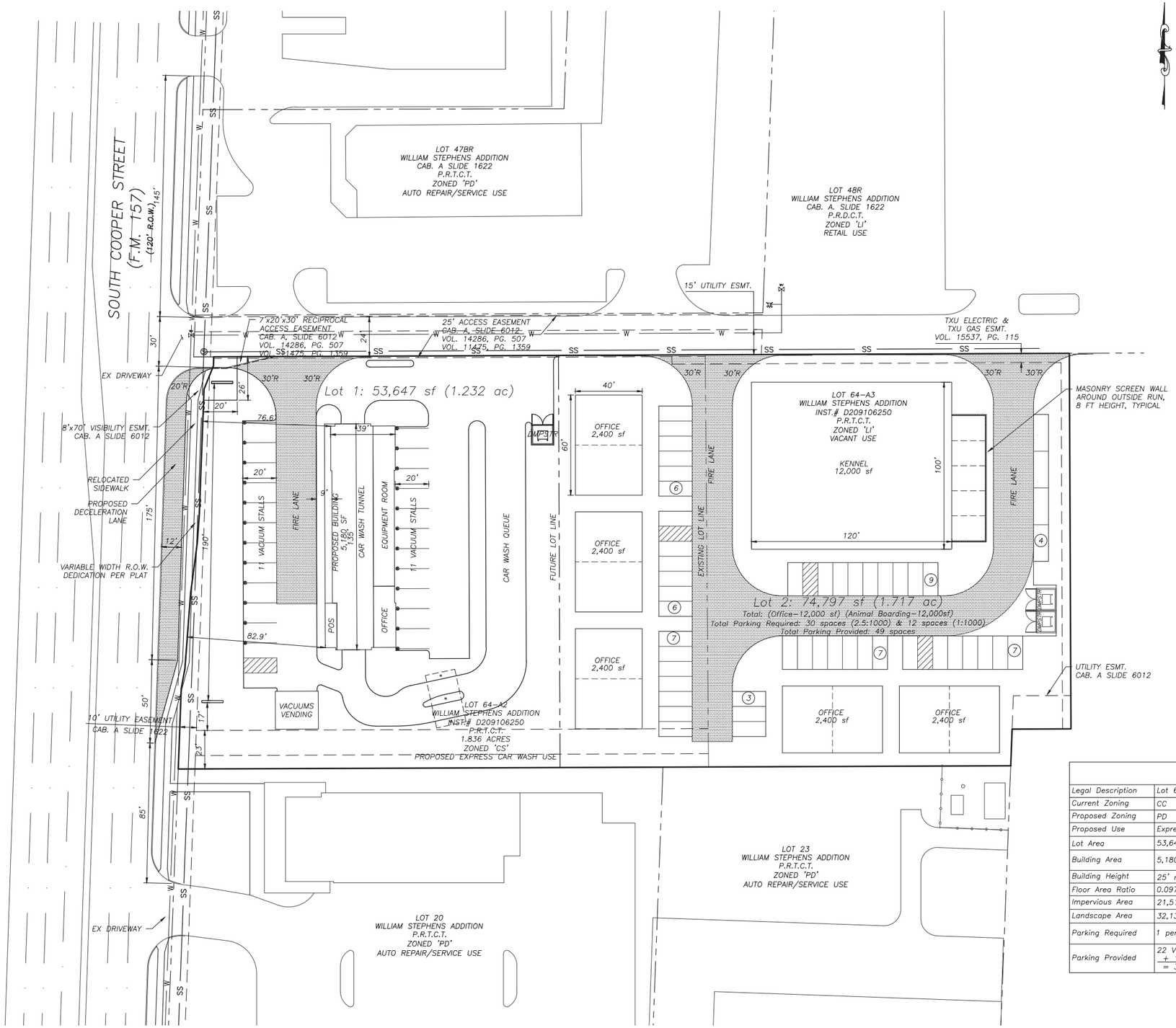
North of West Nathan Lowe Road and east of South Cooper Street

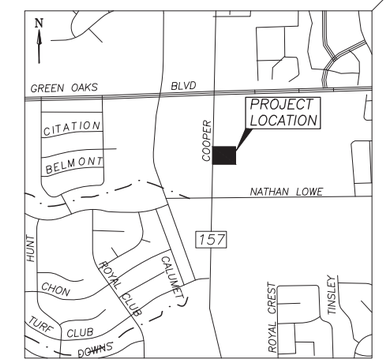
View of subject site. View east.

View of adjacent commercial uses located north of the subject site. View north.

View of adjacent commercial use as seen from the subject site. View south.

View of adjacent commercial uses located east of the subject site. View east.





LOCATION MAP
1" = 1000'

ZONING REQUEST INFORMATION

1. The first zoning district that permits the proposed car wash use is the Light Industrial (LI) district.
2. No variation from required performance standards is proposed.
3. The project exceeds the following required performance standards:
   A. Section 5.6.4(l)(1)(a-d): "All exterior walls, including parking structures, garages, and accessory structures shall be finished with 85 percent of an approved material." The proposed project is comprised of 100% of the materials listed.
   B. Section 5.6.4(l)(1)(f): "Structures 20,000 square feet or less shall require a minimum of two (2) distinct building materials from the approved material list be utilized on all facades to provide architectural detail and interest." The proposed project uses three (3) distinct building materials from the list.
4. The following use restrictions are proposed:
   A. Lot 1 – Express Car Wash
   B. Lot 2 – Kennel with outside kennel runs; & Office
5. The buildings developed on Lot 2 will comply with the Commercial Design Standards and will incorporate elements of the building on Lot 1 to create a unified development.

SITE DATA SUMMARY

Legal Description	Lot 64-A2 William Stephens Addition	Lot 64-A3 William Stephens Addition
Current Zoning	CC	LI
Proposed Zoning	PD	PD
Proposed Use	Express Car Wash	Animal Kennel & Office (Future)
Lot Area	53,647 SF (1.232 Ac.)	74,797 SF (1.717 Ac.)
Building Area	5,180 SF	Kennel – 12,000 SF Office – 12,000 SF
Building Height	25' max	25' max
Floor Area Ratio	0.097	0.320
Impervious Area	21,517 SF (40%)	TBD
Landscape Area	32,130 SF (60%)	TBD
Parking Required	1 per 150 SF Shop Area = 35	Kennel: 1 per 1000 SF = 12 Office: 2.5 per 1000 SF = 30
Parking Provided	22 Vacuum Stations + 2 Accessible + 11 in Wash Queue = 35 Total	49 Total (2 Accessible)

30 15 0 30 60
SCALE : 1" = 30'

NO.	DATE	COMMENT
1	08/18/2014	CITY COMMENTS

REVISIONS

CobbFendley
TBPE Firm Registration No. 2274
TBPLS Firm Registration No. 10046
6801 Gaylord Parkway, Suite 302
Frisco, Texas 75034
972.335.3214 | fax 972.335.3202 | www.cobbfendley.com

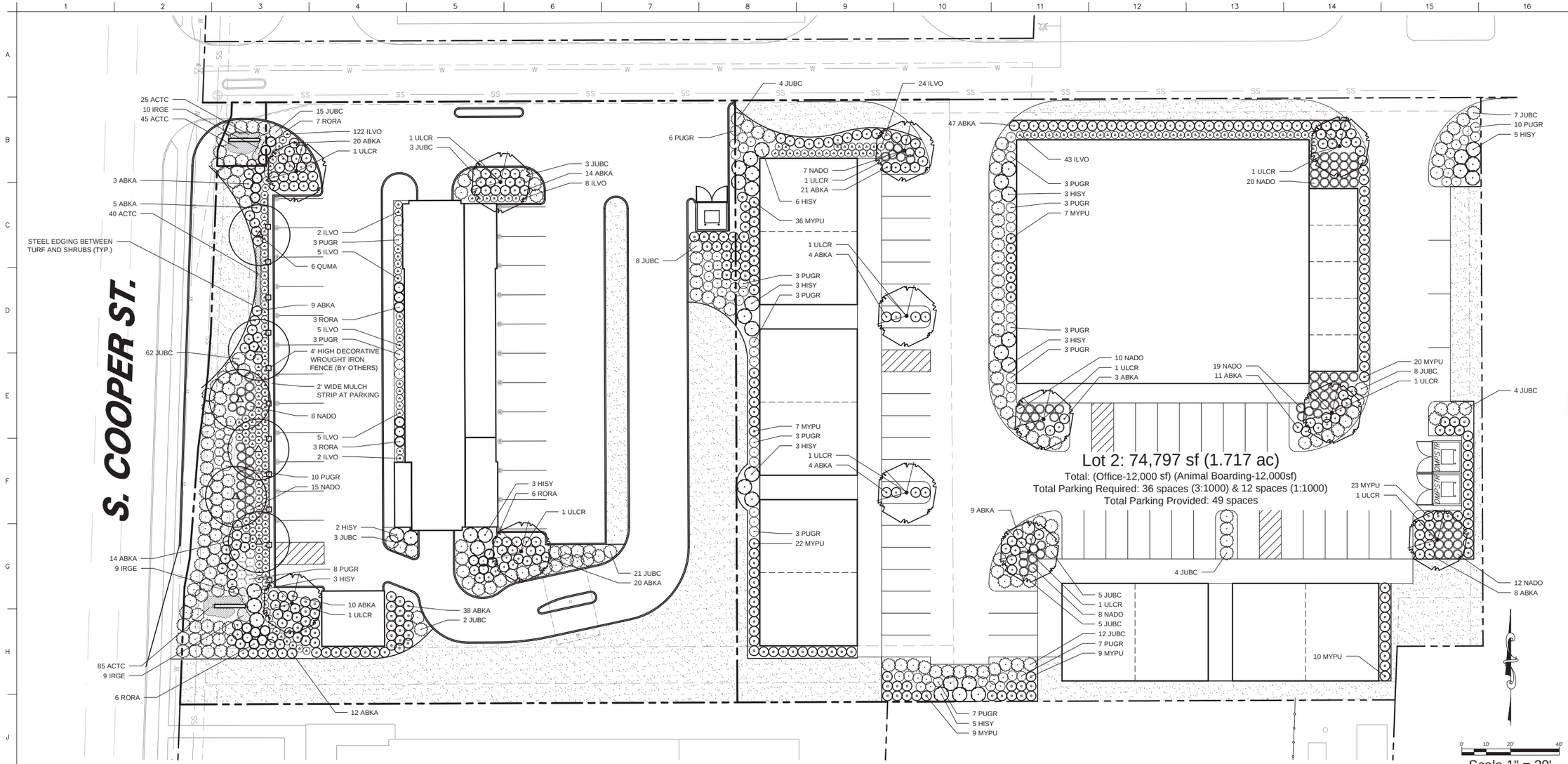
WILLIAMS STEPHENS ADDITION
LOT 64-A2
LEGENDS EXPRESS CAR WASH
SITE LAYOUT

DATE: 03/21/2016
SCALE: SEE SHEET
DESIGN BY: SLM
DRAWN BY: SLM
SHEET NO. 1 OF 1
JOB NUMBER: 1312-028-03
SHEET ID: Arlington Zoning Site Plan.dwg

© Copyright Cobb, Fendley & Associates, Inc.

SP-01

Dwg Info: C:\Users\smoyer\Desktop\DNG 2016\Arlington Zoning Site Plan.dwg - Plotted: 3/21/2016



LANDSCAPE CALCULATIONS - LOT 1

LANDSCAPE SETBACK

FRONTAGE LENGTH:	247 LF
TREES REQUIRED:	6, 4" TREES (1, 4" TREE PER 45 LF)
TREES PROVIDED:	6, 4" TREES
SHRUBS REQUIRED:	70 SHRUBS (14 SHRUBS PER 50 LF)
SHRUBS PROVIDED:	114 SHRUBS
TOTAL SETBACK AREA:	3,622 SF
MAXIMUM TURF ALLOWED:	1,449 SF (40%)
TURF PROVIDED:	1,329 SF (36.7%)

INTERIOR PARKING

TOTAL PARKING SPACES:	25 SPACES (25 REQUIRED, 0 OVERPARKED)
TREES REQUIRED:	3 TREES - 1 TREE PER 10 REQUIRED SPACES = 3 TREES - 1 TREE PER 3 OVERPARKED SPACES = 0 ADD'L SPACES/3 = 0 TREES
TREES PROVIDED:	4 TREES

LANDSCAPE CALCULATIONS - LOT 2

LANDSCAPE SETBACK

FRONTAGE LENGTH:	0 LF

INTERIOR PARKING

TOTAL PARKING SPACES:	49 SPACES (42 REQUIRED, 7 OVERPARKED)
TREES REQUIRED:	8 TREES - 1 TREE PER 10 REQUIRED SPACES = 5 TREES - 1 TREE PER 3 OVERPARKED SPACES = 7 ADD'L SPACES/3 = 3 TREES
TREES PROVIDED:	8 TREES

ROOT BARRIERS

THE CONTRACTOR SHALL INSTALL ROOT BARRIERS NEAR ALL NEWLY-PLANTED TREES THAT ARE LOCATED WITHIN FIVE (5) FEET OF PAVING OR CURBS. ROOT BARRIERS SHALL BE EQUIVALENT TO "CENTURY" OR "DEEP-ROOT" 24" DEEP PANELS. BARRIERS SHALL BE LOCATED IMMEDIATELY ADJACENT TO HARDSCAPE. INSTALL PANELS PER MANUFACTURER'S RECOMMENDATIONS. UNDER NO CIRCUMSTANCES SHALL THE CONTRACTOR USE ROOT BARRIERS OF A TYPE THAT COMPLETELY ENCIRCLE THE ROOTBALL.

MULCHES

AFTER ALL PLANTING IS COMPLETE, CONTRACTOR SHALL INSTALL 3" THICK LAYER OF 1-1/2" SHREDDED WOOD MULCH IN ALL PLANTING AREAS. CONTRACTOR SHALL SUBMIT SAMPLES OF ALL MULCHES TO LANDSCAPE ARCHITECT AND OWNER FOR APPROVAL PRIOR TO CONSTRUCTION. ABSOLUTELY NO EXPOSED GROUND SHALL BE LEFT SHOWING ANYWHERE ON THE PROJECT AFTER MULCH HAS BEEN INSTALLED.

PLANTING LEGEND

SYMBOL	BOTANIC NAME	COMMON NAME	SIZE	SPACING	QUANTITY	REMARKS
TREES						
QUMA	Quercus macrocarpa	Burr Oak	4" cal., 12'-14' high	20' o.c. min.	6	
ULCR	Ulmus crassifolia	Cedar Elm	4" cal., 12'-14' high	Per plan	12	
NOTE: ALL TREES SHALL BE CONTAINER-GROWN, CONTAINER SIZE AS APPROPRIATE FOR THE CALIPER SPECIFIED. SEE SPECIFICATIONS FOR PROPER ROOT QUALITY.						
SHRUBS						
ABKA	Abelia grandiflora 'Kaleidoscope'	Kaleidoscope Abelia	#5 cont.	4' o.c.	215	
HISY	Hibiscus syriacus 'Diana'	Diana Rose-of-Sharon	#5 cont.	6' o.c.	36	
ILVO	Ilex vomitoria 'Nana'	Dwarf Yaupon Holly	#7 cont.	3' o.c.	216	30" high min. at planting
JUBC	Juniperus horizontalis 'Blue Chip'	Blue Chip Juniper	#5 cont.	5' o.c.	193	
MYPU	Myrica pusilla	Dwarf Wax Myrtle	#5 cont.	4' o.c.	179	
NADO	Nandina domestica 'Compacta'	Compact Heavenly Bamboo	#5 cont.	3.5' o.c.	99	
PUGR	Punica granatum 'Nana'	Dwarf Pomegranate	#5 cont.	4' o.c.	90	
RORA	Rosa 'Radsunny'	Sunny Knock-Out Rose	#3 cont.	4' o.c.	24	
PERENNIALS AND ORNAMENTAL GRASSES						
ACTC	Achillea 'Terra Cotta'	Terra Cotta Yarrow	#1 cont.	12" o.c.	195	
IRGE	Iris germanica	Tall Bearded Iris	#1 cont.	18" o.c.	28	Blue/salmon colors, even mix
TURF AND SEED						
	Cynodon 'Tifway 419'	Tifway Hybrid Bermuda Grass	Sod	- - -	- - -	

EVERGREEN DESIGN GROUP
Landscape Designers & Consultants
(800) 680 6630
15305 Dallas Pkwy., Ste 300
Addison, TX 75001
www.landscape-consultants.net

APDG
A PLUS DESIGN GROUP
ARCHITECTURE
INTERIORS
CONSTRUCTION
972-724-4440
972-691-7731 FAX
APDG.US

© COPYRIGHT A PLUS DESIGN GROUP 2014

REGISTERED LANDSCAPE ARCHITECT
LAWRANCE LEMLER
2547
STATE OF TEXAS
9/10/2014

ARLINGTON, TEXAS

Legends CAR WASH

A NEW CAR WASH FACILITY FOR:

REVISIONS

No.	DATE	NOTE

Drawn by:	LML
Checked by:	LML
Project No.	13-0925
Date	06-20-2014

LANDSCAPE PLAN

L1.1

PLANTING SPECIFICATIONS

GENERAL

A. QUALIFICATIONS OF LANDSCAPE CONTRACTOR
1. ALL LANDSCAPE WORK SHOWN ON THESE PLANS SHALL BE PERFORMED BY A SINGLE FIRM SPECIALIZING IN LANDSCAPE PLANTING.
2. A LIST OF SUCCESSFULLY COMPLETED PROJECTS OF THIS TYPE, SIZE AND NATURE MAY BE REQUESTED BY THE OWNER FOR FURTHER QUALIFICATION MEASURES.
3. THE LANDSCAPE CONTRACTOR SHALL HOLD A VALID NURSERY AND FLORAL CERTIFICATE ISSUED BY THE TEXAS DEPARTMENT OF AGRICULTURE, AS WELL AS OPERATE UNDER A COMMERCIAL PESTICIDE APPLICATOR LICENSE ISSUED BY EITHER THE TEXAS DEPARTMENT OF AGRICULTURE OR THE TEXAS STRUCTURAL PEST CONTROL BOARD.

B. SCOPE OF WORK
1. WORK COVERED BY THESE SECTIONS INCLUDES THE FURNISHING AND PAYMENT OF ALL MATERIALS, LABOR, SERVICES, EQUIPMENT, LICENSES, TAXES AND ANY OTHER ITEMS THAT ARE NECESSARY FOR THE EXECUTION, INSTALLATION AND COMPLETION OF ALL WORK, SPECIFIED HEREIN AND / OR SHOWN ON THE LANDSCAPE PLANS, NOTES, AND DETAILS.
2. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES AND REGULATIONS REQUIRED BY AUTHORITIES HAVING JURISDICTION OVER SUCH WORK, INCLUDING ALL INSPECTIONS AND PERMITS REQUIRED BY FEDERAL, STATE AND LOCAL AUTHORITIES IN SUPPLY, TRANSPORTATION AND INSTALLATION OF MATERIALS.
3. THE LANDSCAPE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UNDERGROUND UTILITY LINES (WATER, SEWER, ELECTRICAL, TELEPHONE, GAS, CABLE, TELEVISION, ETC.) PRIOR TO THE START OF ANY WORK.

PRODUCTS

A. ALL MANUFACTURED PRODUCTS SHALL BE NEW.

B. CONTAINER AND BALLED-AND-BURLAPPED PLANTS:
1. FURNISH NURSERY-GROWN PLANTS COMPLYING WITH ANSI Z60.1-2004. PROVIDE WELL-SHAPED, FULLY BRANCHED, HEALTHY, VIGOROUS STOCK FREE OF DISEASE, INSECTS, EGGS, LARVAE, AND DEFECTS SUCH AS KNOTS, SUN SCALD, INJURIES, ABRASIONS, AND DISFIGUREMENT. ALL PLANTS WITHIN A SPECIES SHALL HAVE SIMILAR SIZE, AND SHALL BE OF A FORM TYPICAL FOR THE SPECIES. ALL TREES SHALL BE OBTAINED FROM SOURCES WITHIN 200 MILES OF THE PROJECT SITE, AND WITH SIMILAR CLIMACTIC CONDITIONS.
2. ROOT SYSTEMS SHALL BE HEALTHY, DENSELY BRANCHED ROOT SYSTEMS, NON-POT-BOUND, FREE FROM ENCIRCLING AND/OR GIRDLING ROOTS, AND FREE FROM ANY OTHER ROOT DEFECTS (SUCH AS J-SHAPED ROOTS).
3. ANY PLANT DEEMED UNACCEPTABLE BY THE LANDSCAPE ARCHITECT OR OWNER SHALL BE IMMEDIATELY REMOVED FROM THE SITE AND SHALL BE REPLACED WITH AN ACCEPTBLE PLANT OF LIKE TYPE AND SIZE AT THE CONTRACTOR'S OWN EXPENSE. ANY PLANTS APPEARING TO BE UNHEALTHY, EVEN IF DETERMINED TO STILL BE ALIVE, SHALL NOT BE ACCEPTED. THE LANDSCAPE ARCHITECT AND OWNER SHALL BE THE SOLE JUDGES AS TO THE ACCEPTABILITY OF PLANT MATERIAL.
4. ALL TREES SHALL BE STANDARD IN FORM, UNLESS OTHERWISE SPECIFIED. TREES WITH CENTRAL LEADERS WILL NOT BE ACCEPTED IF LEADER IS DAMAGED OR REMOVED. PRUNE ALL DAMAGED TWIGS AFTER PLANTING.
5. CALIPER MEASUREMENTS FOR STANDARD (SINGLE TRUNK) TREES SHALL BE AS FOLLOWS: SIX INCHES ABOVE THE ROOT FLARE FOR TREES UP TO AND INCLUDING FOUR INCHES IN CALIPER, AND TWELVE INCHES ABOVE THE ROOT FLARE FOR TREES EXCEEDING FOUR INCHES IN CALIPER.
6. MULTI-TRUNK TREES SHALL BE MEASURED BY THEIR OVERALL HEIGHT, MEASURED FROM THE TOP OF THE ROOT BALL.
7. ANY TREE OR SHRUB SHOWN TO HAVE EXCESS SOIL PLACED ON TOP OF THE ROOT BALL, SO THAT THE ROOT FLARE HAS BEEN COMPLETELY COVERED, SHALL BE REJECTED.

C. SOD: PROVIDE WELL-ROOTED SOD OF THE VARIETY NOTED ON THE PLANS. SOD SHALL BE CUT FROM HEALTHY, MATURE TURF WITH SOIL THICKNESS OF 3/4" TO 1". EACH PALLET OF SOD SHALL BE ACCOMPANIED BY A CERTIFICATE FROM SUPPLIER STATING THE COMPOSITION OF THE SOD.

D. SEED: PROVIDE BLEND OF SPECIES AND VARIETIES AS NOTED ON THE PLANS, WITH MAXIMUM PERCENTAGES OF PURITY, GERMINATION, AND MINIMUM PERCENTAGE OF WEED SEED AS INDICATED ON PLANS. EACH BAG OF SEED SHALL BE ACCOMPANIED BY A TAG FROM THE SUPPLIER INDICATING THE COMPOSITION OF THE SEED.

E. TOPSOIL: SANDY TO CLAY LOAM TOPSOIL, FREE OF STONES LARGER THAN ½ INCH, FOREIGN MATTER, PLANTS, ROOTS, AND SEEDS.

F. COMPOST: WELL-COMPOSTED, STABLE, AND WEED-FREE ORGANIC MATTER, pH RANGE OF 5.5 TO 8; MOISTURE CONTENT 35 TO 55 PERCENT BY WEIGHT; 100 PERCENT PASSING THROUGH 3/4-INCH SIEVE; SOLUBLE SALT CONTENT OF 5 TO 10 DECISIEMENS/M; NOT EXCEEDING 0.5 PERCENT INERT CONTAMINANTS AND FREE OF SUBSTANCES TOXIC TO PLANTINGS. NO MANURE OR ANIMAL-BASED PRODUCTS SHALL BE USED.

G. FERTILIZER: GRANULAR FERTILIZER CONSISTING OF NITROGEN, PHOSPHORUS, POTASSIUM, AND OTHER NUTRIENTS IN PROPORTIONS, AMOUNTS, AND RELEASE RATES RECOMMENDED IN A SOIL REPORT FROM A QUALIFIED SOIL-TESTING AGENCY (SEE BELOW).

H. MULCH: SIZE AND TYPE AS INDICATED ON PLANS, FREE FROM DELETERIOUS MATERIALS AND SUITABLE AS A TOP DRESSING OF TREES AND SHRUBS.

I. WEED FABRIC: 5 OUNCE, WOVEN, NEEDLE-PUNCHED FABRIC, SUCH AS DEWITT PRO5 LANDSCAPE FABRIC (OR APPROVED EQUAL).

J. TREE STAKING AND GUYING
1. STAKES: 6' LONG GREEN METAL T-POSTS.
2. GUY AND TIE WIRE: ASTM A 641, CLASS 1, GALVANIZED-STEEL WIRE, 2-STRAND, TWISTED, 0.106 INCH DIAMETER.
3. STRAP CHAFING GUARD: REINFORCED NYLON OR CANVAS AT LEAST 1-1/2 INCH WIDE, WITH GROMMETS TO PROTECT TREE TRUNKS FROM DAMAGE.

K. STEEL EDGING: PROFESSIONAL STEEL EDGING, 14 GAUGE THICK X 4 INCHES WIDE, FACTORY PAINTED DARK GREEN. ACCEPTABLE MANUFACTURERS INCLUDE COL-MET OR APPROVED EQUAL.

L. PRE-EMERGENT HERBICIDES: ANY GRANULAR, NON-STAINING PRE-EMERGENT HERBICIDE THAT IS LABELED FOR THE SPECIFIC ORNAMENTALS OR TURF ON WHICH IT WILL BE UTILIZED. PRE-EMERGENT HERBICIDES SHALL BE APPLIED PER THE MANUFACTURER'S LABELED RATES.

METHODS

A. SOIL PREPARATION
1. BEFORE STARTING WORK, THE LANDSCAPE CONTRACTOR SHALL VERIFY THAT THE GRADE OF ALL LANDSCAPE AREAS ARE WITHIN +/-0.1' OF FINISH GRADE. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY SHOULD ANY DISCREPANCIES EXIST.
2. SOIL TESTING:
   a. AFTER FINISH GRADES HAVE BEEN ESTABLISHED, CONTRACTOR SHALL HAVE SOIL SAMPLES TESTED BY AN ESTABLISHED SOIL TESTING LABORATORY FOR THE FOLLOWING: SOIL TEXTURAL CLASS, GENERAL SOIL FERTILITY, pH, ORGANIC MATTER CONTENT, SALT (CEC), LIME, SODIUM ADSORPTION RATIO (SAR) AND BORON CONTENT. EACH SAMPLE SUBMITTED SHALL CONTAIN NO LESS THAN ONE QUART OF SOIL.
   b. CONTRACTOR SHALL ALSO SUBMIT THE PROJECT'S PLANT LIST TO THE LABORATORY ALONG WITH THE SOIL SAMPLES.
   c. THE SOIL REPORT PRODUCED BY THE LABORATORY SHALL CONTAIN RECOMMENDATIONS FOR THE FOLLOWING (AS APPROPRIATE): GENERAL SOIL PREPARATION AND BACKFILL MIXES, PRE-PLANT FERTILIZER APPLICATIONS, AND ANY OTHER SOIL RELATED ISSUES. THE REPORT SHALL ALSO PROVIDE A FERTILIZER PROGRAM FOR THE ESTABLISHMENT PERIOD AND FOR LONG-TERM MAINTENANCE.
3. THE CONTRACTOR SHALL INSTALL SOIL AMENDMENTS AND FERTILIZERS PER THE SOILS REPORT RECOMMENDATIONS. ANY CHANGE IN COST DUE TO THE SOIL REPORT RECOMMENDATIONS, EITHER INCREASE OR DECREASE, SHALL BE SUBMITTED TO THE OWNER WITH THE REPORT.
4. FOR BIDDING PURPOSES ONLY , THE SOIL PREPARATION SHALL CONSIST OF THE FOLLOWING:
   a. TURF: INCORPORATE THE FOLLOWING AMENDMENTS INTO THE TOP 8" OF SOIL BY MEANS OF ROTOTILLING AFTER CROSS-RIPPING:
   i. NITROGEN STABILIZED ORGANIC AMENDMENT - 4 CU. YDS. PER 1,000 S.F.
   ii. AMMONIUM PHOSPHATE 16-20-0 - 15 LBS PER 1,000 S.F.
   iii. AGRICULTURAL GYPSUM - 100 LBS PER 1,000 S.F.
   b. TREES, SHRUBS, AND PERENNIALS: INCORPORATE THE FOLLOWING AMENDMENTS INTO THE TOP 8" OF SOIL BY MEANS OF ROTOTILLING AFTER CROSS-RIPPING:
   i. NITROGEN STABILIZED ORGANIC AMENDMENT - 4 CU. YDS. PER 1,000 S.F.
   ii. 12-12-12 FERTILIZER - 10 LBS. PER CU. YD.
   iii. AGRICULTURAL GYPSUM - 10 LBS. PER CU. YD.
   iv. IRON SULPHATE - 2 LBS. PER CU. YD.
5. CONTRACTOR SHALL ENSURE THAT THE GRADE IN SOD AREAS SHALL BE 1" BELOW FINISH GRADE BEFORE INSTALLING SOIL AMENDMENTS, AND 2" BELOW FINISH GRADE IN SHRUB AREAS BEFORE INSTALLING SOIL AMENDMENTS. MULCH COVER WITHIN 6" OF CONCRETE WALKS AND CURBS SHALL NOT PROTRUDE ABOVE THE FINISH SURFACE OF THE WALKS AND CURBS. MULCH COVER WITHIN 12" OF WALLS SHALL BE AT LEAST 3" LOWER THAN THE TOP OF WALL.
6. ONCE SOIL PREPARATION IS COMPLETE, THE LANDSCAPE CONTRACTOR SHALL ENSURE THAT THERE ARE NO DEBRIS, TRASH, OR STONES LARGER THAN 1" REMAINING IN THE TOP 6" OF SOIL.

B. GENERAL PLANTING
1. REMOVE ALL NURSERY TAGS AND STAKES FROM PLANTS.
2. EXCEPT IN AREAS TO BE PLANTED WITH ORNAMENTAL GRASSES, APPLY PRE-EMERGENT HERBICIDES AT THE MANUFACTURER'S RECOMMENDED RATE.
3. TRENCHING NEAR EXISTING TREES:
   a. CONTRACTOR SHALL NOT DISTURB ROOTS 1-1/2" AND LARGER IN DIAMETER WITHIN THE CRITICAL ROOT ZONE (CRZ) OF EXISTING TREES, AND SHALL EXERCISE ALL POSSIBLE CARE AND PRECAUTIONS TO AVOID INJURY TO TREE ROOTS, TRUNKS, AND BRANCHES. THE CRZ IS DEFINED AS A CIRCULAR AREA EXTENDING OUTWARD FROM THE TREE TRUNK, WITH A RADIUS EQUAL TO 1' FOR EVERY 1" OF TRUNK DIAMETER-AT-BREAST-HEIGHT (4.5' ABOVE THE AVERAGE GRADE AT THE TRUNK).
   b. ALL EXCAVATION WITHIN THE CRZ SHALL BE PERFORMED USING HAND TOOLS. NO MACHINE EXCAVATION OR TRENCHING OF ANY KIND SHALL BE ALLOWED WITHIN THE CRZ.
   c. ALTER ALIGNMENT OF PIPE TO AVOID TREE ROOTS 1-1/2" AND LARGER IN DIAMETER. WHERE TREE ROOTS 1-1/2" AND LARGER IN DIAMETER ARE ENCOUNTERED IN THE FIELD, TUNNEL UNDER SUCH ROOTS. WRAP EXPOSED ROOTS WITH SEVERAL LAYERS OF BURLAP AND KEEP MOIST. CLOSE ALL TRENCHES WITHIN THE CANOPY DRIP LINES WITHIN 24 HOURS.
   d. ALL SEVERED ROOTS SHALL BE HAND PRUNED WITH SHARP TOOLS AND ALLOWED TO AIR-DRY. DO NOT USE ANY SORT OF SEALERS OR WOUND PAINTS.

C. TREE PLANTING
1. TREE PLANTING HOLES SHALL BE EXCAVATED TO MINIMUM WIDTH OF TWO TIMES THE WIDTH OF THE ROOTBALL, AND TO A DEPTH EQUAL TO THE DEPTH OF THE ROOTBALL LESS TWO TO FOUR INCHES.
2. SCARIFY THE SIDES AND BOTTOM OF THE PLANTING HOLE PRIOR TO THE PLACEMENT OF THE TREE. REMOVE ANY GLAZING THAT MAY HAVE BEEN CAUSED DURING THE EXCAVATION OF THE HOLE.
3. FOR CONTAINER AND BOX TREES, TO REMOVE ANY POTENTIALLY GIRDLING ROOTS AND OTHER ROOT DEFECTS, THE CONTRACTOR SHALL SHAVE A 1" LAYER OFF OF THE SIDES AND BOTTOM OF THE ROOTBALL OF ALL TREES JUST BEFORE PLACING INTO THE PLANTING PIT. DO NOT "TEASE" ROOTS OUT FROM THE ROOTBALL.
4. INSTALL THE TREE ON UNDISTURBED SUBGRADE SO THAT THE TOP OF THE ROOTBALL IS TWO TO FOUR INCHES ABOVE THE SURROUNDING GRADE.
5. BACKFILL THE TREE HOLE UTILIZING THE EXISTING TOPSOIL FROM ON-SITE. ROCKS LARGER THAN 1" DIA. AND ALL OTHER DEBRIS SHALL BE REMOVED FROM THE SOIL PRIOR TO THE BACKFILL. SHOULD ADDITIONAL SOIL BE REQUIRED TO ACCOMPLISH THIS TASK, USE STORED TOPSOIL FROM ON-SITE OR IMPORT ADDITIONAL TOPSOIL FROM OFF-SITE AT NO ADDITIONAL COST TO THE OWNER. IMPORTED TOPSOIL SHALL BE OF SIMILAR TEXTURAL CLASS AND COMPOSITION IN THE ON-SITE SOIL.
6. THE TOTAL NUMBER OF TREE STAKES (BEYOND THE MINIMUMS LISTED BELOW) WILL BE LEFT TO THE LANDSCAPE CONTRACTOR'S DISCRETION. SHOULD ANY TREES FALL OR LEAN, THE LANDSCAPE CONTRACTOR SHALL STRAIGHTEN THE TREE, OR REPLACE IT SHOULD IT BECOME DAMAGED. TREE STAKING SHALL ADHERE TO THE FOLLOWING GUIDELINES:
   a. 1"-2" TREES — TWO STAKES PER TREE
   b. 2-1/2"-4" TREES — THREE STAKES PER TREE
   c. TREES OVER 4" CALIPER — GUY AS NEEDED
   d. MULTI-TRUNK TREES — THREE STAKES PER TREE MINIMUM, QUANTITY AND POSITIONS AS NEEDED TO STABILIZE THE TREE
7. UPON COMPLETION OF PLANTING, CONSTRUCT AN EARTH WATERING BASIN AROUND THE TREE. COVER THE INTERIOR OF THE TREE RING WITH MULCH (TYPE AND DEPTH PER PLANS).

D. SHRUB, PERENNIAL, AND GROUNDCOVER PLANTING
1. DIG THE PLANTING HOLES TWICE AS WIDE AND 2" LESS DEEP THAN EACH PLANT'S ROOTBALL. INSTALL THE PLANT IN THE HOLE. BACKFILL AROUND THE PLANT WITH SOIL AMENDED PER SOIL TEST RECOMMENDATIONS.
2. INSTALL THE WEED BARRIER CLOTH, OVERLAPPING IT AT THE ENDS. UTILIZE STEEL STAPLES TO KEEP THE WEED BARRIER CLOTH IN PLACE.
3. WHEN PLANTING IS COMPLETE, INSTALL MULCH (TYPE AND DEPTH PER PLANS) OVER ALL PLANTING BEDS, COVERING THE ENTIRE PLANTING AREA.

F. SODDING
1. SOD VARIETY TO BE AS SPECIFIED ON THE LANDSCAPE PLAN.
2. LAY SOD WITHIN 24 HOURS FROM THE TIME OF STRIPPING. DO NOT LAY IF THE GROUND IS FROZEN.
3. LAY THE SOD TO FORM A SOLID MASS WITH TIGHTLY FITTED JOINTS. BUTT ENDS AND SIDES OF SOD STRIPS - DO NOT OVERLAP. STAGGER STRIPS TO OFFSET JOINTS IN ADJACENT COURSES.
4. ROLL THE SOD TO ENSURE GOOD CONTACT OF THE SOD'S ROOT SYSTEM WITH THE SOIL UNDERNEATH.
5. WATER THE SOD THOROUGHLY WITH A FINE SPRAY IMMEDIATELY AFTER PLANTING TO OBTAIN AT LEAST SIX INCHES OF PENETRATION INTO THE SOIL BELOW THE SOD.

G. HYDROMULCHING
1. THE HYDROMULCH MIX (PER 1,000 SF) SHALL BE AS FOLLOWS:
   a. WINTER MIX (OCTOBER 1 - MARCH 31)
      50# CELLULOSE FIBER MULCH
      2# UNHULLED BERMUDA SEED
      2# ANNUAL RYE SEED
      15# 15-15-15 WATER SOLUBLE FERTILIZER
   b. SUMMER MIX (APRIL 1 - SEPTEMBER 30)
      50# CELLULOSE FIBER MULCH
      2# HULLED BERMUDA SEED
      15# 15-15-15 WATER SOLUBLE FERTILIZER

H. CLEAN UP
1. DURING LANDSCAPE PREPARATION AND PLANTING, KEEP ALL PAVEMENT CLEAN AND ALL WORK AREAS IN A NEAT, ORDERLY CONDITION.
2. DISPOSED LEGALLY OF ALL EXCAVATED MATERIALS OFF THE PROJECT SITE.

I. INSPECTION AND ACCEPTANCE
1. UPON COMPLETION OF THE WORK, THE LANDSCAPE CONTRACTOR SHALL PROVIDE THE SITE CLEAN, FREE OF DEBRIS AND TRASH, AND SUITABLE FOR USE AS INTENDED. THE LANDSCAPE CONTRACTOR SHALL THEN REQUEST AN INSPECTION BY THE OWNER TO DETERMINE FINAL ACCEPTABILITY.
3. WHEN THE INSPECTED PLANTING WORK DOES NOT COMPLY WITH THE CONTRACT DOCUMENTS, THE LANDSCAPE CONTRACTOR SHALL REPLACE AND/OR REPAIR THE REJECTED WORK TO THE OWNER'S SATISFACTION WITHIN 24 HOURS.
4. THE LANDSCAPE MAINTENANCE PERIOD WILL NOT COMMENCE UNTIL THE LANDSCAPE WORK HAS BEEN RE-INSPECTED BY THE OWNER AND FOUND TO BE ACCEPTABLE. AT THAT TIME, A WRITTEN NOTICE OF FINAL ACCEPTANCE WILL BE ISSUED BY THE OWNER, AND THE MAINTENANCE AND GUARANTEE PERIODS WILL COMMENCE.

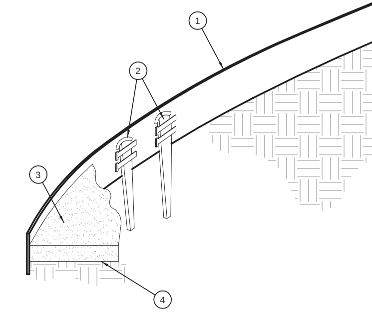
J. LANDSCAPE MAINTENANCE
1. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL WORK SHOWN ON THESE PLANS FOR 90 DAYS BEYOND FINAL ACCEPTANCE OF ALL LANDSCAPE WORK BY THE OWNER. LANDSCAPE MAINTENANCE SHALL INCLUDE WEEKLY SITE VISITS FOR THE FOLLOWING ACTIONS (AS APPROPRIATE): PROPER PRUNING, RESTAKING OF TREES, RESETTING OF PLANTS THAT HAVE SETTLED, MOWING AND AERATION OF LAWNS, WEEDING, RESEEDING AREAS WHICH HAVE NOT GERMINATED WELL, TREATING FOR INSECTS AND DISEASES,REPLACEMENT OF MULCH, REMOVAL OF LITTER, REPAIRS TO THE IRRIGATION SYSTEM DUE TO FAULTY PARTS AND/OR WORKMANSHIP, AND THE APPROPRIATE WATERING OF ALL PLANTINGS. THE LANDSCAPE CONTRACTOR SHALL MAINTAIN THE IRRIGATION SYSTEM IN PROPER WORKING ORDER, WITH SCHEDULING ADJUSTMENTS BY SEASON TO MAXIMIZE WATER CONSERVATION.
2. SHOULD SEEDED AND/OR SODDED AREAS NOT BE COVERED BY AN AUTOMATIC IRRIGATION SYSTEM, THE LANDSCAPE CONTRACTOR SHAL BE RESPONSIBLE FOR WATERING THESE AREAS AND OBTAINING A FULL, HEALTHY STAND OF GRASS AT NO ADDITIONAL COST TO THE OWNER.
3. TO ACHIEVE FINAL ACCEPTANCE AT THE END OF THE MAINTENANCE PERIOD, ALL OF THE FOLLOWING CONDITIONS MUST OCCUR:
   a. THE LANDSCAPE SHALL SHOW ACTIVE, HEALTHY GROWTH (WITH EXCEPTIONS MADE FOR SEASONAL DORMANCY). ALL PLANTS NOT MEETING THIS CONDITION SHALL BE REJECTED AND REPLACED BY HEALTHY PLANT MATERIAL PRIOR TO FINAL ACCEPTANCE.
   b. ALL HARDSCAPE SHALL BE CLEANED PRIOR TO FINAL ACCEPTANCE.
   c. SODDED AREAS MUST BE ACTIVELY GROWING AND MUST REACH A MINIMUM HEIGHT OF 1 1/2 INCHES BEFORE FIRST MOWING. HYDROMULCHED AREAS SHALL SHOW ACTIVE, HEALTHY GROWTH. BARE AREAS LARGER THAN TWELVE SQUARE INCHES MUST BE RESODDED OR RESEEDED (AS APPROPRIATE) PRIOR TO FINAL ACCEPTANCE. ALL SODDED TURF SHALL BE NEATLY MOWED.

K. WARRANTY PERIOD, PLANT GUARANTEE AND REPLACEMENTS
1. THE LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL TREES, SHRUBS, PERENNIALS, SOD, SEEDED/HYDROMULCHED AREAS, AND IRRIGATION SYSTEMS FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE OWNER'S FINAL ACCEPTANCE (90 DAYS FOR ANNUAL PLANTS). THE CONTRACTOR SHALL REPLACE, AT HIS OWN EXPENSE AND TO THE SATISFACTION OF THE OWNER, ANY PLANTS WHICH DIE IN THAT TIME, OR REPAIR ANY PORTIONS OF THE IRRIGATION SYSTEM WHICH OPERATE IMPROPERLY.
2. AFTER THE INITIAL MAINTENANCE PERIOD AND DURING THE GUARANTEE PERIOD, THE LANDSCAPE CONTRACTOR SHALL ONLY BE RESPONSIBLE FOR REPLACEMENT OF PLANTS WHEN PLANT DEATH CANNOT BE ATTRIBUTED DIRECTLY TO OVERWATERING OR OTHER DAMAGE BY HUMAN ACTIONS.

L. PROVIDE A MINIMUM OF (2) COPIES OF RECORD DRAWINGS TO THE OWNER UPON COMPLETION OF WORK. A RECORD DRAWING IS A RECORD OF ALL CHANGES THAT OCCURRED IN THE FIELD AND THAT ARE DOCUMENTED THROUGH CHANGE ORDERS, ADDENDA, OR CONTRACTOR/CONSULTANT DRAWING MARKUPS.

GENERAL PLANTING NOTES

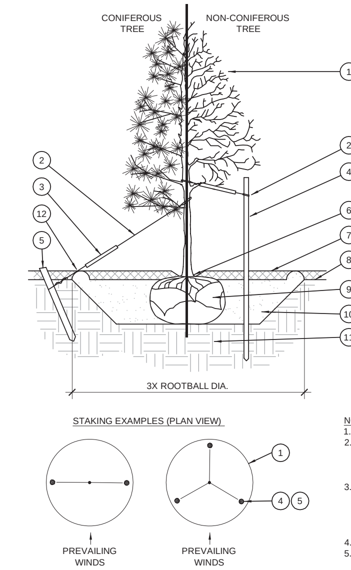
1. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR REMOVING ALL EXISTING VEGETATION (EXCEPT WHERE NOTED TO REMAIN). BEFORE STARTING WORK, THE LANDSCAPE CONTRACTOR SHALL VERIFY THAT THE GRADE OF ALL LANDSCAPE AREAS ARE WITHIN +/-0.1' OF FINISH GRADE. THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY SHOULD ANY DISCREPANCIES EXIST. SEE SPECIFICATIONS FOR MORE DETAILED INSTRUCTION ON TURF AREA AND PLANTING BED PREPARATION.
2. CONSTRUCT AND MAINTAIN FINISH GRADES IN LANDSCAPE AREAS AS SHOWN ON GRADING PLANS, AND CONSTRUCT AND MAINTAIN SLOPES AS RECOMMENDED BY THE GEOTECHNICAL REPORT. ALL LANDSCAPE AREAS SHALL HAVE POSITIVE DRAINAGE AWAY FROM STRUCTURES AT THE MINIMUM SLOPE SPECIFIED IN THE REPORT, AND AREAS OF POTENTIAL PONDING SHALL BE REGRADED TO BLEND IN WITH THE SURROUNDING GRADES AND ELIMINATE PONDING POTENTIAL. SHOULD ANY CONFLICTS AND/OR DISCREPANCIES ARISE BETWEEN THE GRADING PLANS, GEOTECHNICAL REPORT, THESE NOTES, AND ACTUAL CONDITIONS, THE CONTRACTOR SHALL IMMEDIATELY BRING SUCH ITEMS TO THE ATTENTION OF THE LANDSCAPE ARCHITECT, GENERAL CONTRACTOR, AND OWNER.
3. ENSURE THAT THE GRADE IN SHRUB AREAS SHALL BE 2" BELOW FINISH GRADE AFTER INSTALLING SOIL AMENDMENTS, AND 1" BELOW FINISH GRADE IN SOD AREAS AFTER INSTALLING SOIL AMENDMENTS. MULCH COVER WITHIN 6" OF CONCRETE WALKS AND CURBS SHALL NOT PROTRUDE ABOVE THE FINISH SURFACE OF THE WALKS AND CURBS. MULCH COVER WITHIN 12" OF WALLS SHALL BE AT LEAST 3" LOWER THAN THE TOP OF WALL.
4. INSTALL MULCH TOPDRESSING, TYPE AND DEPTH PER MULCH NOTE, IN ALL PLANTING BEDS AND TREE RINGS. DO NOT INSTALL MULCH WITHIN 6" OF TREE ROOT FLARE.
5. INSTALL 14G, GREEN STEEL EDGING BETWEEN ALL PLANTING BEDS AND TURF AREAS, AND BETWEEN GROUNDCOVERS AND OTHER PLANTS (WHERE INDICATED ON THE PLAN).
6. HYDROMULCH ALL DISTURBED AREAS OUTSIDE OF PROPERTY LIMITS (UNLESS SHOWN AS SOD).
7. ALL PLANT LOCATIONS ARE DIAGRAMMATIC. ACTUAL LOCATIONS SHALL BE VERIFIED WITH THE LANDSCAPE ARCHITECT OR DESIGNER PRIOR TO PLANTING. THE LANDSCAPE CONTRACTOR SHALL ENSURE THAT ALL REQUIREMENTS OF THE PERMITTING AUTHORITY ARE MET (I.E., MINIMUM PLANT QUANTITIES, PLANTING METHODS, TREE PROTECTION METHODS, ETC.).
8. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR DETERMINING PLANT QUANTITIES; PLANT QUANTITIES SHOWN ON LEGENDS AND CALLOUTS ARE FOR GENERAL INFORMATION ONLY. IN THE EVENT OF A DISCREPANCY BETWEEN THE PLAN AND THE PLANT LEGEND, THE PLANT QUANTITY AS SHOWN ON THE PLAN (FOR INDIVIDUAL SYMBOLS) OR CALLOUT (FOR GROUNDCOVER PATTERNS) SHALL TAKE PRECEDENCE.
9. **NO SUBSTITUTIONS OF PLANT MATERIALS SHALL BE ALLOWED WITHOUT THE WRITTEN PERMISSION OF THE LANDSCAPE ARCHITECT.** IF SOME OF THE PLANTS ARE NOT AVAILABLE, THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT IN WRITING (VIA PROPER CHANNELS).
10. PLANTS MAY BE INSPECTED AND APPROVED OR REJECTED ON THE JOBSITE BY THE OWNER OR OWNER'S REPRESENTATIVE.
11. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL WORK SHOWN ON THESE PLANS FOR 90 DAYS BEYOND FINAL ACCEPTANCE OF ALL LANDSCAPE WORK BY THE OWNER. LANDSCAPE MAINTENANCE SHALL INCLUDE WEEKLY SITE VISITS FOR THE FOLLOWING ACTIONS (AS APPROPRIATE): PROPER PRUNING, RESTAKING OF TREES, RESETTING OF PLANTS THAT HAVE SETTLED, MOWING AND AERATION OF LAWNS, WEEDING, RESEEDING AREAS WHICH HAVE NOT GERMINATED WELL, TREATING FOR INSECTS AND DISEASES,REPLACEMENT OF MULCH, REMOVAL OF LITTER, REPAIRS TO THE IRRIGATION SYSTEM DUE TO FAULTY PARTS AND/OR WORKMANSHIP, AND THE APPROPRIATE WATERING OF ALL PLANTINGS. THE LANDSCAPE CONTRACTOR SHALL MAINTAIN THE IRRIGATION SYSTEM IN PROPER WORKING ORDER, WITH SCHEDULING ADJUSTMENTS BY SEASON TO MAXIMIZE WATER CONSERVATION.
12. SHOULD SEEDED AND/OR SODDED AREAS NOT BE COVERED BY AN AUTOMATIC IRRIGATION SYSTEM, THE LANDSCAPE CONTRACTOR SHAL BE RESPONSIBLE FOR WATERING THESE AREAS AND OBTAINING A FULL STAND OF GRASS AT NO ADDITIONAL COST TO THE OWNER.
13. TO ACHIEVE FINAL ACCEPTANCE AT THE END OF THE MAINTENANCE PERIOD, ALL OF THE FOLLOWING CONDITIONS MUST OCCUR:
   A. THE LANDSCAPE SHALL SHOW ACTIVE, HEALTHY GROWTH (WITH EXCEPTIONS MADE FOR SEASONAL DORMANCY). ALL PLANTS NOT MEETING THIS CONDITION SHALL BE REJECTED AND REPLACED BY HEALTHY PLANT MATERIAL PRIOR TO FINAL ACCEPTANCE.
   B. ALL HARDSCAPE SHALL BE CLEANED PRIOR TO FINAL ACCEPTANCE.
   C. SODDED AREAS MUST BE ACTIVELY GROWING AND MUST REACH A MINIMUM HEIGHT OF 1 1/2 INCHES BEFORE FIRST MOWING. HYDROMULCHED AREAS SHALL SHOW ACTIVE, HEALTHY GROWTH. BARE AREAS LARGER THAN TWELVE SQUARE INCHES MUST BE RESODDED OR RESEEDED (AS APPROPRIATE) PRIOR TO FINAL ACCEPTANCE. ALL SODDED TURF SHALL BE NEATLY MOWED.
14. SEE SPECIFICATIONS AND DETAILS FOR FURTHER REQUIREMENTS.



1. ROLLED-TOP STEEL EDGING PER PLANS.
2. TAPERED STEEL STAKES.
3. MULCH, TYPE AND DEPTH PER PLANS.
4. FINISH GRADE.

NOTES:
1) INSTALL EDGING SO THAT STAKES WILL BE ON INSIDE OF PLANTING BED.
2) BOTTOM OF EDGING SHALL BE BURIED A MINIMUM OF 1" BELOW FINISH GRADE.
3) TOP OF MULCH SHALL BE 1" LOWER THAN TOP OF EDGING.

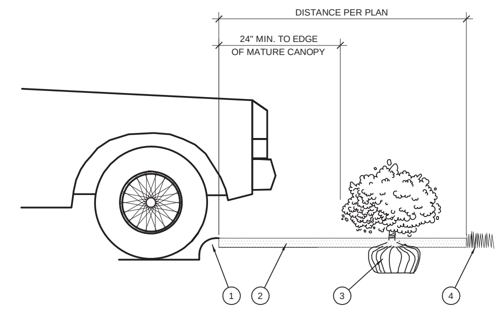
D — STEEL EDGING
SCALE: NOT TO SCALE



1. TREE CANOPY.
2. CINCH-TIES (24" BOX TREES AND SMALLER) OR 12 GAUGE GALVANIZED WIRE WITH NYLON TREE STRAPS AT TREE AND STAKE (36" BOX TREES AND LARGER). SECURE TIES OR STRAPS TO TRUNK JUST ABOVE LOWEST MAJOR BRANCHES.
3. 24" X 3/4" P.V.C. MARKERS OVER WIRES.
4. GREEN STEEL T-POSTS. EXTEND POSTS 12" MIN. INTO UNDISTURBED SOIL.
5. PRESSURE-TREATED WOOD DEADMAN, TWO PER TREE (MIN.). BURY OUTSIDE OF PLANTING PIT AND 18" MIN. INTO UNDISTURBED SOIL.
6. TRUNK FLARE.
7. MULCH, TYPE AND DEPTH PER PLANS. DO NOT PLACE MULCH WITHIN 6" OF TRUNK.
8. FINISH GRADE.
9. ROOT BALL.
10. BACKFILL. AMEND AND FERTILIZE ONLY AS RECOMMENDED IN SOIL FERTILITY ANALYSIS.
11. UNDISTURBED NATIVE SOIL.
12. 4" HIGH EARTHEN WATERING BASIN.

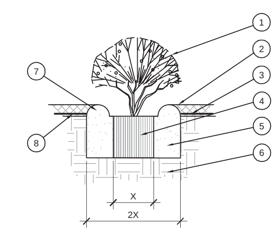
NOTES:
1. SCARIFY SIDES OF PLANTING PIT PRIOR TO SETTING TREE.
2. REMOVE EXCESS SOIL APPLIED ON TOP OF THE ROOTBALL THAT COVERS THE ROOT FLARE. THE PLANTING HOLE DEPTH SHALL BE SUCH THAT THE ROOTBALL RESTS ON UNDISTURBED SOIL, AND THE ROOT FLARE IS 3"-5" ABOVE FINISH GRADE.
3. FOR B&B TREES, CUT OFF BOTTOM 1/3 OF WIRE BASKET BEFORE PLACING TREE IN HOLE, CUT OFF AND REMOVE REMAINDER OF BASKET AFTER TREE IS SET IN HOLE, REMOVE ALL NYLON TIES, TWINE, ROPE, AND OTHER PACKING MATERIAL. REMOVE AS MUCH BURLAP FROM AROUND ROOTBALL AS IS PRACTICAL.
4. REMOVE ALL NURSERY STAKES AFTER PLANTING.
5. FOR TREES OVER 3" CALIPER AND TREES 36" BOX AND LARGER, USE THREE STAKES OR DEADMEN (AS APPROPRIATE), SPACED EVENLY AROUND TREE.
6. STAKING SHALL BE TIGHT ENOUGH TO PREVENT TRUNK FROM BENDING, BUT LOOSE ENOUGH TO ALLOW SOME TRUNK MOVEMENT IN WIND.

X — TREE PLANTING
SCALE: NOT TO SCALE



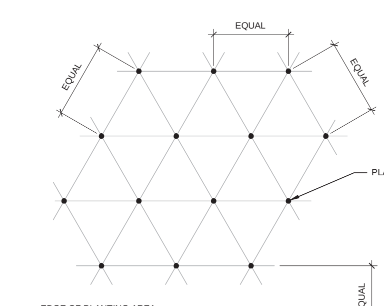
1. CURB.
2. MULCH LAYER.
3. PLANT.
4. TURF (WHERE SHOWN ON PLAN).

E — HEDGE PLANTING AT PARKING AREA
SCALE: NOT TO SCALE



1. SHRUB, PERENNIAL, OR ORNAMENTAL GRASS.
2. MULCH, TYPE AND DEPTH PER PLANS. PLACE NO MORE THAN 1" OF MULCH WITHIN 6" OF PLANT CENTER.
3. FINISH GRADE.
4. ROOT BALL.
5. BACKFILL. AMEND AND FERTILIZE ONLY AS RECOMMENDED IN SOIL FERTILITY ANALYSIS.
6. UNDISTURBED NATIVE SOIL.
7. 3" HIGH EARTHEN WATERING BASIN.
8. WEED FABRIC UNDER MULCH.

B — SHRUB AND PERENNIAL PLANTING
SCALE: NTS



NOTE: ALL PLANTS SHALL BE PLANTED AT EQUAL TRIANGULAR SPACING (EXCEPT WHERE SHOWN ON PLANS AS INFORMAL GROUPINGS). REFER TO PLANT LEGEND FOR SPACING DISTANCE BETWEEN PLANTS.

PLANT SPACING	AREA DIVIDER TO DETERMINE NO. OF PLANTS
6"	0.25
8"	0.45
10"	0.69
12"	1
15"	1.56
18"	2.25
24"	4
30"	6.25
36"	9

EXAMPLE: PLANTS AT 18" O.C. IN 100 SF OF PLANTING AREA = 100/2.25 = 44 PLANTS

C — PLANT SPACING
SCALE: NTS

EVERGREEN DESIGN GROUP
Landscape Designers & Consultants
(800) 680 6630
15305 Dallas Pkwy., Ste 300
Addison, TX 75001
www.landscape-consultants.net

A P D G
A PLUS DESIGN GROUP
ARCHITECTURE INTERIORS CONSTRUCTION
972-724-4440
972-691-7731 FAX
APDG.US

© COPYRIGHT A PLUS DESIGN GROUP 2014

9/10/2014

A NEW CAR WASH FACILITY FOR:
LEGENDS EXPRESS CAR WASH
ARLINGTON, TEXAS

REVISIONS

No.	DATE	NOTE

Drawn by: LML
Checked by: LML
Project No. 13–0925
Date 06–20–2014

LANDSCAPE SPECS & DETAILS
L1.2

SITE PLAN, NOT TO SCALE

CONCEPTUAL DEVELOPMENT

A PLUS DESIGN GROUP
ARCHITECTURE
INTERIORS
CONSTRUCTION
972-724-4440
APDG.US

©COPYRIGHT
A PLUS DESIGN GROUP 2014

LEGENDS CAR WASH + CONCEPTUAL DEVELOPMENT
NORTH COOPER STREET
ARLINGTON, TEXAS

SEPT 11, 2014

SITE PLAN

A1.1

VIEW FROM COOPER STREET

VIEW FROM COOPER STREET

AERIAL VIEW FROM NORTHEAST

VIEW FROM COOPER STREET

A PLUS DESIGN GROUP
ARCHITECTURE
INTERIORS
CONSTRUCTION
972-724-4440
APDG.US

©COPYRIGHT
A PLUS DESIGN GROUP 2014

LEGENDS CAR WASH + CONCEPTUAL DEVELOPMENT
NORTH COOPER STREET
ARLINGTON, TEXAS

SEPT 11, 2014

CONCEPTUAL RENDERINGS

A3.1

LEGENDS CAR WASH

VIEW FROM COOPER STREET

AERIAL VIEW FROM NORTHWEST

AERIAL VIEW FROM SOUTHEAST

VIEW FROM SOUTH

CONCEPTUAL DEVELOPMENT

A PLUS DESIGN GROUP
ARCHITECTURE
INTERIORS
CONSTRUCTION
972-724-4440
APDG.US

©COPYRIGHT
A PLUS DESIGN GROUP 2014

LEGENDS CAR WASH + CONCEPTUAL DEVELOPMENT
NORTH COOPER STREET
ARLINGTON, TEXAS

SEPT 11, 2014

CONCEPTUAL RENDERINGS

A3.2

Staff Report

Settlement with Atmos Energy Corp., Mid-Tex Division regarding the Atmos Mid-Tex 2016 Rate Review Mechanism filing	
City Council Meeting Date: 05-24-16	Document Being Considered: Ordinance

RECOMMENDATION

Adopt an ordinance approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the Atmos Mid-Tex 2016 Rate Review Mechanism filing

PRIOR BOARD OR COUNCIL ACTION

On April 14, 2015, by Resolution No. 15-070, the City Council authorized continued participation with the Atmos Cities Steering Committee and authorized the payment of $19,004.20 to ACSC to fund regulatory and related activities related to Atmos Energy Corporation.

On June 2, 2015, by Ordinance No. 15-025, the City Council approved the settlement agreement between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the Atmos Mid-Tex 2014 and 2015 Rate Review Mechanism filings.

ANALYSIS

The City of Arlington, along with other similarly situated cities served by Atmos Energy Corp., Mid-Tex Division ("Atmos"), is a member of the Atmos Cities Steering Committee ("ACSC"). The Rate Review Mechanism ("RRM") Tariff was originally adopted by ACSC member cities in 2007 as an alternative to the Gas Reliability Infrastructure Program ("GRIP"), the statutory provision that allows Atmos to bypass the City's rate regulatory authority to increase its rates annually to recover capital investments. The RRM Tariff has been modified several times, most recently in 2013. Ratepayers outside municipal limits remain under the Railroad Commission's exclusive original jurisdiction and have their rates set through the GRIP process.

The 2016 RRM filing is the fourth RRM filing under the renewed RRM Tariff. On March 1, 2016, Atmos made a filing requesting $35.4 million additional revenues on a system-wide basis. Because the City of Dallas has a separate rate review process, exclusion of Dallas results in Atmos requesting $28.6 million from other municipalities. If Atmos had used the GRIP process rather than the RRM process it would have received a $41 million increase, or about $11 million more than will be approved by the attached Ordinance.

ACSC and Atmos have reached an agreement, reflected in the attached Ordinance, to reduce Atmos request by $5.5 million, such that the Ordinance approving new rates reflects an increase of $29.9 million on a system-wide basis, or $21.9 million for Mid-Tex Cities, exclusive of the City of Dallas. The tariffs attached to the Ordinance approve rates that will increase Atmos' revenues by $29.9 million for the Mid-Tex Rate Division, effective for bills rendered on or after June 1, 2016. The monthly residential customer charge will be $19.10. The consumption charge will be $0.11378 per Ccf. The monthly bill impact for the typical residential customer consuming 46.8 Ccf will be an increase of $1.26, or about 2.43%. The typical commercial customer will see an increase of $3.81, or 1.43%.

The ACSC Executive Committee and its designated legal counsel and consultants recommend that all ACSC member cities adopt the Ordinance with its attachments approving the negotiated rate settlement resolving the 2016 RRM filing, and implementing the rate change.

FINANCIAL IMPACT

Atmos Mid-Tex will reimburse ACSC for reasonable ratemaking expenses of the ACSC cities in processing the Atmos Mid-Tex RRM application.

ADDITIONAL INFORMATION

Attached:	Ordinance
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACT(S)

Teris Solis	David Barber
City Attorney	Assistant City Attorney
817-459-6878	817-459-6878
teris.solis@arlingtontx.gov	david.barber@arlingtontx.gov

Ordinance No. _____

An ordinance approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2016 Rate Review Mechanism filings; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel

WHEREAS, the City of Arlington, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of similarly-situated cities served by Atmos Mid-Tex ("ACSC Cities") that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program ("GRIP") process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, on March 1, 2016, Atmos Mid-Tex filed its 2016 RRM rate request with ACSC Cities; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2016 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of $29.9 million on a system-wide basis; and

WHEREAS, the attached tariffs implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the findings set forth in this Ordinance are hereby in all things approved.

2.

That the City Council finds that the settled amount of an increase in revenues of $29.9 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2016 RRM filing is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

3.

That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Attachment A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional $29.9 million in revenue over the amount allowed under currently approved rates, as shown in the Proof of Revenues attached hereto and incorporated herein as Attachment B; such tariffs are hereby adopted.

4.

That the ratemaking treatment for pensions and other post-employment benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Attachment C, attached hereto and incorporated herein.

5.

That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2016 RRM filing.

6.

That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

7.

That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

8.

That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

9.

That consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after June 1, 2016.

10.

That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LJB Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PRESENTED AND GIVEN FIRST READING on the _____ day of _____, 2016, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY_____

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2016	PAGE: 12

Application
Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service
Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate
Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	$ 19.10 per month
Rider CEE Surcharge	$ 0.02 per month[1]
Total Customer Charge	$ 19.12 per month
Commodity Charge – All Ccf	$0.11378 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement
An Agreement for Gas Service may be required.

Notice
Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

[1]Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2015.

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2016	PAGE: 13

Application
Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service
Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate
Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	$ 41.75 per month
Rider CEE Surcharge	$ 0.02 per month[1]
Total Customer Charge	$ 41.77 per month
Commodity Charge – All Ccf	$ 0.08494 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement
An Agreement for Gas Service may be required.

Notice
Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

1 Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2015.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2016	PAGE: 14

Application
Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service
Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate
Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	$ 738.00 per month
First 0 MMBtu to 1,500 MMBtu	$ 0.3096 per MMBtu
Next 3,500 MMBtu	$ 0.2267 per MMBtu
All MMBtu over 5,000 MMBtu	$ 0.0486 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee
Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index
In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RATE SCHEDULE:	**I – INDUSTRIAL SALES**	
APPLICABLE TO:	**ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS**	
EFFECTIVE DATE:	**Bills Rendered on or after 06/01/2016**	**PAGE: 15**

Agreement
An Agreement for Gas Service may be required.

Notice
Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions
In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2016	PAGE: 16

Application
Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service
Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate
Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	$ 738.00 per month
First 0 MMBtu to 1,500 MMBtu	$ 0.3096 per MMBtu
Next 3,500 MMBtu	$ 0.2267 per MMBtu
All MMBtu over 5,000 MMBtu	$ 0.0486 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees
All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees
Customer shall pay Company the greater of (i) $0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

RATE SCHEDULE:	**T – TRANSPORTATION**	
APPLICABLE TO:	**ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS**	
EFFECTIVE DATE:	**Bills Rendered on or after 06/01/2016**	**PAGE: 17**

Curtailment Overpull Fee
Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index
In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement
A transportation agreement is required.

Notice
Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions
In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RIDER:	**WNA – WEATHER NORMALIZATION ADJUSTMENT**	
APPLICABLE TO:	**ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS**	
EFFECTIVE DATE:	**Bills Rendered on or after 11/01/2016**	**PAGE: 41**

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification

$WNAF_i$ = Weather Normalization Adjustment Factor for the ith rate schedule or classification expressed in cents per Ccf

R_i = Commodity Charge rate of temperature sensitive sales for the ith schedule or classification.

HSF_i = heat sensitive factor for the ith schedule or classification divided by the average bill count in that class

NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.

ADD = billing cycle actual heating degree days.

Bl_i = base load sales for the ith schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the jth customer in ith rate schedule is computed as:

$$WNA_i = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the jth customer in ith rate schedule.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RIDER:	**WNA – WEATHER NORMALIZATION ADJUSTMENT**	
APPLICABLE TO:	**ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS**	
EFFECTIVE DATE:	**Bills Rendered on or after 11/01/2016**	**PAGE: 42**

Base Use/Heat Use Factors

	Residential		Commercial	
Weather Station	Base use Ccf	Heat use Ccf/HDD	Base use Ccf	Heat use Ccf/HDD
Abilene	10.09	0.1392	98.01	0.6440
Austin	11.21	0.1551	203.36	0.8564
Dallas	13.72	0.2048	189.83	0.9984
Waco	9.89	0.1411	129.75	0.6695
Wichita Falls	11.49	0.1506	122.35	0.5967

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

File Date: March 1, 2016

ATMOS ENERGY CORP., MID-TEX DIVISION
PROPOSED TARIFF STRUCTURE (BEFORE RATE CASE EXPENSE RECOVERY)
TEST YEAR ENDING DECEMBER 31, 2015

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
1	Proposed Change In Rates:		$ 29,603,205		Schedule A						
2	Proposed Change In Rates without Revenue Related Taxes:		$ 27,447,850		Ln 1 divided by factor on WP_F-5.1						
3											
4											
5											
6		Revenue Requirements	Allocations								
7	Residential	$ 338,431,486	77.95%		Per GUD 10170 Final Order						
8	Commercial	84,223,622	19.40%		Per GUD 10170 Final Order						
9	Industrial and Transportation	11,490,316	2.65%		Per GUD 10170 Final Order						
10	Net Revenue Requirements GUD No. 10170	$ 434,145,424									
11											
12											
13											
14											
15											

16 With Proportional Increase all classes but Residential and a 40% residential base charge increase:
17

18		Current	Prospective	Revenues
19				
20	Residential Base Charge	$ 18.56	$ 0.48	$ 8,558,622
21	Residential Consumption Charge	$ 0.09931	$ 0.01540	12,837,933
22	Commercial Base Charge	$ 39.87	$ 1.81	2,662,423
23	Commercial Consumption Charge	$ 0.08020	$ 0.00480	2,662,423
24	I&T Base Charge	$ 697.35	$ 38.03	363,224
25	I&T Consumption Charge Tier 1 MMBTU	$ 0.2937	$ 0.0166	172,167
26	I&T Consumption Charge Tier 2 MMBTU	$ 0.2151	$ 0.0121	139,070
27	I&T Consumption Charge Tier 3 MMBTU	$ 0.0461	$ 0.0026	51,988
28				$ 27,447,850
29				

With Customer Charges Rounded Off and residential base charge increase for 2015 limited to $0.50 per RRM tariff:

	Proposed Change	Proposed Change In Revenues	Proposed Rates	Proposed Revenues
Residential Base Charge	$ 0.52	$ 9,335,278	$ 19.08	$ 339,813,673
Residential Consumption Charge	$ 0.01447	12,061,297	$ 0.11378	94,839,970
Commercial Base Charge	$ 1.83	2,697,162	$ 41.70	61,390,268
Commercial Consumption Charge	$ 0.00474	2,626,475	$ 0.08494	47,065,984
I&T Base Charge	$ 39.65	378,728	$ 737.00	7,039,815
I&T Consumption Charge Tier 1 MMBTU	$ 0.0159	165,150	$ 0.3096	3,215,747
I&T Consumption Charge Tier 2 MMBTU	$ 0.0116	132,888	$ 0.2267	2,597,042
I&T Consumption Charge Tier 3 MMBTU	$ 0.0025	49,955	$ 0.0486	971,117
		$ 27,446,933		$ 556,933,616

File Date: March 1, 2016

ATMOS ENERGY CORP., MID-TEX DIVISION
PENSIONS AND RETIREE MEDICAL BENEFITS ADJUSTMENT
TEST YEAR ENDING DECEMBER 31, 2015

		Shared Services		Mid-Tex Direct			
Line No.	Description	Pension Account Plan ("PAP")	Post-Retirement Medical Plan ("FAS 106")	Pension Account Plan ("PAP")	Supplemental Executive Benefit Plan ("SERP")	Post-Retirement Medical Plan ("FAS 106")	Adjustment Total
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Fiscal Year 2016 Towers Watson Report as adjusted (1), (3)	$ 5,101,680	$ 2,896,450	$ 7,840,683	$ 150,433	$ 4,466,430	
2	O&M Expense Factor (2)	96.41%	96.41%	37.42%	20.77%	37.42%	
3	Fiscal Year 2016 Actuarially Determined O&M Benefits (Ln 1 x Ln 2)	$ 4,918,540	$ 2,792,473	$ 2,933,599	$ 31,249	$ 1,671,119	
4	Allocation to Mid-Tex (2)	40.56%	40.56%	71.52%	100.00%	71.52%	
5	**Mid-Tex Benefits Expense Included in Rates - Proposed** (Ln 3 x Ln 4)	$ 1,995,016	$ 1,132,659	$ 2,098,222	$ 31,249	$ 1,195,248	$ 6,452,393
6							
7	**Mid-Tex Benefits Expense per GUD 10359 and RRM Test Year Ending December 31, 2014 Benchmark (4)**	$ 2,831,859	$ 2,013,260	$ 2,925,600	$ 34,809	$ 2,695,721	$ 10,501,250
8							
9	**Test Year Adjustment (Line 5 minus Line 7)**	$ (836,844)	$ (880,601)	$ (827,379)	$ (3,561)	$ (1,500,472)	$ (4,048,856)
10							
11	Adjustment Summary:						
12	Account 922	$ (836,844)	$ (880,601)	$ -	$ -	$ -	$ (1,717,445)
13	Account 926	-	-	(827,379)	(3,561)	(1,500,472)	(2,331,412)
14	Total (Ln 12 plus Ln 13)	$ (836,844)	$ (880,601)	$ (827,379)	$ (3,561)	$ (1,500,472)	$ (4,048,856)
15							
16							

17 Notes:
18 1. Studies not applicable to Mid-Tex or Shared Services are omitted.
19 2. The factors on Lines 2 and 4 are based on the factors in 2016 RRM (Test Year Ending December 31,2015).
20 3. SSU amounts exclude cost centers which do not allocate to Mid-Tex for rate making purposes.
21 4. GUD No. 10359 is the benchmark for January-May which is the same benchmark as used in the RRM TYE December 31, 2014 for June-December.

ATMOS ENERGY CORP., MID-TEX DIVISION
PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
TEST YEAR ENDING DECEMBER 31, 2015

		Shared Services		Mid-Tex Direct			
Line No.	Description	Pension Account Plan ("PAP")	Post-Retirement Medical Plan ("FAS 106")	Pension Account Plan ("PAP")	Supplemental Executive Benefit Plan ("SERP")	Post-Retirement Medical Plan ("FAS 106")	Adjustment Total
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Fiscal Year 2016 Towers Watson Report (excluding Removed Cost Centers)	$ 5,101,680	$ 2,896,450	$ 7,840,683	$ 150,433	$ 4,466,430	
2	Allocation to Mid-Tex	40.56%	40.56%	71.52%	100.00%	71.52%	
3	FY16 Towers Watson Benefit Costs (excluding Removed Cost Centers) Allocated to MTX (Ln 1 x Ln 2)	$ 2,069,299	$ 1,174,833	$ 5,607,955	$ 150,433	$ 3,194,561	
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%	
5	FY16 Towers Watson Benefit Costs To Approve (excluding Removed Cost Centers) (Ln 3 x Ln 4)	$ 2,069,299	$ 1,174,833	$ 5,607,955	$ 150,433	$ 3,194,561	$ 12,197,081
6							
7							
8	**Summary of Costs to Approve:**						
9							
10	Total Pension Account Plan ("PAP")	$ 2,069,299		$ 5,607,955			$ 7,677,254
11	Total Post-Retirement Medical Plan ("FAS 106")		$ 1,174,833			$ 3,194,561	4,369,394
12	Total Supplemental Executive Retirement Plan ("SERP")				$ 150,433		150,433
13	Total (Ln 10 + Ln 11 + Ln 12)	$ 2,069,299	$ 1,174,833	$ 5,607,955	$ 150,433	$ 3,194,561	$ 12,197,081
14							
15							
16	O&M Expense Factor	96.41%	96.41%	37.42%	20.77%	37.42%	
17							
18	Expense Portion (Ln 13 x Ln 16)	$ 1,995,016	$ 1,132,659	$ 2,098,222	$ 31,249	$ 1,195,248	$ 6,452,393
19							
20	Capital Factor	3.59%	3.59%	62.58%	79.23%	62.58%	
21							
22	Capital Portion (Ln 13 x Ln 20)	$ 74,283	$ 42,174	$ 3,509,733	$ 119,184	$ 1,999,313	$ 5,744,687
23							
24	Total (Ln 18 + Ln 22)	$ 2,069,299	$ 1,174,833	$ 5,607,955	$ 150,433	$ 3,194,561	$ 12,197,081

Staff Report

Youth Programs Standards of Care	
City Council Meeting Date: 5/24/2016	Document Being Considered: Resolution

RECOMMENDATION

Approve a resolution calling for a public hearing on Tuesday, June 7, 2016 at 6:30 p.m. on the adoption of Youth Programs Standards of Care. Organizations desiring to be exempt from day care licensing requirements must adopt annual standards of care.

PRIOR BOARD OR COUNCIL ACTION

Youth Programs Standard of Care for programs managed by the Parks and Recreation Department were originally adopted in 1999. Council most recently adopted the standards on September 15, 2015 by Ordinance 15-045.

ANALYSIS

The Parks and Recreation Department offers a variety of elementary-age programs for children including camps. The Texas Legislature requires that municipal camp programs for elementary aged children (5-13 years old) meet day care licensing requirements, or file for an exemption (Section 42.041[b][14] of the Human Resources Code). In order to receive exempt status, a municipality must submit a copy of the program standards, notice of a public hearing for the program and the ordinance adopting the standards.

Youth Program Standards of Care provide basic child care guidelines for camp programs and other youth activities, while allowing the Department to qualify as exempt from the licensing requirements. Staff has reviewed and monitored these standards since 1999, and no significant changes are noted this year.

The public hearing will be scheduled for Tuesday, June 7, 2016 at 6:30 p.m., prior to the Council's consideration of an ordinance adopting the Standards of Care.

FINANCIAL IMPACT

There is no financial impact associated with this action.

ADDITIONAL INFORMATION

Attached:	Resolution
	Youth Standards of Care Policies
Under separate cover:	None
Available in the City Secretary's Office:	None

STAFF CONTACT(S)

Lemuel Randolph
Director of Parks and Recreation
817-459-5477
lemuel.randolph@arlingtontx.gov

Resolution No. _____

A resolution calling for a public hearing relative to the adoption of Standards of Care for an elementary age recreation program to be operated by the City of Arlington Parks and Recreation Department

WHEREAS, State law establishes requirements for exempting recreational programs operated by municipalities for elementary age (5-13) children from childcare licensing requirements; and

WHEREAS, in order to receive exempt status for an elementary age recreation program, a municipality must adopt standards of care by ordinance after a public hearing for the program; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That a public hearing is hereby called on June 7, 2016, at 6:30 p.m., in the Council Chambers of the Municipal Office Building, 101 West Abram Street, Arlington, Texas, to discuss an elementary age recreation program to be operated by the City of Arlington Parks and Recreation Department, and the adoption of the Standards of Care for the program.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY Eddie Martin

CITY OF ARLINGTON
PARKS AND RECREATION DEPARTMENT
Youth Programs - Standards of Care

I. GENERAL INFORMATION/ADMINISTRATION

(a) Purpose: To provide basic childcare regulations for recreation activities operated by the Arlington Parks and Recreation Department. This will allow the department to qualify for exemption from requirements of the Texas Human Resources Code.

(b) Implementation: Oversight of any youth service programs will be the responsibility of the Parks and Recreation Department. The Center Programs Manager, Athletics Program Manager, Recreation Facility Managers and Recreation Program Coordinators will supervise overall program components while Day Camp Directors will provide direct on-site administration.

(c) Programs: These standards and regulations apply to nine on-going youth programs:
- Christmas Day Camp
- Spring Break Day Camp
- Summer Day Camp
- Teen Camp
- Day Off Day Camp
- After School Programs
- Pre-School Playhouse
- Playtime Pals
- Sport and Mini Camps

(d) Other: Each program location will make available for the public and staff a current copy of the Standards of Care. Copies of the standards of care will also be available on the www.naturallyfun.org website and during the registration process as part of the Parent Handbook.

(e) Program Sites:

Hugh Smith Recreation Center	1815 New York Avenue
Cliff Nelson Recreation Center	4600 W Bardin Road
Dottie Lynn Recreation Center	3200 Norwood Drive
Lake Arlington Meeting Room	6300 W Arkansas Lane
Elzie Odom Athletic Center	1601 NE Green Oaks Blvd
Viridian Lake Club	1200 Viridian Park Lane

(f) Day Camp Objectives
1. To offer a program wide in scope and varied in activities of different recreational activities: sports, games, arts and crafts, education, drama, special events, field trips, tournaments, etc.
2. To provide a pleasant and memorable experience in a loving atmosphere.
3. To provide a safe environment always promoting good health and welfare for all.
4. To teach children how to spend their leisure time wisely, in an effort to meet their emotional, physical and social needs.

(g) Exemption Status: Once an exempt status is established, the Licensing Division of the Texas Department of Protective and Regulatory Services will not monitor the recreational program. The Licensing Division will be responsible for investigating complaints of unlicensed childcare and for referring other complaints to the municipal authorities or, in the case of abuse/neglect allegations, to the Arlington Police Department.

(h) Standards of Care Review
Standards will be reviewed annually and approved by the City Council after a public hearing or after a public online posting for 30 days is held to adopt an ordinance regarding Section 42.041 (b)(14) of the Human Resources Code.

(i) Child Care Licensing will not regulate these programs nor will they be involved in any complaint investigation related to the program.

(j) Any parent, visitor or staff may register a complaint by calling the Arlington Parks and Recreation Administration Office at 817-459-5474, Monday through Friday, 8:00 a.m. to 5:00 p.m.

II. STAFFING

A. Day Camp Director - Job Description and Essential Job Functions

Essential Job Functions:

1. Directs and supervises a day camp program for elementary aged children.
2. Develops and implements a daily camp curriculum under Parks and Recreation guidelines.
3. Responsible for ensuring camp activities are conducted in a safe, cost effective and professional manner.
4. Responsible for procurement of camp supplies, equipment and food items.
5. Responsible for all camp related record keeping.
6. Maintains established camper to staff ratios.
7. Interacts with participants, parents, staff, and supervisors to provide a high quality program.
8. Meets bi-weekly with other day camp supervisors and the Program Coordinator to monitor program during summer.
9. Supervises a staff of 5-30 day camp leaders.
10. Must be able to pass the Motor Vehicles Driver's Check as managed by Workforce Services in order to operate a city vehicle

Qualifications:

1. Must be mature, responsible and able to complete duties with minimal supervision.
2. Must be able to communicate well with the public, and skilled at interacting with children.
3. Must be skilled in supervising children of varying age levels in a group setting.
4. Must possess proof of First Aid and CPR certification prior to start of summer camp.
5. Must have a valid driver's license from state of residence.
6. Must complete any departmental day camp staff training requirements.

7. Must have previous experience supervising children in a day camp setting.
8. Must have previous experience supervising staff.
9. Prefer completion of at least two years of college.
10. Must pass city pre-employment requirements prior to hiring. This includes a criminal background check.

B. Assistant Day Camp Director – Job Description and Essential Job Functions

Essential Job Functions:

1. Assist in directing and supervising a day camp program for elementary aged children.
2. Responsible for ensuring camp activities are conducted in a safe, cost-efficient and professional manner.
3. Responsible for all camp related record keeping.
4. Maintains established camper to staff ratios.
5. Interacts with participants, parents, staff, and supervisors to provide a high quality program.
6. Assists in supervising a staff of 5-30 day camp leaders.
7. Must be able to pass the Motor Vehicles Driver's Check in order to operate a city vehicle

Minimum Qualifications:

1. Must be mature, responsible and able to complete duties with minimal supervision.
2. Must be able to communicate well with the public, and skilled at interacting with children.
3. Must be skilled in supervising children of varying age levels in a group setting.
4. Must possess proof of First Aid and CPR certification prior to start of summer camp.
5. Must have a valid driver's license from state of residence.
6. Must complete any departmental day camp staff training requirements.
7. Must have previous experience supervising children in a day camp setting.
8. Must have previous experience supervising staff.
9. Prefer completion of at least two years of college.
10. Must pass city pre-employment requirements prior to hiring. This includes a criminal background check.

C. Day Camp Leader - Job Description and Essential Job Functions

Essential Job Functions:

1. Implements and monitors a day camp program for elementary aged children.
2. Supervises and interacts with camp participants in a wide variety of recreational activities.
3. Responsible for ensuring daily camp activities are conducted in a safe, professional manner.
4. Responsible for communicating needs to camp supervisor.
5. Responsible for interacting with camp participants, parents and supervisors to provide a high quality program.
6. Responsible for maintaining facility appearance during and after camp activities.
7. Responsible for reporting any incidents to camp supervisor.

Minimum Qualifications:

1. Must be mature, responsible and able to complete duties with minimal supervision.
2. Must be able to communicate well with the public, and skilled at interacting with children.
3. Must be skilled in supervising children of varying age levels in a group setting.
4. Must have First Aid and CPR certification prior to start of summer camp.
5. Prefer a valid driver's license from state of residence.
6. Must complete departmental day camp staff training.
7. Must pass city pre-employment requirements prior to hiring. This includes a criminal background check.
8. Knowledge of recreational games, crafts and activities.
9. Prefer completion of at least two years of college.

(a) **Other Requirements**

1. Staff must complete the mandatory training program of at least eight hours, in addition to planning hours with site staff prior to the start of summer camp. This training includes a departmental orientation, customer service, behavioral issues and discipline, as well as practical skills on activities for children to include games, songs, crafts and sports.
2. Staff must complete three hours of approved Child Safety Sexual Abuse Prevention training prior to the start of summer. If hired midsummer, they must complete the training before working with children.
3. Staff must exhibit competency, good judgment and self-control throughout the duration of the camp.
4. Staff should relate to the children with courtesy, respect, acceptance and patience.
5. Staff will be evaluated at least once before the completion of the program, and visited with before the program is over to discuss any areas that should be addressed to insure employment in a following camp.
6. Staff shall not abuse or neglect children.

(b) **Criminal Background Checks**

Criminal background checks will be conducted on prospective day camp and after school employees. Applicants may be disqualified if they have a job related criminal conviction.

(c) **Drug Testing**

A prospective employee will be subject to a drug test prior to hiring. Positive drug results may exclude an applicant from employment.

(d) **Staffing Ratios**

The staff ratio will be one staff member per 15 children, ages 5-13.

III. FACILITY STANDARDS

(a) Emergency evacuation and participant relocation plans will be posted at each facility.

(b) Program employees will inspect sites frequently for any sanitation or safety concerns. Those concerns should be passed on to the Facility Manager.

(c) Each camp must have a fully stocked and update to date first aid kit. This shall be checked and stocked on a weekly basis by the Facility Manager. It shall include bandages, first aid cream, rubber gloves, alcohol wipes, cold packs, gauze, tweezers and scissors.

(d) In a situation where evacuation is necessary, the first priority of staff is to make sure all participants are in a safe location.

(e) Program sites will be inspected annually by the Fire Marshall. Each Facility Manager is responsible for compliance with Fire Marshall's directives.

(f) The recommended number of fire extinguishers shall be inspected quarterly and available and "primed" for use.

(g) Fire drills should be conducted once a month during the summer camp.

(h) Prescription medication will only be distributed with written parental consent. Prescription medications shall be left with staff in their original container, labeled with the child's name, date, directions and physician's name. Medication shall be dispensed only as stated on the container and not past the expiration date.

(i) Non-prescription medicine with the child's name and date on the container may be brought if in the original container. Non-prescription medicine will only be administered with written consent from a parent or legal guardian.

(j) All medications, prescription or non-prescriptions will be given to the child at the appropriate time as indicated by the parent. Only medications that can be self-administered by the child will be allowed in the camp program.

(k) Each indoor site shall have adequate indoor toilets and lavatories located such that children can use them independently and program staff can supervise as needed. There shall be one flush toilet per 30 children. Outdoor sites shall provide portable toilets based on number of children attending each day. Hand wash sinks shall be provided based on one sink per 30 children.

(l) All participants must be fully capable of all essentially toiletry and hygiene needs in order to be registered for the camp programs.

(m) All participants must wear appropriate footwear daily. Sandals and "flip flops" will be allowed only in swimming pool areas.

IV. SERVICE STANDARDS - Staff

This information will be provided to each staff as a part of the day camp manual:

(a) Camp staff shirts, shorts and appropriate footwear are to be worn at all times.

(b) City issued employee ID's should be worn and clearly visible.

(c) Camp participants and parents will be treated with respect at all times.

(d) Camp staff will take it upon themselves to resolve complaints. Do not refer a customer to another staff person. If you are unable to resolve the complaint on

the spot, take the customer's name and phone number, investigate complaint resolution and then follow up with the customer. An email, note or survey form should be filled out whenever a complaint or compliment is received.

(e) Camp staff will keep parents continuously informed of camp activities. A weekly schedule will be available the week prior to session and extra copies will be kept with the sign in log daily.

(f) Camp staff will note details of behavior of campers (accomplishments, discipline problems, general activities, etc.) and update parents as much as possible.

(g) Camp staff will monitor the sign in/out log at all times.

(h) Camp staff shall clean rooms after each activity. Floors will be swept or vacuumed, chairs stacked, mirrors cleaned, and supplies put away. This is extremely important due to the fact that rooms are used throughout the day by other groups.

(i) Camp staff will dedicate their on-duty time to campers and/or parents to ensure a meaningful and pleasant experience.

(j) Prior to working with campers, camp staff will check all messages for the day.

(k) A Certified Lifeguard with Water Front Certification will be present at all times when staff or program participants are in or around any open body of water such as Lake Arlington or Lake Viridian. This includes but not limited to kayaking, paddle boarding, canoeing, sailing, and fishing.

V. OPERATIONAL ISSUES

(a) Emergency phone numbers are kept at the front desk of the facilities, as well as with the Day Camp Director on field trips. Those numbers include emergency services.

(b) A Day Camp manual is given to every Day Camp Director, Assistant Day Camp Director, Day Camp Leader and full time Program Coordinator. The manual addresses the following items:

1. Discipline Issues
2. City Rules and Regulations
3. Forms that must be filled out
4. Service Standards
5. Games/activities/leadership
6. Ways to interact with children

Additional manuals will be located at each site for access by any staff member.

(c) Sign in-sign out sheets will be used every day. Only adults listed on sign-in/out release will be allowed to pick up children. An authorized person must enter the building, present appropriate identification and sign the sheet in order for staff to release the child.

(d) Emergency evacuation and relocation plans will be posted at each facility.

(e) Parents will be notified regarding planned field trips and provided the required release forms.

(f) Enrollment participant information forms will be kept and maintained on each child and shall include:

1. Child's name, birth date, home address, home telephone number, physician's phone number and address and phone numbers where parents may be reached during the day.
2. Name, driver's license number and telephone numbers of persons to whom the child can be released.
3. Field trip release form as needed.
4. Liability waiver.
5. Parental consent to distribute medication, medical information and release on participant.

(g) Staff shall immediately notify the parent or other person authorized by the parent when the child is injured or has been involved in any situation that placed the child at risk.

(h) Staff shall notify parents or authorized persons of children in the facility when there is an outbreak of a communicable disease in the facility that requires reporting to local health officials and Tarrant County Public Health. Staff must notify the parents of children in a group when there is an outbreak of lice or other infestation in the group.

(i) Discipline:

1. Discipline and guidance of children must be consistent and based on an understanding of individual needs and development.
2. There shall be no harsh, cruel or unusual treatment.
   - Corporal punishment will not be tolerated in any form.
   - Children shall not be physically disciplined, i.e. shaken, bit, hit or have anything put in or on their mouth as punishment.
   - Children shall not be humiliated, yelled at or rejected.
   - Children shall not be subjected to intimidating or profane language.
   - Punishment shall not be associated with food.
   - Staff may use brief, supervised separation from the group if necessary, but staff shall not place children in any room with the door closed.
3. Incident reports will be filled out on any disciplinary cases, and information is to be shared with parents when picking up the child or sooner, if necessary. Continued disciplinary problems may result in the participant being asked to leave the program.
4. Children who show patterns of endangerment to themselves, other participants or staff will be asked to leave the program in the direct company of a parent or guardian.

(j) Illness or Injury

1. Participants shall have and maintain immunizations in accordance with those required by the Texas Department of State Health Services for public school attendance according to age.
2. Parents shall be notified immediately in cases of illness or injury involving their child or children.

3. An ill child will not be allowed to participate if the child is suspected of having a temperature and/or observed behavior changes or other signs or symptoms until medical evaluation indicates that the child can be included in the activities. In the event an injury cannot be administered through basic first aid, staff will call 911.
4. When an injury occurs, an incident report shall be filled out immediately. The form shall be filled out completely with the original sent to the Division Manager's office and a copy kept in the Day Camp files.

VI. GENERAL GUIDELINES FOR CHILDREN

As a part of the Day Camp Manual, staff will be given the following information:

(a) A child is not allowed to use the phone unless it is an emergency. In this case, Day Camp staff should make the call for the child.

(b) Children must stay off any elevated surfaces (tables, counter tops, etc.)

(c) Children should walk in the building. Running is permitted only in designated areas.

(d) Bouncing and throwing balls is permitted only in authorized areas.

(e) Active games using equipment that can cause damage to window, shades, lights, and ceilings must be played only in the gym.

(f) Children must respect staff and each other.

(g) Children must wear appropriate footwear at all times.

(h) Children must be closely monitored and not allowed to mix in with the general public. You must know where each and every child is AT ALL TIMES.

VII. ACTIVITIES

(a) Activities for each group will be planned according to the participant age, interest and ability. The activities should be flexible and promote social and educational advancement.

(b) A weekly calendar of activities will be posted for parents the Friday prior to that week of camp.

(c) When taking field trips, staff will:
1. Count everyone before they leave the program site as well as prior to leaving the field trip site.
2. Carry medical information on each child and necessary medications with them on the trip.
3. Carry a first aid kit.
4. Carry a cellular phone for emergency use.
5. Encourage participants to wear camp shirts so they are easily identified.

VIII. MONITORING AND ENFORCEMENT

Standards of care established by the City of Arlington will be monitored and enforced by city departments responsible for their respective areas as identified:

(a) Health and safety standards will be monitored and enforced by the city's Police, Fire, and Code Compliance Departments.

(b) Staff performance/behavior and program function will be monitored and enforced by the Arlington Parks and Recreation Department. The Center Programs Manager and

the Athletic Programs Manager shall visit each site on a weekly basis for an informal inspection of the programs. Facility Managers and Program Coordinators are responsible for informally visible checking the camp activities on a daily basis. When this staff is not available, another full-time staff person will be assigned for daily checks.

Questions about these Standards of Care should be directed to:

Krissy Crosier, Center Programs Manager
Arlington Parks and Recreation Department
717 W Main Street
Arlington, TX 76013-1855
817-459-6499
Krissy.crosier@arlingtontx.gov

Wendy Parker, Athletic Programs Manager
Arlington Parks and Recreation Department
717 W Main Street
Arlington, TX 76013-1855
817-459-5482
wendy.parker@arlingtontx.gov

Staff Report

Ballpark Complex Project	
City Council Meeting Date: 05-24-16	Documents Being Considered: Resolutions

RECOMMENDATIONS

Consider a resolution designating and providing for the Texas Rangers Complex Development Project as a sports and community venue project and designating the methods of financing the Texas Rangers Complex Development Project.

Consider a resolution authorizing the execution of a Master Agreement for the Ballpark Complex Project.

PRIOR BOARD OR COUNCIL ACTION

None

ANALYSIS

With the expiration of the current lease for Globe Life Park set to occur in April 2024, the City of Arlington and Rangers Baseball, LLC (the Team) have begun to explore options for the future of the Texas Rangers baseball franchise in Arlington.

The Team has expressed interest in a new, retractable-roof ballpark. In order to fund the public portion of financing for such a facility, the City would need to call an election for November 8, 2016 to ask the voters for approval of venue taxes for that purpose.

To call an election to allow the voters to consider approval of the Texas Rangers Complex Development Project as a sports and community venue project and methods of financing authorized under Texas Local Government Code Chapter 334, the City Council must first pass a resolution that describes the venue project and that designates the proposed methods of financing. The resolution must be submitted to the State Comptroller of Public Accounts who performs a State fiscal impact analysis based on information provided in the resolution. If the Comptroller determines that the proposed methods of financing the sports and community venue project will not have a significant negative fiscal impact on State revenue, the City Council may call an election on the proposed venue project and methods of financing.

The City and the Team have established parameters surrounding the requirements, duties, and responsibilities of each party in developing the Ballpark Complex Project. The Master Agreement will provide the foundation for the relationship between the City and the Team and the associated project documents required to develop the Ballpark Complex.
The Master Agreement contemplates that the Ballpark Complex would include a new, retractable-roof ballpark that would seat at least 38,000 and contain office space for the Team. The Team would execute a Non-Relocation Agreement that would commit the Team to play in Arlington until January 1, 2054. If voters approve the funding of the Ballpark Complex, the Team could begin playing in the new ballpark as early as the 2020 season.

The Ballpark Complex is estimated to cost $1 billion, with the City contributing no more than $500 million via proceeds from bonds backed by venue taxes and rent. Proposed venue taxes would include a half cent sales tax, a two percent hotel occupancy tax, and a five percent car rental tax. These proposed venue taxes would be collected at the same rate as they are today for the City's repayment of the outstanding AT&T Stadium bonds, so there would be no tax increase necessary to fund the Ballpark Complex. The annual rent paid for

the Ballpark Complex by the Team to the City of Arlington would be $2 million. The Team would contribute at least $500 million to the Ballpark Complex and associated elements, and would be responsible for all cost overruns.

The proposed Ballpark Complex would be built on what is now a parking lot south of Randol Mill Road and west of Stadium Drive. The City and the Team are discussing the future of the current ballpark, Globe Life Park in Arlington, with options including office development, park space, parking and a possible extension to the Texas Live! project. Ultimately, the Team will have the final decision on what to do with Globe Life Park in Arlington.

The Arlington Convention and Visitors Bureau commissioned an independent consulting group to provide an analysis of the economic impact of the Texas Rangers franchise on Arlington. HR&A Advisors found that the annual economic impact of the Rangers in a new ballpark would be $77.5 million for Arlington and $137.6 million for Tarrant County. According to HR&A's analysis, the net present value of the Rangers continued presence between 2016-2054 with a new ballpark would be $2.53 billion for Arlington and $4.49 billion for Tarrant County.

ADDITIONAL INFORMATION

Attached:	Resolution designating and providing for the Texas Rangers Complex Development Project as a sports and community venue project
	Resolution authorizing execution of Master Agreement
	Economic and Fiscal Impact Analysis of the Texas Rangers in Arlington and Tarrant County
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACTS

Trey Yelverton
City Manager
817-459-6101
Trey.Yelverton@arlingtontx.gov

Teris Solis
City Attorney
817-459-6878
Teris.Solis@arlingtontx.gov

Resolution No. _____

A resolution designating and providing for the Texas Rangers Complex Development Project as a Sports and Community Venue Project and designating the methods of financing the Texas Rangers Complex Development Project pursuant to Chapter 334, Texas Local Government Code

WHEREAS, if approved at an election, the City Council (the "Council") of the City of Arlington (the "City") intends to plan, acquire, establish, develop, and construct a Sports and Community Venue Project under the authority and subject to the provisions of Chapter 334, Texas Local Government Code (the "Act"); and

WHEREAS, this resolution is adopted pursuant to the requirements of and in conformity with Section 334.021 of the Act; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

The Council hereby designates, and, subject to approval at an election, authorizes a Sports and Community Venue Project within the City of the type described and defined in Section 334.001(4)(A) of and permitted by the Act. This Sports and Community Venue Project is described in summary form as follows:

> A multi-purpose and multi-functional stadium, coliseum, community and entertainment venue that is planned for use for one or more professional or amateur sports events, including the professional baseball games of the Texas Rangers, a member team of Major League Baseball, and related infrastructure, as defined in the Act. For the purposes of this resolution, this venue project is known as the "Texas Rangers Complex Development Project."

II.

The Council designates the following methods of financing as the methods of financing the City wants to use to finance the Texas Rangers Complex Development Project:

A. A sales and use tax on retail sales and transactions within the City at a rate of one-half of one percent (0.5%) as and to the extent authorized by Subchapter D of the Act;

B. A tax at a rate not to exceed five percent (5%) on the gross rental receipts from the short-term rental in the City of a motor vehicle, as and to the extent authorized by Subchapter E of the Act; and

C. A tax on the occupancy of a room in a hotel located within the City, at a rate not to exceed two percent (2%) of the price paid for such room, as and to the extent authorized by Subchapter H of the Act.

D. The imposition of a tax, not to exceed three dollars ($3.00) on each parked motor vehicle parking in a parking facility of The Texas Rangers Complex Development Project, as and to the extent authorized by Subchapter G of the Act.

E. The imposition of a tax on each ticket sold as admission to an event held at The Texas Rangers Complex Development Project, at a rate not to exceed ten percent (10%) of the price of the ticket sold as admission, as and to the extent authorized by Subchapter F of the Act.

III.

The City Manager or his designee is authorized and directed to send a copy of this resolution to the State Comptroller of Public Accounts (the "Comptroller"), together with other information as may be requested by the Comptroller, for a determination regarding whether the implementation of this resolution will have a significant negative fiscal impact on State revenue.

IV.

The City Manager or his designee shall place on the Council's agenda an Ordinance calling an election under Section 334.024 of the Act on the question of approving and implementing the resolution upon the first of the following to occur: (1) receiving written notice from the Comptroller that implementation of this resolution will not have a significant negative fiscal impact on State revenue; or (2) the expiration of thirty (30) days from the date the Comptroller receives a copy of this resolution, if no such written notice is provided by the Comptroller.

V.

If the methods of financing described in Section II are approved at the election ordered by the City, as contemplated in Section IV, the Council, by resolution, shall establish City Project Fund as the venue project fund required by Section 334.042 of the Act. All proceeds from each such tax, and other revenue received by the City from the Texas Rangers Complex Development Project to the extent directed by the Council, shall be deposited to such fund and shall be used exclusively for the purposes permitted in Section 334.042 of the Act.

VI.

This resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City, and it is accordingly so resolved.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY _____

Resolution No. _____

A resolution authorizing the City Manager or his designee to execute a Master Agreement by and between Rangers Baseball, LLC and the City of Arlington, Texas relative to the Ballpark Complex Project

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That the City Manager or his designee is hereby authorized to execute a Master Agreement with Rangers Baseball, LLC relative to the Ballpark Complex Project.

II.

A substantial copy of the Master Agreement is attached hereto and incorporated herein for all intents and purposes.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY_____

MASTER AGREEMENT REGARDING

BALLPARK COMPLEX PROJECT

Between

CITY OF ARLINGTON

And

RANGERS BASEBALL LLC

Dated as of May 24, 2016

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

Section 1.1. Recitals....3
Section 1.2. Definitions....3

ARTICLE II

THE BALLPARK COMPLEX DEVELOPMENT

Section 2.1. Affiliated Team Parties....11
Section 2.2. Development of the Ballpark Complex....11
Section 2.3. Ownership of the Ballpark Complex, Exemptions from Ad Valorem Taxes, and Sales Taxes During Construction....12
Section 2.4. Design and Construction of The Ballpark Complex....13
Section 2.5. Architect and Engineers....13
Section 2.6. General Contractor....14
Section 2.7. City Participation in Designing Ballpark Complex....14
Section 2.8. City Permits and Inspectors....15
Section 2.9. Contractor Assurances....15
Section 2.10. Construction Contracts....15
Section 2.11. Additional Requirements....16
Section 2.12. Naming Rights, Sponsors and Signage....18
Section 2.13. Temporary Sponsorships or Advertising....18
Section 2.14. Intellectual Property Rights....19
Section 2.15. Stadium Builders Licenses....19

ARTICLE III

COSTS AND FINANCING OF THE BALLPARK COMPLEX

Section 3.1. The Ballpark Complex Costs....19
Section 3.2. Project Budget and Master Plan....22
Section 3.3. City Project Fund and Cost Account....22
Section 3.4. Team Project Cost Account....24
Section 3.5. Disbursement Account....24
Section 3.6. Disbursements To Pay Project Costs....24
Section 3.7. City's Funding Commitment....26
Section 3.8. Team's Funding Commitment....26
Section 3.9. Timing of Financing....28
Section 3.10. Right to Audit....28
Section 3.11. Certain Tax Matters....29

ARTICLE IV

THE LAND

Section 4.1. The Ballpark Complex Site....29
Section 4.2. Land Acquisition....29
Section 4.3. Streets....30
Section 4.4. Parking Requirements....30

ARTICLE V

LEASE AND NON-RELOCATION MATTERS

Section 5.1. Team Lease....30
Section 5.2. Non-Relocation Agreement....32
Section 5.3. Community Events....32
Section 5.4. Rangers Corporate Headquarters and Executive Offices....33
Section 5.5. MWBE/Local Business....33
Section 5.6. Development Property Lease, Development Option Agreement, and Convention Center Parking Agreement....34
Section 5.7. Memorial Elements....34

ARTICLE VI

GLOBE LIFE PARK IN ARLINGTON

ARTICLE VII

CONDITIONS

Section 7.1. Conditions to the City's Obligations....34
Section 7.2. Conditions to the Team's Obligation....35

ARTICLE VIII

TERMINATION

Section 8.1. Termination....36
Section 8.2. Termination Procedure....37
Section 8.3. Termination Upon Execution of Project Documents....37

ARTICLE IX

MISCELLANEOUS

Section 9.1. Further Agreements....37
Section 9.2. Governing Law....37

Section 9.3. Compliance with Laws. 38
Section 9.4. Venue for Actions. 38
Section 9.5. Taxes. 38
Section 9.6. Force Majeure. 38
Section 9.7. Representatives. 38
Section 9.8. Obligations to Defend Validity of Agreement. 39
Section 9.9. Exclusive Dealing. 39
Section 9.10. Confidentiality. 39
Section 9.11. Successors and Assigns. 39
Section 9.12. Entire Agreement: Amendment. 39
Section 9.13. Waiver. 40
Section 9.14. MLB Rules and Regulations Subordination 40
Section 9.15. Notices. 40
Section 9.16. Delays or Omissions. 40
Section 9.17. No Joint Venture. 41
Section 9.18. Counterparts. 41
Section 9.19. Titles and Subtitles. 41
Section 9.20. Notice and Cure. 41

EXHIBIT A Preliminary Site Map

EXHIBIT B Ballpark Complex Elements

EXHIBIT C Preliminary Ballpark Complex Budget

MASTER AGREEMENT REGARDING BALLPARK COMPLEX PROJECT

THIS MASTER AGREEMENT REGARDING BALLPARK COMPLEX DEVELOPMENT PROJECT (this "Agreement") is entered into as of May 24, 2016, by and between the CITY OF ARLINGTON, TEXAS, a duly incorporated home rule city of the State of Texas (the "City"), and RANGERS BASEBALL LLC, a Delaware limited liability company, (the "Team").

W I TN E S S E T H:

WHEREAS, Rangers Baseball LLC, as the owner of a professional baseball club that is currently known as the "Texas Rangers" and that is in good standing as a member club of Major League Baseball, has determined that it is in the best interests of the Team and its fans to play Texas Rangers' Scheduled Home Games in the Ballpark Complex to be located within the City on a portion of Land; and

WHEREAS, the Team intends that the Ballpark Complex will be constructed as a first-class facility on a par with other comparably-sized, municipally-owned, multi-use outdoor/indoor sports and community venue projects recently constructed in North America, and, although designed and constructed primarily for use as the home field of the Team, the Ballpark Complex will be designed to accommodate at least 38,000 persons for indoor or outdoor professional, college and amateur baseball games, will accommodate the Team's corporate and executive offices and will be reasonably capable of temporary reconfiguration for other types of indoor or outdoor sports and entertainment events; and

WHEREAS, subject to the performance by the City of its undertakings described herein, the Team has agreed to execute the Non-Relocation Agreement to designate the Ballpark Complex as the home field of the Texas Rangers for at least a 30-year period commencing in the first full year after completion of construction of the Ballpark Complex and to play all of the Texas Rangers' Scheduled Home Games in the Ballpark Complex thereafter through January 1, 2054; and

WHEREAS, pursuant to the authority granted to the City in Chapter 334, Local Government Code, as amended (the "Act"), and in consideration of the undertakings of the Team contained herein and the other agreements described herein and of the continuing economic benefits to be derived therefrom by the City and its citizens, the City, if authorized by its citizens at the Election called and held in accordance with the Election Ordinance, has agreed to join with the Team in the financing and development of the Ballpark Complex and to share in the costs thereof to the extent provided in and in accordance with the terms of this Agreement and the other contracts and agreements referred to or incorporated herein or contemplated hereby; and

WHEREAS, if a majority of the City's voters who cast votes in the Election shall have voted in favor of the proposition, then, in such event, the City and the Team have agreed to use diligent good faith efforts to agree to and approve the Project Documents necessary to pursue the Ballpark Complex; and

WHEREAS, in the event that such Project Documents have not been fully negotiated and approved on or before the Project Documents Deadline then either party may terminate this Agreement pursuant to the terms of Article VIII herein; and

WHEREAS, upon the approval and execution of the Project Documents on or before Project Documents Deadline, then this Agreement shall terminate and the Project Documents shall control and shall supersede the terms and provisions of this Agreement; and

WHEREAS, the Team currently estimates that the Ballpark Complex Budget will be approximately $1,000,000,000 (One Billion Dollars), subject to subsequent adjustments based on the ultimate preparation costs and the completion of final design and architectural plans and final construction costs for the Ballpark Complex; and

WHEREAS, the City, if authorized at the Election, has agreed to pay for a portion of the Project Costs (as hereinafter defined) of the Ballpark Complex in an amount equal to but no more than $500,000,000 (Five Hundred Million Dollars), subject to the financing provisions herein, and not including any costs of defeasance of the Outstanding Bonds, which amount shall be funded out of the Available Bond Proceeds of one or more series of the Ballpark Complex Bonds, as described in Section 3.7(a) hereof to be issued by the City in accordance with the Act; and

WHEREAS, as consideration for the use and occupancy of the Ballpark Complex and in addition to all other amounts for all purposes required to be paid and expended by the Team under this Agreement and the Project Documents, the Ballpark Tenant will pay or cause to be paid to the City the Base Rent commencing on the Rent Commencement Date and annually throughout the Initial Term and any renewal terms of the Ballpark Complex Lease; and

WHEREAS, a portion of the Initial Construction Costs and Operations and Maintenance Costs of the Ballpark Complex shall be paid from the sale of Stadium Builder Licenses by the City; and

WHEREAS, the share of the costs of the Ballpark Complex to be provided by the Team shall be obtained and provided by the Team from any sources determined by the Team, including but not limited to the private funds and sources described herein; and

WHEREAS, any portion of the Initial Construction Costs of the Ballpark Complex not funded by the methods described in the previous recitals may, at the option of the Team, be obtained through "Incremental Funding," as described in Section 3.8(g) hereof, that will be secured by and payable solely from one or more of the following and other user sources as more fully detailed in the Project Documents: (i) the Additional Rent paid to the City, and (ii) if authorized at the Election and in accordance with the Act, (A) the Admissions Tax; (B) the Parking Tax and (C) any other private sources, as determined by the Team, and pursuant to the rights and options reserved to the Team in Section 3.8(g) hereof, all to be done without recourse to the City; and

WHEREAS, this Agreement sets forth the preliminary plan of the City and the Team regarding the financing and development of the Ballpark Complex, and the parties have agreed

subject to the terms of the Project Documents to complete and implement the financing and development plan consistent with the terms of this Agreement and the Project Documents as soon as practicable following the approval of the Project Documents if the proposition submitted pursuant to the Election Ordinance is approved by the voters at the Election;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged and confessed by each of the parties hereto, the City and the Team have agreed and do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Recitals. The findings set forth in the recitals of this Agreement are hereby found to be true and correct.

Section 1.2. Definitions. When used in this Agreement with an initial capital letter or letters, each of the following terms shall have the meaning given it below.

"Act" means Chapter 334, Texas Local Government Code, as amended.

"Additional Costs" means those costs of the Ballpark Complex that may not be funded from Tax Revenues in the City Project Fund, as more specifically described in Section 3.1(b) herein.

"Additional Rent" means cash or surcharge or rent payable to the City that is collected in addition to the Base Rent and is required to support the Incremental Funding.

"Additional Services" means public safety services provided by the City for the Ballpark Complex that are in addition to the Base Services, such services to be paid by the Team.

"Admissions Tax" means a tax on each ticket sold for admission to an event at the Ballpark Complex, at a rate not to exceed 10% of the price of a ticket sold.

"Affiliate" means any entity owned by the Team or owners of membership interests in the Team, or any other entity that directly or indirectly controls, is controlled by, or is under common control with the Team or such owners.

"Agreement" means this agreement.

"Architect" means the architect(s) designing the Ballpark Complex who meets the requirement of Section 2.5 herein.

"Assignee" means any entity to which the Team assigns its rights under the Agreement.

"Available Bond Proceeds" means the proceeds of the Ballpark Complex Bonds, net of financing costs, expenses, reserve funds or other deposits required by the Ballpark Complex Bonds.

"Ballpark Complex" means a flexible, retractable roof, multi-functional stadium, coliseum, sports and community venue project to be located within the City at which the Team will play the Scheduled Home Games.

"Ballpark Complex Bonds" means the City's debt obligations, issued simultaneously or at different times, in one or more series, on a taxable and/or tax-exempt basis, to fund the City Contribution which are secured by Tax Revenues and/or Base Rent. The term "Ballpark Complex Bonds" shall not include any Incremental Funding.

"Ballpark Complex Budget" means the written preliminary budget setting forth the aggregate amount of the Project Costs and Additional Costs and identifying to the extent practicable and in reasonable detail each material cost item for the construction of the Ballpark Complex.

"Ballpark Complex Elements" means those required elements and features of the Ballpark Complex as set forth in Exhibit B.

"Ballpark Complex Lease" means the lease agreement between the City and the Ballpark Tenant concerning the Ballpark Complex.

"Ballpark Complex Site" means that portion of the Land on which the Ballpark Complex is to be constructed.

"Ballpark Tenant" means the Team's Affiliate which executes the Ballpark Complex Lease as tenant.

"Base Rent" means the amount of $2,000,000 (Two Million Dollars) paid to the City annually, a portion of which is to be derived from the proceeds received by the Team or its Affiliates from the sale of the naming rights for the Ballpark Complex as described in Section 2.12 herein, commencing on the Rent Commencement Date and annually throughout the Initial Term thereto, of the Ballpark Complex Lease. During the term of any renewal of the Ballpark Complex Lease, the Base Rent shall be $1,000,000 (One Million Dollars); provided, however that such Base Rent may be increased pursuant to Section 5.1(e) herein.

"Base Rent Excess Revenues" means Base Rent paid to the City not necessary for the payment of debt service or for funding reserves for the Ballpark Complex Bonds.

"Base Services" mean the public safety services provided by the City and paid by the Team for the Ballpark Complex as set forth in a public safety operations and staffing plan entered into pursuant to Section 5.1(l) herein.

"BOC" means the Office of the Commissioner of Baseball, an unincorporated association comprised of the Major League Clubs who are party to the Major League Constitution, and any successor organization thereto.

"BPP" means Ballpark Parking Partners LLC.

"Capital Improvement Costs" means any renovations, additions, repair or capital improvements other than Operations and Maintenance Costs.

"Centerfield Lease" means that lease agreement between the City and Rangers Baseball Real Estate, LLC as tenant, with respect to the offices located within Globe Life Park in Arlington in which the Team offices, as well as additional tenants, are currently located.

"City" means the City of Arlington, Texas.

"City Contribution" means the combined proceeds of the issuance of the Ballpark Complex Bonds, net of all costs and expenses of financing the Ballpark Complex Bonds (including any reserve funds or other deposits required by the Ballpark Complex Bonds but not including any reimbursement to the Team for the costs to defease the Outstanding Bonds) in one or more series, on a taxable and/or tax-exempt basis, the proceeds of which are to be used to construct the Ballpark Complex; provided however, that the City shall not be obligated to contribute more than $500,000,000 in Available Bond Proceeds.

"City Debt Service Account" means the account or fund established by the documents authorizing the Ballpark Complex Bonds in to which Tax Revenues are deposited to pay debt service on the Ballpark Complex Bonds.

"City Designee" means the City Manager of the City or such other person as may be designated by the City Manager as his representative and designee for the construction of the Ballpark Complex and the administration of the Project Documents.

"City Project Fund" means the venue project fund established by the City for the Ballpark Complex, pursuant to Section 334.042 of the Act and as described in Section 3.3 herein.

"City Project Cost Account" means the account within the City Project Fund into which the City Contribution shall be deposited pursuant to Section 3.3(c) herein and pursuant to the documents authorizing the Ballpark Complex Bonds.

"Commissioner" means the Commissioner of Baseball as elected under the Major League Constitution or, in the absence of a Commissioner, any Person succeeding to the powers and duties of the Commissioner pursuant to the Major League Constitution.

"Convention Center Parking Agreement" means that agreement between the City and the Team concerning parking for Ballpark Complex events at the City's convention center.

"Cost Overruns" means those Project Costs in excess of the City Contribution and the Team Contribution for the development, design and construction of the Ballpark Complex for which the Team shall be responsible.

"Development Option Agreement" means that agreement between the City and BPP concerning land subject to the Development Property Lease which grants BPP the right to take title to that land for the purpose of economic development.

"Development Property Lease" means that lease agreement between the City and BPP concerning land owned by the City surrounding the Ballpark Complex.

"Disbursement Account" means an account established by the Team into which funds are transferred from the City Project Cost Account and the Team Project Cost Account to fund Project Costs, as set forth in Section 3.5 herein.

"Election" means that venue election to be held pursuant to the Act on November 8, 2016 authorizing the Ballpark Complex as a venue project under the Act.

"Election Ordinance" means that certain ordinance to be approved by the City Council of the City authorizing and ordering an election to be held pursuant to the Act for the approval of the Ballpark Complex as a venue project under the Act and authorizing the Sales Tax, Motor Vehicle Tax, Hotel Occupancy Tax, Admissions Tax and Parking Tax at the rates described therein.

"Entertainment District" means the City's Tax Increment Financing District #5.

"Excess Tax Revenues" means the annual Tax Revenues, if any, received by the City but not required for the annual debt service payments on the Ballpark Complex Bonds.

"Existing Ballpark Lease" means the lease agreement between the City and the Team pertaining to Globe Life Park in Arlington.

"General Contractor" shall mean that contractor selected by the Team to construct the Ballpark Complex.

"Hotel Occupancy Tax" means the 2% (Two Percent) tax authorized by the Election levied pursuant to Subchapter H of the Act on persons occupying hotel rooms within the City.

"Incremental Funding" means non–recourse special revenue bonds issued by the City, at the request of the Team, the net proceeds of which shall be used to pay for the Initial Construction Costs of the Ballpark Complex, and which will constitute a part of the Team Contribution.

"Incremental Tax Revenues" means the revenues derived by the City, net of the costs of collection, from the Parking Tax and the Admissions Tax.

"Independent Auditor" means an accountant or accounting firm which, in the connection with working for the Team and City, satisfies the criteria for an "independent" certified public accountant set forth in Rule 2-01 of Regulation S-X promulgated by the United States Securities and Exchange Commission. The fees and expenses of the Independent Auditor shall by a Project Cost.

"Initial Construction Costs" means the costs expended to design, develop and construct the Ballpark Complex through initial occupancy.

"Initial Team Contribution" means the amount of $50,000,000 (Fifty Million Dollars) paid by the Team as set forth in Section 3.6(d) for the payment of Project Costs relating to development, design and site preparation of the Ballpark Complex incurred prior to the issuance of the Ballpark Complex Bonds, the total amount of which and the timing of such contribution shall be in the sole discretion of the Team.

"Initial Term" means the term of the Ballpark Complex Lease commencing on the Rent Commencement Date and ending on January 1, 2054.

"International Play" means any baseball-related tour, game, clinic or competition that is initiated by Major League Baseball or the Major League Baseball Players Association and which is staged (a) outside of the United States and the province of Ontario, Canada, or (b) within or without the United States against a foreign club or clubs.

"Land" means the land set forth in Exhibit A which contains the Ballpark Complex Site.

"Major League Baseball" or "MLB" means, depending on the context, any or all of (i) the BOC, each other MLB Entity and/or all boards and committees thereof, including, without limitation, Executive Council, and/or (ii) the Major League Clubs acting collectively.

"Major League Baseball Club" or "Major League Club" shall mean any professional baseball club that is entitled to the benefits, and bound by the terms, of the Major League Constitution.

"Major League Constitution" shall mean the Major League Constitution adopted by the Major League Clubs (which amended and superseded the Major League Agreement dated January 1, 1975, the Agreement in re Major Leagues Central Fund dated as of December 8, 1983, as amended, and the respective constitutions of the former American and National Leagues of Professional Baseball Clubs) as the same may be amended, supplemented or otherwise modified from time to time in the manner provided therein and all replacement or successor agreements that may in the future be entered into by the Major League Clubs.

"Master Plans" means a set of preliminary and conceptual plans for the Ballpark Complex.

"MLB Agency Agreement" shall mean the Amended and Restated Agency Agreement, effective as of January 1, 2013, by and among Major League Baseball Properties, Inc., the

various Major League Baseball Clubs and the BOC (and the Operating Guidelines related thereto), as may be amended, supplemented or otherwise modified from time to time.

"MLB Approval" shall mean, with respect to the Major League Baseball Clubs, the Commissioner, the BOC or any other MLB Entity, any approval, consent or no-objection letter required to be obtained from such Person(s) pursuant to the MLB Rules and Regulations (as exercised in the sole and absolute discretion of such Person(s)).

"MLB Entity" shall mean each of the BOC, Major League Baseball Properties, Inc., The MLB Network, LLC, MLB Advanced Media, L.P., and/or any of their respective present or future affiliates, assigns or successors.

"MLB Governing Documents" shall mean the following documents as in effect from time to time and any amendments, supplements or other modifications thereto and all replacement or successor documents thereto that may in the future be entered into: (a) the Major League Constitution, (b) the Basic Agreement between the Major League Baseball Clubs and the Major League Baseball Players Association, (c) the Professional Baseball Agreement between the BOC, on behalf of itself and the Major League Baseball Clubs, and the National Association of Professional Baseball Leagues, (d) the Major League Rules (and all attachments thereto), (e) the Interactive Media Rights Agreement, effective as of January 20, 2000, by and among the BOC, the various Major League Baseball Clubs, MLB Advanced Media, L.P. and various other MLB Entities and (f) each agency agreement and operating guidelines among the Major League Baseball Clubs and any MLB Entity, including, without limitation, the MLB Agency Agreement.

"MLB Rules and Regulations" shall mean (a) the MLB Governing Documents, (b) any present or future agreements or arrangements entered into by, or on behalf of, the BOC, any other MLB Entity or the Major League Baseball Clubs acting collectively, including, without limitation, agreements or arrangements entered into pursuant to the MLB Governing Documents, and (c) the present and future mandates, rules, regulations, policies, practices, bulletins, by-laws, directives or guidelines issued or adopted by, or behalf of, the Commissioner, the BOC or any other MLB Entity as in effect from time to time.

"Motor Vehicle Rental Tax" means the short-term motor vehicle rental tax authorized by the Election and subchapter E of the Act, which shall not exceed 5% (Five Percent) on the gross receipts from the rental in the City of a motor vehicle.

"Non-Relocation Agreement" means the agreement between the City and the Team to designate the Ballpark Complex as the home field of the Team and to play all of the Scheduled Home Games in the Ballpark Complex through the Initial Term, subject to renewal pursuant to Section 5.2.

"Operations and Maintenance Costs" means all operating, maintenance and utility costs of the Ballpark Complex, including work, labor and materials reasonably required in the ordinary course of business to be performed and used to: (i) maintain the Ballpark Complex in good, clean working order; (ii) repair components of the Ballpark Complex as a result of ordinary wear and tear; and (iii) replace, at the end of their economic life cycle, those components of the Ballpark

Complex whose reasonably expected economic life at the time of original installation was two years or less, all as set forth in the Project Documents.

"Outstanding Bonds" means the outstanding City's Special Tax Revenue Bonds, Series 2008 and 2009 or any obligations refunding or defeasing such obligations.

"Parking Tax" means a tax on each motor vehicle parking at a parking facility of the Ballpark Complex at a rate not to exceed $3.00 (Three Dollars) for each motor vehicle.

"Payment Certificate" means the certificate submitted by the Team for the payment of invoices relating to Project Costs, which certificate must conform to the requirements set forth in Section 3.6 herein.

"Person" shall mean any natural person, sole proprietorship, corporation, partnership, trust, limited liability company, limited liability association, unincorporated association, joint venture, joint-stock company, Governmental Authority, or any other entity.

"Plans" means the Ballpark Complex architectural and engineering drawings, renderings, designs, plans and specifications and all schematics, models, studies and derivative works with respect thereto.

"Project Accounts" means, collectively, the City Project Cost Account, the Team Project Cost Account and the Disbursement Account.

"Project Costs" means the actual costs to design, develop and construct the Ballpark Complex provided that such Project Costs are authorized under the Act, including those costs described in Section 3.1 hereto.

"Project Documents" means the Project Funding Agreement, Ballpark Complex Development Agreement, Ballpark Complex Lease, Non-Relocation Agreement, Development Property Lease Agreement, Development Option Agreement, Convention Center Parking Agreement, Stadium Builder License Agreement, if any, and Stonegate Lease, or some combination thereof, as well as such other agreements to which the parties may agree as necessary to fulfill and document the obligations set forth herein.

"Project Documents Deadline" means May 15, 2017 or such other date as the Team Designee and City Designee may agree upon.

"Related Infrastructure" means any store, restaurant, on-site hotel, concession, automobile parking facility, area transportation facility, road, street, water or sewer facility, park or other on-site or off-site improvement that relates to and enhances the use, value or appeal of the Ballpark Complex, including areas adjacent to the Ballpark Complex, and any other expenditure reasonably necessary to construct, improve, renovate, or expand the Ballpark Complex, including an expenditure for environmental remediation; provided that such structure or facility is consistent with the term "related infrastructure" as used in the Act.

"Reimbursement Account" means an account established in the documents authorizing the Ballpark Complex Bonds into which Excess Tax Revenues and Base Rent Excess Revenues are deposited in the amount of the Team Defeasance Costs for the purpose of reimbursing the costs as incurred in the establishment of the Ballpark Complex through the defeasance of the Outstanding Bonds; provided, however, that the Team shall use funds distributed from the Reimbursement Account for Operations and Maintenance Costs, Capital Improvement Costs or Initial Construction Costs of the Ballpark Complex.

"Rent Commencement Date" means the date on which the Ballpark Tenant occupies the Ballpark Complex, as set forth in the Ballpark Complex Lease.

"Sales Tax" means the sales and use tax authorized by the Election and levied pursuant to Subchapter D of the Act and levied at a rate of ½% (one-half percent) on all sales within the City as set forth in the Act and in Chapter 321, Texas Tax Code.

"SBL Proceeds" means the proceeds of the sale of Stadium Builder Licenses, including deposits, but net of SBL expenses, including costs of sale and administration.

"Scheduled Home Games" means all of the Team's regular season and postseason MLB home games that Major League Baseball schedules to take place in the Team's operating territory, as defined in the MLB Rules and Regulations subject to reasonable exceptions for International Play and play in neutral venues other than (i) any regular season games at another location due to a force majeure event, and (ii) in the case of postseason games, at any location required by MLB.

"Stadium Builder Licenses" or "SBL" means personal or private seat licenses sold by the City, as owner of the Ballpark Complex, to the general public as authorized in the Act. Such licenses will grant holders the right, among others, to purchase tickets for certain seats to events held at the Ballpark Complex.

"Stonegate Lease" means that lease between the City and BPP, dated June 30, 2014, concerning the tract of land located south of Cowboys Way in Arlington, Texas.

"Targeted Taxes" means any form of tax or legislation imposing an economic burden that is exclusively levied or imposed on any portion of the Ballpark Complex or the Team or its Affiliates that will be assessed on or directed at advertising, tickets, concessions, catering, parking (other than as set forth in the Election and the Project Documents), rent, or other facilities, services or revenue streams of the Ballpark Complex, without the prior written approval of the Team, provided however that Targeted Taxes shall not include the Sales Tax, Hotel Occupancy Tax, Motor Vehicle Rental Tax, Parking Tax or Admissions Tax provided for herein.

"Tax Revenues" means the revenues derived by the City, net of the costs of collection, of the Hotel Occupancy Tax, the Sales Tax and the Motor Vehicle Rental Tax.

"Team" means the Rangers Baseball LLC, a Delaware limited liability company.

"Team Contribution" means the amount of funds necessary to pay the Project Costs of the Ballpark Complex, less the City Contribution and the SBL Proceeds.

"Team Defeasance Costs" means the total costs incurred by the Team or its Affiliate to defease any or all of the Outstanding Bonds, including the costs of the Team borrowing for such costs and any interest paid thereon, provided, however, that for the purposes of this definition, the weighted average rate of interest over the reimbursement period shall not exceed 5.5%.

"Team Deposit" means each deposit to the Team Project Cost Account equal to the amount required for the payment of Project Costs as set forth in Section 3.6(a)(i) herein.

"Team Designee" means one or more Affiliates designated pursuant to Section 2.1 as the Team's representative which (acting together and not alone) have full authority and responsibility for and control over the development, construction, operations and maintenance of the Ballpark Complex, including but not limited to, the authority to enter into contracts as set forth in Article III herein.

"Team Project Cost Account" means the account established by the Team at a depositary institution that has one or more branches located in the City for the purpose of funding the Team Contribution, as set forth in Section 3.4 herein.

"Team Representative" means the individuals designated pursuant to Section 9.7 herein who have full authority (acting together and not alone) to administer this Agreement on behalf of the Team.

"User Incremental Funding Payments" means Additional Rent, the revenues from the Parking Tax and Admissions Tax (at the rates specified in the Election) received by the City, with such payments to be pledged to the Incremental Funding.

"Youth Ballpark" means the baseball field currently located adjacent to Globe Life Park in Arlington that is primarily used for youth baseball games.

ARTICLE II

THE BALLPARK COMPLEX DEVELOPMENT

Section 2.1. Affiliated Team Parties.

The Team and its owners shall have the right to designate the Team Designee.

Section 2.2. Development of the Ballpark Complex.

Subject to the terms and conditions set forth in this Agreement, (a) the Team shall plan, design, develop, construct, complete and make operational the Ballpark Complex substantially in accordance with Ballpark Complex Elements, set forth in the attached Exhibit B; and (b) the respective funding commitments shall be funded from the sources and in the manner provided in Article III hereof.

Section 2.3. Ownership of the Ballpark Complex, Exemptions from Ad Valorem Taxes, and Sales Taxes During Construction.

(a) The City shall own the Ballpark Complex for public purposes as provided herein and as set forth in the Act. The Team shall own all the Plans; provided, however, that the Team shall grant the City a limited license to such Plans consistent with the Project Documents and in connection with its rights in the Ballpark Complex under the Ballpark Complex Lease and pursuant to the exercise of the City's governmental functions. The City shall not use any of such Plans for commercial purposes or purposes unrelated to the Ballpark Complex. Unless the Team or its Affiliate purchases the Ballpark Complex pursuant to Section 5.1(f), upon termination of the Ballpark Complex Lease and any renewals thereof, ownership of the Plans shall be transferred to the City; provided, however, that the City shall grant the Team a limited license to such Plans for use in connection with the history of the Team, including the exploitation and sublicensing thereof for commercial purposes. For so long as it is owner of the Plans, the Team shall have exclusive rights to license the Plans and receive the benefit therefrom and shall have the sole power and authority to grant rights in the Plans as contemplated herein and in the Project Documents.

(b) The Team shall provide the City, as the owner of the Ballpark Complex, a copy of all as-built drawings and any applicable operations or maintenance documentation relating to material structural changes and material capital improvements to the Ballpark Complex within a reasonable period after completion of construction or installation thereof. The provisions of Section 2.3(a) shall apply with respect to the ownership and licensing of the Plans related to such structural changes and capital improvements.

(c) The components of the Ballpark Complex that are located on the Land and owned by the City and the leasehold interests of the Team or its Affiliates in the Land and in improvements used for the Ballpark Complex, as permitted by the Act, are intended to be exempt from ad valorem taxes as set forth in the Act.

(d) During construction of the Ballpark Complex, the City and the Team shall cooperate in seeking a determination from the Comptroller of Public Accounts of the State of Texas confirming that items of tangible personal property (including without limitation materials, equipment and supplies) acquired by the City or by the Team on behalf of the City pursuant to the Project Documents shall be exempt from sales and use taxes. The City and the Team shall take appropriate or necessary steps to establish and maintain the foregoing exemption, including without limitation (i) structuring all construction contracts and subcontracts as "separated contracts" within the meaning of the Texas Tax Code, containing separately stated contract prices for materials and labor, (ii) executing and delivering an agreement or agreements between the City and the Team providing for donation and assignment to the City of items of tangible personal property (including without limitation materials, equipment and supplies) purchased with funds disbursed out of the Project Accounts, as and when incorporated into the Ballpark Complex or as and when delivered to the Ballpark Complex Site (including any staging area on the Land relating to the Ballpark Complex), (iii) the City's confirming in writing to the Team the City's acceptance of delivery of each donation of such tangible personal property, and (iv) the Team's issuing exemption certificates to its contractors and requiring that all contractors

issue resale certificates to their subcontractors, in each case claiming appropriate exemption from tax.

Section 2.4. Design and Construction of The Ballpark Complex.

The Team shall have exclusive control over the planning, design, engineering and construction of the Ballpark Complex, except to the extent this Agreement expressly provides for the City's participation in that process. The Team shall be responsible for meeting or requiring through its contracts with its design professionals and contractors for meeting those requirements of law applicable to the construction of improvements on privately owned real property in the State of Texas (including without limitation, if applicable, (i) United States Occupational Safety and Health Administration requirements, (ii) Americans with Disabilities Act requirements, (iii) requirements under Title VII of the Civil Rights Act of 1964, as amended, (iv) Age Discrimination in Employment Act requirements, (v) building codes and zoning requirements, and (vi) storm water, street, utility and related requirements).

Section 2.5. Architect and Engineers.

(a) The Team shall have all authority, control and rights in selecting (including the procedures or methods of procurement and selection), terminating and replacing such design professionals as reasonably required for the design of the Ballpark Complex, including the Architect who shall have the primary responsibility for the architectural design of the Ballpark Complex and who shall meet the qualifications criteria stated in this Section 2.5.

(b) The Architect shall be an architectural firm experienced in the design of sports and entertainment facilities of the nature contemplated herein. The Team shall, to the extent authorized by law, contractually obligate the Architect to indemnify the Team, the Team Designee and Affiliates and the City as joint indemnitees consistent with the provisions of Chapter 130, Texas Civil Practices and Remedies Code, and to maintain insurance (including errors and omissions coverage) for liabilities that may arise out of its design for the benefit of the Team and the City as additional insureds to the extent that such additional insured status is commercially available without additional premium cost, in each case in form and substance not less than is customary for a City-operated design project with a scope similar to that of the Ballpark Complex.

(c) The Team shall require in its contracts with the Architect or structural engineer (if the Team contracts directly with such structural engineer) that the structural elements of the Ballpark Complex be engineered in accordance with generally accepted engineering practices and engineered at a standard for an estimated useful life of the structural elements of not less than 40 years. In addition, the Team shall require that, at a minimum, the Ballpark Complex be designed to comply, in all material respects, with the current requirements of Major League Baseball when such design is made.

Section 2.6. General Contractor.

The Team shall have exclusive authority, control and rights in selecting (including the procedures or methods of procurement and selection), terminating and replacing the General Contractor for the Ballpark Complex.

Section 2.7. City Participation in Designing Ballpark Complex.

The following provisions shall apply to the design of the Ballpark Complex:

(a) In accordance with the requirements between the Team and the City with regard to the development and construction of the Ballpark Complex, the Team shall reasonably consult with or contractually obligate its Architect, those engineers with whom the Team has contracted directly, and the General Contractor to reasonably consult with the City Designee, with respect to the Team's satisfaction of the City's code requirements applicable to the design and construction of the Ballpark Complex.

(b) The City Designee's participation in the design and construction of the Ballpark Complex shall be limited to (i) the enforcement of City code requirements applicable to the Ballpark Complex, (ii) verifying that the design of the Ballpark Complex conforms to City codes, general construction ordinances and regulations applicable to the Ballpark Complex, (iii) verifying that the Ballpark Complex is constructed substantially in accordance with the Ballpark Complex Elements as adjusted pursuant to subsection (c) immediately below, (iv) approving all connections or tie-ins between the Ballpark Complex and existing City streets, storm sewers and utilities and (v) approving the proposed vehicle access and circulation in order to maximize efficient and effective traffic flow to and from public streets, during both event and non-event days.

(c) The Team may at any time or from time to time change any element of the Ballpark Complex Elements with notice to the City Designee; provided, however, that if any such proposed change would result in (i) the seating for professional baseball games being less than 38,000 seats or (ii) the Ballpark Complex not being in substantial compliance with the standards set forth in Section 2.5 regarding the engineering design of the structural elements or the minimum facility standards of Major League Baseball at the time of design, such change shall not be made by the Team without first having been approved in writing by the City Designee, which shall not be unreasonably withheld or delayed.

(d) To ensure that neither the design nor the construction of the Ballpark Complex is delayed due to delays in the delivery of City responses or delays in other required City actions, the City shall cause the City Designee, his designee and other City personnel to respond in an expeditious manner to all submissions and requests by the Team, the Architect, the engineers or the General Contractor, which such response shall be binding on the City. By performing the functions described in this Section 2.7, the City Designee shall not, and shall not be deemed to, assume the obligations or responsibilities of the Architect, or the General Contractor, whose respective obligations pursuant to their respective agreements with the Team shall not be affected by the City Designee's exercise of the functions described in this Section 2.7.

Section 2.8. City Permits and Inspectors.

(a) The Team shall obtain, or cause to be obtained through contracts with the Architect or General Contractor, all City permits, licenses and approvals required pursuant to the agreement between the Team and the City regarding reasonable permitting requirements and procedures in connection with the construction of the Ballpark Complex and all other permits or approvals (if any) issued by other governmental agencies, to the extent required by law. Fees, expenses, assessments, charges and other payments imposed by the City relating to the permits, licenses and approvals shall be waived.

(b) To facilitate and expedite (i) scheduling and conducting necessary inspections, (ii) granting necessary permits and (iii) the completion of other required compliance with City ordinances, rules or regulations with respect to the design and construction of the Ballpark Complex, the Team shall retain a third party inspector who shall, as necessary, be available at the construction site on a full-time basis during the construction of the Ballpark Complex and who shall have such authority necessary to provide all such approvals and issue such permits as required from the City with regard to the construction of the Ballpark Complex. The cost to retain a third party inspector shall be a Project Cost.

(c) The waiver of permit fees, expenses, assessments, charges and other payments in Section 2.8(a) above shall only be effective so long as the Team retains a third party inspector pursuant to Section 2.8(b) above.

Section 2.9. Contractor Assurances.

The Team shall contractually obligate the General Contractor to provide the following assurances to protect the City and the Team, the Team Designee and Affiliates during and after construction: (i) commercially reasonable procedures to assure payment and performance by the General Contractor's subcontractors, including payment and performance bonds to be furnished by those subcontractors if required by the Team, (ii) indemnification (which shall include commitments to defend and hold harmless) consistent with indemnification provisions customarily provided by prime contractors for City operated construction projects with a scope similar to that of the Ballpark Complex, to the extent allowed by law, and (iii) insurance, including commercial liability, all-risks builders risks, workers compensation, auto liability and excess umbrella coverage, each in form and substance not less than is customary for a City-operated construction project with a scope similar to that of the Ballpark Complex. Each such indemnity and insurance policy shall name both the City and the Team Designee, and the Team's Affiliates, as joint indemnitees and as additional insureds, as the case may be. The City may from time to time reasonably request in writing that the Team furnish to the City evidence of the insurance provided by the General Contractor.

Section 2.10. Construction Contracts.

The Team shall have the sole right and responsibility to negotiate and enter into all contracts necessary for the design, engineering, construction and completion of the Ballpark Complex containing such terms and provisions as agreed by the Team, subject to such

requirements as provided in Section 2.11 below. The Team shall provide to the City a copy of each construction contract to which the Team is a party.

Section 2.11. Additional Requirements.

In connection with the design and construction of the Ballpark Complex, the Team, shall contractually obligate the following entities or persons to take the following actions and to undertake the following responsibilities:

(a) The Architect shall provide to the City Designee copies of schematic design, design development and construction plans and specifications for the Ballpark Complex (including revisions) as such plans and specifications are completed and approved or accepted by the Team and shall be available, in accordance with the requirements between the Team and the City with regard to the development and construction of the Ballpark Complex, and shall discuss with the City Designee comments the City Designee may have concerning such plans and specifications (provided that the Team shall have sole discretion and full right and authority to make decisions regarding such comments provided that the Team and Architect are in compliance with City codes and ordinances applicable to the Ballpark Complex);

(b) The Architect shall provide at least three (3) sets of construction documents approved or accepted by the Team to the City Designee, signed and sealed by one or more registered professional architects or engineers licensed in the State of Texas;

(c) In accordance with the requirements between the Team and the City with regard to the development and construction of the Ballpark Complex, the Team or such person selected by and contracting with the Team shall provide the City Designee with one (1) copy of the detailed construction schedule outlining the major items of work of each major construction contractor, and any revisions to such schedule;

(d) The Architect or such other qualified person selected by and contracting with the Team shall have on-site observation responsibilities of a standard at least comparable to that set forth in Section 3.6.2 of the AIA Document B132 (2009);

(e) The Team or such person selected by and contracting with the Team shall keep the City Designee reasonably advised and informed regarding the design and construction of the Ballpark Complex in accordance with the requirements between the Team and the City with regard to the development and construction of the Ballpark Complex;

(f) The Team or such person selected by and contracting with the Team shall provide the City Designee with reasonable advance notice of regularly-scheduled construction meetings and shall permit the City Designee to attend such meetings in accordance with the requirements between the Team and the City with regard to the development and construction of the Ballpark Complex;

(g) The General Contractor shall be responsible for maintaining reasonable vehicular and pedestrian access to property and buildings on the Ballpark Complex Site and other portions of the Land that abut City rights-of-way, including the provision of temporary facilities,

including pavements and utilities, until permanent facilities are in place or existing facilities are restored;

(h) The General Contractor shall arrange for site security within designated areas under construction, except as otherwise expressly required by its contract with the Team;

(i) The General Contractor shall comply with, and shall require that its agents and contractors comply with, all applicable laws regarding the use, removal, storage, transportation, disposal and remediation of hazardous materials;

(j) The General Contractor shall notify the Team and shall not proceed without the Team obtaining the City Designee's approval (which shall not be unreasonably withheld or delayed) with regard to all field changes that directly result in material changes to preexisting plans for the Ballpark Complex connections with City streets, storm sewers and utilities;

(k) The appropriate engineers designated by the Team shall cause all appropriate soils and materials testing to be conducted by certified independent laboratories and, upon the City's written request, shall furnish to the City copies of reports of such testing otherwise prepared for such engineers.

(l) The General Contractor shall promptly repair, restore or correct, on a commercially reasonable basis, all damage caused by the General Contractor or its subcontractors to property or facilities of the City, and shall reimburse the City for out-of-pocket costs actually incurred by the City that are directly related to the City's necessary emergency repairs of such damage;

(m) The General Contractor shall provide reasonable advance notice to the City Designee and shall allow the City Designee to be present during the scheduled pre-final (if any) and final inspection of the Ballpark Complex following substantial completion of construction;

(n) The General Contractor shall obtain correction of defective work, and shall perform warranty work (or shall cause such work to be performed) within the applicable corrective period as required in its contract with the Team;

(o) The General Contractor shall provide the Team with a sufficient number of copies of all building systems, training, operation and maintenance manuals for the Ballpark Complex within a reasonable time following completion of construction to allow the Team to provide such manuals to the City Designee in accordance with the requirements between the Team and the City with regard to the development and construction of the Ballpark Complex; and

(p) The General Contractor shall provide the Team with a sufficient number of complete as-built drawings for the Ballpark Complex within a reasonable time following completion of construction to allow the Team to provide one such set to the City Designee in accordance with the requirements between the Team and the City with regard to the development and construction of the Ballpark Complex.

If any of the foregoing entities or persons shall fail in a material respect to perform any of its contractual obligations described in this section (or in Section 2.9, Section 2.10 or Section 2.11), the Team shall use good faith efforts to enforce, to the extent practicable, such contractual obligations against such entities or persons.

Section 2.12. Naming Rights, Sponsors and Signage.

(a) The Team shall have all authority, control and rights in selecting the name or names of the Ballpark Complex, as well as the sponsor or sponsors for which the various portions of the Ballpark Complex will be named from time to time, and all signage, branding, service, concession or other rights, including without limitation, the right to retain all proceeds therefrom, (except for any naming rights paid to the City as a component of Base Rent). Notwithstanding the foregoing sentence, the name given to the Ballpark Complex (and any other material naming rights of any permanent sub-portions of the Ballpark Complex that feature material signage) shall not include any reference to the proper geographic name of any city, governmental entity or quasi-governmental entity (e.g., economic development corporations) that is within the Dallas-Fort Worth Metropolitan Statistical Area (as defined by the United States Office of Management and Budget), unless such reference is to "Texas," or "Arlington," or to the "City of Arlington" (unless such geographic name is part of the name of any non-governmental company sponsor – e.g., Mutual of Omaha). The Team shall use good faith efforts to promote the City of Arlington by referring to "in Arlington" or "at Arlington" near the beginning of all home television and radio broadcasts, on Team websites, or media guides, and in a reasonable amount of marketing materials, as reasonably determined by the Team.

(b) The Team shall use good faith efforts to use "in Arlington" or "at Arlington" in the names of a mutually agreed upon prominent feature or element both inside and outside of the Ballpark Complex.

Section 2.13. Temporary Sponsorships or Advertising.

The City and the Team intend that advertising placed within the boundaries of the Ballpark Complex, including any marquee, pylon, monument or directional signs will not be restricted, except by safety, environmental, zoning and other like regulations, which may require permits, variances and authorizations to maximize signage and signage revenue. In addition, the City acknowledges that it is desirable and appropriate for additional signage (including advertising and directional signage for the Ballpark Complex to be placed outside the boundaries of the Ballpark Complex such as on certain highways, roadways, etc. near the Ballpark Complex and shall work with the Team on the application for an approval of all permits, variances and authorizations required for all such signage as may be reasonably requested by the Team. Further, the City intends to amend the ordinances governing a Major Sports Complex in the City to cover a facility of the size and configuration contemplated herein so that such rights, obligations and protections will be extended to the Ballpark Complex.

Section 2.14. Intellectual Property Rights.

The Team shall own all intellectual property rights in, to and relating to the Ballpark Complex and the Plans subject to Sections 2.3(a) and 2.3(b) herein, whether now in existence or created in the future, including without limitation all copyrights, trademarks, trade dress and merchandising rights in the Ballpark Complex and the Plans, all names, logos and likenesses, as well as all rights to protect, enforce and license any or all of the foregoing.

Section 2.15. Stadium Builder Licenses.

(a) The City will sell Stadium Builder Licenses as part of the financing of the Ballpark Complex pursuant to the Project Documents. Proceeds from the sale of Stadium Builder Licenses shall be collected solely by the City for Initial Construction Costs and Operations and Maintenance of the Ballpark Complex, in accordance with the Project Documents.

(b) As owner of the Ballpark Complex, the City shall own, and will continue to own the sole and exclusive right to sell, license, or otherwise transfer SBLs and all similar instruments and rights with respect to any and all seats located in the Ballpark pursuant to Section 334.042 of the Act. The Team acknowledges that it has no right to sell SBLs for the Ballpark (except as agent of the City, if it is so appointed), whether based on its ownership of a Major League Baseball franchise, its maintenance of a season ticket list, its status as a tenant of the Ballpark Complex, or otherwise. This provision does not preclude the City from granting to the Team through the Ballpark Complex Lease, the right to sell individual game tickets, season tickets, suite licenses and similar rights and licenses.

(c) The City elects, in its sole discretion, and pursuant to the Project Documents, to appoint the Team as the City's agent to assist the City in marketing and selling SLBs and the Team agrees to such appointment, as set forth in the Project Documents. The City may hire such other agents for marketing and selling the SBLs and for related purposes as it deems appropriate.

ARTICLE III

COSTS AND FINANCING OF THE BALLPARK COMPLEX

Section 3.1. The Ballpark Complex Costs.

(a) The Project Costs shall include without limitation the following:

(i) acquisition and preparation costs of the Ballpark Complex Site and other portions of the Land incident thereto, including without limitation (i) all environmental remediation necessary with respect to the Ballpark Complex and Land incident thereto, (ii) the cost of physical improvements, landscaping and security for existing facilities that will be located on property immediately physically adjacent to the Ballpark Complex Site

that are permitted under the Act, but not including the costs of development or construction of Texas Live!;

(ii) land planning, design, architectural and engineering costs incurred by the Team for preparation of plans, specifications and designs for the Ballpark Complex and for appropriate construction oversight and assessments by the Architect and engineers;

(iii) costs incurred by the Team to construct, equip and furnish the Ballpark Complex;

(iv) environmental assessments covering the Ballpark Complex Site, and covering the land and projects adjacent to the Ballpark Complex Site (and assessments of costs if remediation is needed or required on any portion of the Ballpark Complex or on any portion of adjacent land which, without such remediation, may adversely affect any portion of the Ballpark Complex);

(v) soil conditions reports and evaluation of soil removal, reclamation, fill and improvements requirements;

(vi) all on-site and off-site work to cause utilities to be available at the Ballpark Complex, utility relocation and street abandonment;

(vii) zoning and land use issues and confirmation that all zoning and land use ordinances, codes and laws allow the development and construction of the Ballpark Complex as contemplated by this Agreement, and/or the availability of variances and special use permits for any non-compliance);

(viii) the removal of existing liens, easements and other encumbrances imposed upon or otherwise affecting the Ballpark Complex, excluding any existing liens for which the Team, and/or its Affiliates, including but not limited to, Rangers Baseball Real Estate LLC and BPP is the mortgagor or otherwise responsible party;

(ix) determination of any special development restrictions (such as FAA approval, archeological and historical significance requirements or assessments, etc.);

(x) all other due diligence performed or to be performed by the parties pertaining to the Ballpark Complex (such as, by means of example only but without limitation, impact statements and impact fee requirements, traffic studies and transportation requirements (local and regional), all potential infrastructure, utility, parking, signage, and drainage needs and requirements);

(xi) costs incurred for any Related Infrastructure that is not located on the Ballpark Complex Site or other parcels of the Land, and including without limitation (A) costs incurred for demolition, grading, paving, constructing, landscaping, installing lighting and striping the parking areas, and parking structures, if any, (B) costs of detention facilities and other related infrastructure improvements, (C) costs incurred to design and construct any stores, restaurants or on-site hotels, and (D) costs of acquiring

rights-of-way and for designing and constructing various necessary roadway improvements which otherwise might constitute Related Infrastructure;

(xii) permit, license and inspection fees incurred after the date of this Agreement by the Team for the Ballpark Complex;

(xiii) fees and expenses of the General Contractor, subcontractors, consultants and similar persons incurred after the date of this Agreement by the Team, directly or indirectly in connection with the planning, design, engineering, construction, equipping and furnishing of the Ballpark Complex;

(xiv) costs incurred after the date of this Agreement by the Team in complying with the requirements of Section 2.11 hereof;

(xv) costs incurred after the date of this Agreement by the Team in connection with removing, or providing security for, any material lien or encumbrance that arose in connection with the design, engineering, construction, equipping or furnishing of the Ballpark Complex;

(xvi) reasonable general and administrative expenses of the Team allocable to the administration or oversight of the activities contemplated in Article II hereof and incurred after the date of this Agreement by the Team, directly or indirectly, in connection with the planning, design, engineering, construction, equipping and furnishing of the Ballpark Complex;

(xvii) All Operations and Maintenance Costs, and Capital Improvement Costs paid during the Initial Term of the Ballpark Complex Lease and any renewals thereof; provided however, that the City Contribution and any Incremental Funding may only be used for the Initial Construction Costs of the Ballpark Complex;

(xviii) all other out-of-pocket costs of the City or the Team paid out or incurred prior to or after the financing stage for the Ballpark Complex that were expended for and that are attributable to the construction of the Ballpark Complex; and

(xix) such other costs and expenses as the parties hereto shall mutually approve in writing; provided however, that the City Contribution may only be used for the Initial Construction Costs of the Ballpark Complex.

(b) Additional Costs. The Additional Costs shall include without limitation, the following:

(i) The fair market value of parcels contributed by the Team for development and operation of the Ballpark Complex, not to exceed 50 acres.

(ii) Team Defeasance Costs, if any, subject to Section 3.3(a);

(iii) all costs incurred by the Team in decommissioning or demolishing of Globe Life Park in Arlington or any portion thereof;

(iv) Cost Overruns;

(v) costs incurred in excess of $100,000,000 (One Hundred Million) for the development of Texas Live! and the related hotel development;

(vi) such other costs and expenses as the parties hereto shall mutually approve in writing.

(c) The Project Documents will address the Team's commitment to make additional capital contributions to the City's Entertainment District such that the total contribution by the Team and its Affiliates with respect to the Ballpark Complex and surrounding development is at least equal to the City Contribution.

Section 3.2. Project Budget and Master Plan.

(a) As soon as practicable after the Team determines that the Architect's preliminary or conceptual plans for the Ballpark Complex are satisfactory and in conformity with the Ballpark Complex Elements, and after an initial estimate of total Project Costs and Additional Costs has been determined based on such plans, which estimate must also be satisfactory to the Team, the Team shall deliver to the City (i) the Master Plans that reasonably identify the proposed locations of the parking tracts and of the Ballpark Complex, the parking facilities and the Related Infrastructure on the Ballpark Complex Site and other portions of the Land, and (ii) the Ballpark Complex Budget. The Team shall deliver to the City any updates to the Master Plans and the Ballpark Complex Budget that are delivered to the Team.

(b) The City and the Team currently estimate that the Ballpark Complex Budget will be approximately $1,000,000,000 (One Billion Dollars), subject to subsequent adjustments based on the ultimate land preparation costs and the completion of final design and architectural plans.

(c) The Ballpark Complex Budget shall reflect the line items set forth on the attached Exhibit D and no material change shall be made by the Team in the Ballpark Complex Budget unless (i) such change is disclosed to the City, (ii) such change does not affect the suitability of the Ballpark Complex as a Major League Baseball venue, and (iii) to the extent such change causes the Project Costs to exceed $1,000,000,000 (One Billion Dollars), the Team, subject to the Team's acceptance of the revised Ballpark Complex Budget, shall be responsible for any such Cost Overruns as an Additional Cost; provided, however, the Project Documents will further detail the required completion standards resulting from the Team's change orders as elected by the Team.

Section 3.3. City Project Fund and Cost Account.

(a) Pursuant to the Project Documents, the City shall establish the City Project Fund. The City Project Fund shall consist of separate accounts as are necessary to comply with the Act and the terms and conditions of the Ballpark Complex Bonds, the Incremental Funding and the

Outstanding Bonds, and as are necessary for funding the payment of the City Contribution or the refunding or defeasance of the Outstanding Bonds. The City Project Fund shall include (i) the City Project Cost Account, into which account the City Contribution shall be deposited and out of which account funds shall be transferred to the Disbursement Account for payment of the City's portion of Project Costs pursuant to the procedure set forth in Section 3.6, (ii) other accounts as may be required in the proceedings authorizing the Ballpark Complex Bonds and Incremental Funding, including without limitation, the City Debt Service Account, and (iii) if the Team or any Affiliates make a payment to the City for the defeasance of the Outstanding Bonds, a Reimbursement Account into which Excess Tax Revenues and Base Rent Excess Revenues shall be deposited up to the amount of the Team Defeasance Costs, which shall be disbursed to the Team after such funds have been deposited to funds and accounts as required pursuant to the ordinance or indenture authorizing the Ballpark Complex Bonds and Incremental Funding, and may be used by the Team for construction of the Ballpark Complex, Maintenance and Operations Costs or Capital Improvement Costs.

(b) The SBL Proceeds shall be deposited into a segregated City account for the payment of the Initial Construction Costs or Operations and Maintenance Costs of the Ballpark Complex, as set forth in the Project Documents.

(c) The City Project Cost Account shall not be commingled with any other funds of the City. The City acknowledges that the funds in the City Project Cost Account shall be dedicated solely to the payment of Project Costs. The City Project Cost Account shall be administered and controlled (including signatory authority) by the City and funds in such account shall be disbursed in the manner provided in Section 3.6. Pending disbursement of funds in the City Project Cost Account, the City shall invest such funds only in investments permitted and authorized by applicable law and the City's investment policy as in effect from time to time. All income earned on such investments shall be deposited in, and shall become part of, the City Debt Service Account or the City Project Cost Account, at the option of the City.

(d) If funds remain in the City Project Cost Account after the completion of the Ballpark Complex and the payment of all Project Costs pursuant to the terms hereof, then such funds shall be utilized by the City for the purpose of paying or retiring the Ballpark Complex Bonds.

(e) Beginning in fiscal year 2017, the City shall deposit rent, in the amounts set forth below, then or thereafter payable to the City by the Team or an Affiliate pursuant to the Existing Ballpark Lease, the Development Property Lease and the Centerfield Lease, to a segregated account of the City. Such rent amounts shall be transferred to the segregated account in annual installments beginning with $350,000 for fiscal year 2017 and increasing annually by a minimum of $350,000 until 100% of annual rent referenced in this section is transferred. If the Team or its Affiliate makes a payment for the defeasance of the Outstanding Bonds, 100% of such rent payments on deposit in the City's segregated account shall be used, in conjunction with any Team payment, to defease the Outstanding Bonds. If, however, the Team or its Affiliate does not make a payment to defease the Outstanding Bonds, such rent payments in the segregated account shall be used by the City for any lawful purpose. If, subsequent to the defeasance of the Outstanding Bonds pursuant to a Team payment, there are continued rent payments under this

Section, such payments shall continue to be deposited to the City segregated account and shall be remitted to the Team for reimbursement of the Team Defeasance Costs. Only the rent amounts deposited to the segregated account shall be available for defeasance of the Outstanding Bonds and/or reimbursement to the Team.

Section 3.4. Team Project Cost Account.

(a) The Team shall establish the Team Project Cost Account into which account the Team Contribution shall be deposited or, if applicable, each Team Deposit shall be deposited and into which account any subsequent contributions by the Team for Cost Overruns shall be deposited. The Team acknowledges that funds in the Team Project Cost Account shall be dedicated solely to the payment of Project Costs and Cost Overruns except as provided in Section 3.4(c). The Team Project Cost Account shall be administered and controlled (including signatory authority) by the Team and funds in such account shall be disbursed by the Team in the manner provided in Section 3.6. Pending disbursement of funds in the Team Project Cost Account, the Team may invest all or any portion of such funds in any investment authorized by applicable law. All income earned on such investment shall be deposited in and should become part of the Team Project Cost Account.

(b) The Team shall deposit sufficient funds in the Team Project Cost Account to pay the Team's portion of any such Project Costs and/or Cost Overruns contemplated by such Payment Certificate as provided in Section 3.6

(c) If funds remain in the Team Project Cost Account after the completion of the Ballpark Complex and the payment of all Project Costs pursuant to the terms hereof, then such funds shall thereafter be the exclusive property of the Team and shall be available for use by the Team for any purposes as determined by the Team.

Section 3.5. Disbursement Account.

The Team shall establish the Disbursement Account, into which account funds transferred from the City Project Cost Account in accordance with Section 3.6 and out of which account Project Costs payable from the City Contribution and shall be paid pursuant to Section 3.6; provided, however, that funds transferred from the City Project Cost Account may not be used to pay for Cost Overruns. The parties acknowledge that the Disbursement Account is a trust account and shall be dedicated solely to the payment of Project Costs. The Disbursement Account shall not be commingled with any other City or Team funds. The Disbursement Account shall be administered and controlled (including signatory authority) by the Team.

Section 3.6. Disbursements To Pay Project Costs.

Funds shall be periodically disbursed from the City Project Cost Account to the Disbursement Account by the City and from the Team Project Cost Account by the Team, in direct payment of such Project Costs, in accordance with the following provisions:

(a) The Team shall promptly disburse funds from the Disbursement Account or Team Project Cost Account, as applicable, to pay each Project Cost, provided that a Payment Certificate authorizing such payment is duly completed in the manner described below.

(i) (A) reasonably identifies and represents that the identified Project Costs are due and owing and authorized to be paid pursuant to such Payment Certificate, (B) certifies that the amounts payable do not include contract retentions (other than those that are due) and (C) identifies the portion of such amount (if any) to be transferred to the Disbursement Account from the City Project Cost Account and the portion of such amount to be deposited to the Team Project Cost Account as a Team Deposit;

(ii) has attached to it a copy of an invoice(s) relating to such Project Costs which reasonably identifies the payee (or payees), the goods, services and/or materials provided by such payee (or payees) and the total amount due and owing with respect to such goods, services and/or materials ;

(iii) in the case of any Project Cost covered by such Payment Certificate that was incurred in connection with services, goods or materials provided by the General Contractor or any other contractor, has been executed by the Architect or an independent engineer for the purpose of confirming that such services, goods or materials have been satisfactorily delivered or completed as the case may be;

(iv) in the case of any Project Cost covered by such Payment Certificate that was incurred under contracts providing for the fees of the Team or its employees or agents has been executed by an Independent Auditor selected by the City Designee, for the purpose of confirming that the amount reflected in the invoices attached to such Payment Certificate with respect to such Project Cost is consistent with the terms of the written contract pursuant to which such Project Cost was incurred; and

(v) has been executed by the Team or the Team Designee to certify that the fees, costs, expenses and other charges reflected on the Payment Certificate constitute Project Costs and are due and owing.

(b) If a Payment Certificate is otherwise completed and executed in accordance with items (i), (ii), (v) and, if applicable, (iii) and/or (iv) of subsection (a), above, and is submitted to the City Designee, the City Designee shall promptly prepare and submit, through normal payment procedures established for withdrawals from the City Project Cost Account, an appropriate directive for payment to the Disbursement Account of the amount certified in the Payment Certificate for disbursement by the City. The City shall cause the City Designee or his designee to respond promptly and expeditiously to all requests by the Team or its designee relating to Payment Certificates.

(c) Team shall provide the City with a report of all Project Costs and Cost Overruns paid from the Disbursement Account and the Team Project Cost Account on a quarterly basis, as well as all payments made from SBL Proceeds. Such report shall identify the Project Costs paid by the City Contribution, the SBL Proceeds, the Project Costs and Cost Overruns paid by the Team Contribution.

(d) With respect to each Payment Certificate (i) the Team shall promptly deposit funds to the Team Project Cost Account an amount equal to 100% of the Project Costs then due, to be paid pursuant to each such Payment Certificate up to the Initial Team Contribution, until such time as the Ballpark Complex Bonds are issued; (ii) at which point the City shall promptly transfer funds from the City Project Cost Account to the Disbursement Account an amount equal to 100% of the Project Costs then due, to be paid pursuant to each such Payment Certificate until such time as the City Contribution has been contributed in full (iii) at which time the Team shall then deposit funds to the Team Project Cost Account in amounts equal to 100% of the remaining Project Costs then due, and all Cost Overruns to be paid pursuant to each such Payment Certificate. SBL Proceeds shall be used as and when available for each Payment Certificate, as detailed in the Stadium Builder License Agreement or in another Project Document.

Section 3.7. City's Funding Commitment.

(a) Subject to the terms and conditions set forth in Section 7.1, the City shall fund and provide the full amount of the City Contribution by depositing the Available Bond Proceeds of the one or more series of Ballpark Complex Bonds to be approved, authorized, and issued by the City in accordance with the Act that are secured and payable from all or a combination of the Tax Revenues and Base Rent.

(b) After the Election, the City shall use good faith efforts to arrange the financing of the City Contribution by issuing the Ballpark Complex Bonds. The principal amount, structure, maturities, interest rates, provisions and specific terms of the Ballpark Complex Bonds shall be as approved by the City and in consultation with the Team. None of the Ballpark Complex Bonds shall (i) be a general obligation of the City, (ii) be secured by or payable from ad valorem taxes levied by the City, (iii) be secured by, guaranteed by or payable by the Team or its owners, or Affiliates, or (iv) be secured by a lien, security interest or any similar interest on the Ballpark Complex or any portion of the Land. The City may, if financially feasible to do so, issue Incremental Funding at the request of and in consultation with the Team for the Initial Construction Costs of the Ballpark Complex. The City will notify the Team of any subsequent refinancing of the Ballpark Complex Bonds or Incremental Funding. Notwithstanding the above, the issuance of debt is a governmental function of the City and subject to the discretion of the City Council of the City.

(c) The City Contribution shall be made only for Project Costs related to the Initial Construction Costs of the Ballpark Complex and such Project Costs may not include any costs for which funds in the venue project fund established pursuant to Section 334.042 of the Act may not be used.

(d) Prior to the date the City approves the Election Ordinance, the City shall provide a copy of the proposed Election Ordinance to the Team for the Team's review and consultation.

Section 3.8. Team's Funding Commitment.

(a) Subject to the terms and conditions set forth in Section 7.2, the Team shall provide its Team Contribution for payment of Project Costs which shall be deposited in the Team Project Cost Account as and when needed to pay Project Costs pursuant to Sections 3.6

and 3.7 herein. Prior to the sale of the Ballpark Complex Bonds and as provided in the Project Documents, the Team shall provide, in a form reasonably acceptable to the City, evidence to the City and any bond insurer for the Ballpark Complex Bonds or Incremental Funding that the Team has received a commitment to fund the entire amount of the Team Contribution through private loans, cash or equity, or any combination thereof. Any loan agreement for the Team Contribution shall have no conditions to funding other than those customarily included in similar financings. The City and Team agree to use good faith efforts to maintain the integrity of the Project Documents prior to the Team entering into its financing agreements. Each party will work to identify commercially reasonable changes to the Project Documents and the Team shall use good faith efforts to ensure that all lenders, investors or other parties to its financing shall have reviewed the Project Documents, as early in the process as possible and shall use good faith efforts to make only those changes or additions to the Project Documents authorized therein.

(b) Any State or federal grants or funds for which the Ballpark Complex, or the design or construction thereof qualifies shall be deemed a Team Contribution.

(c) If the Team, its owners or Affiliates contribute any parcels of the Land, the Team shall be credited with the fair market value of such parcels as a Team contribution to the Ballpark Complex, excluding any like-kind exchanges of portions of the Land between the City and the Team. In addition, the fair market value of such contributed land shall be included as an Additional Cost, paid for by the Team and shall not be a Project Cost paid from the City Contribution.

(d) If any Project Costs are incurred after the funds in the City Project Cost Accounts and in the Team Project Cost Account are depleted, the Team shall promptly pay, or at the Team's election, contribute to the Team Project Cost Account from time to time as necessary, cash in an amount equal to such Cost Overruns.

(e) Prior to the sale of Ballpark Complex Bonds, the Team shall provide the City with reasonable assurances that the Ballpark Complex will be constructed and completed, including, but not limited to providing evidence of agreements with a General Contractor providing for a guaranteed maximum price and the financing assurances set forth in Section 3.8(a).

(f) Prior to the sale of the Ballpark Complex Bonds, the Team shall determine the manner and method of obtaining funds with which to make the Team Contribution and to pay for any Cost Overruns. The Team may obtain and provide the Team Contribution and Cost Overruns from any source, including but not limited to Incremental Funding, any revenue generated from the Ballpark Complex, funds obtained from Major League Baseball or third party contributions or financing, provided, however, that the Team Contribution may not be funded with SBL Proceeds. With respect to any of the foregoing revenues (with the exception of the Parking Tax and Admissions Tax, unless such taxes are in excess of amount needed to fund the Incremental Funding), the Team may elect to contribute such funds to the Team Project Cost Account pursuant to Section 3.4 herein.

(g) The Team reserves the right to request the City to issue Incremental Funding to aid the Team in providing the Team Contribution. If Incremental Funding is issued by the City

the Team shall remit to the City Parking Tax revenues and Admissions Tax revenues, and, if necessary to make the issuance of Incremental Funding financially feasible, the Team shall make Additional Rent payments. If the City is requested to provide Incremental Funding, it will pledge all of the User Incremental Funding Payments as the payment of and as the security for such bonds, and will use its good faith efforts to issue taxable bonds secured solely by the User Incremental Funding Payments (and any other revenues determined by the Team) as soon as is reasonably practicable to generate all or any portion of the Team Contribution or any Overruns. Bonds issued as part of the Incremental Funding, if any, shall not be secured by or payable from any portion of the Sales Tax, the Hotel Occupancy Tax, the Motor Vehicle Rental Tax, or the Base Rent, or by any other funds or resources of the City. Notwithstanding the above, the issuance of debt is a governmental function subject to the discretion of the City Council of the City.

(h) All Additional Costs paid by the Team shall be recognized as a contribution in excess of its contributions to the Project Costs.

Section 3.9. Timing of Financing.

(a) City and the Team each shall use commercially reasonable efforts to consummate their respective financings and to make their respective contributions or deliveries in accordance with Section 3.7 and Section 3.8 by the date set forth in the Project Documents. The City shall deliver written notice to the Team identifying the proposed sale date of the Ballpark Complex Bonds. The Team shall use commercially reasonable efforts to deliver to the City, not later than the tenth (10th) business day after the date on which the City's notice of the proposed sale date is delivered to the Team, the evidence of the Team Contribution as set forth in Section 3.8(a).

(b) The closing for the transactions contemplated in Section 3.7, Section 3.8 and Article V shall occur on the earliest date after the date hereof on which the City can complete its financing and make the City Contribution and on which the Team can deliver the assurances of the Team Contribution set forth in Section 3.8(a). The City and the Team each shall use commercially reasonable efforts to keep the other party advised regarding the status of such party's financing efforts. The City and the Team shall coordinate their financing efforts to cause the closing to occur on the earliest practicable date at a time and place to be agreed upon by the Team and the City. The City shall use good faith efforts to effectuate the issuance of the Ballpark Complex Bonds as soon as feasible, based on the anticipated revenue streams from the taxes to be approved in the Election. The City shall use good faith efforts to effectuate the Incremental Funding as soon as reasonably practicable after receipt of a written request for Incremental Funding from the Team pursuant to Section 3.8.

Section 3.10. Right to Audit.

The Team and the City shall each have the right to audit, upon reasonable notice and, at its own expense, all expenditures and financial records related to the Ballpark Complex, including the records related to the Project Account(s). Upon written request by the Team, the City shall give the Team access to all records controlled by, or in the direct or indirect possession of the City (other than records subject to legitimate claims of attorney-client privilege) relating to

the City Project Cost Account, and permit the Team to review such records in connection with conducting a reasonable audit of such account. Upon written request by the City, the Team shall give the City access to all records controlled by, or in the direct or indirect possession of the Team (other than records subject to legitimate claims of attorney-client privilege) relating to the Team Project Cost Account and the Disbursement Account, and permit the City to review such records in connection with conducting a reasonable audit of such accounts. The City and the Team shall reasonably cooperate with the assigned independent auditors (internal or external) in this regard, and shall retain and maintain all such records for at least 3 years from the date of completion of the Ballpark Complex.

Section 3.11. Certain Tax Matters.

The Project Documents shall contain provisions relating to the depreciation of certain Ballpark Complex property.

ARTICLE IV

THE LAND

Section 4.1. The Ballpark Complex Site.

The City shall acquire, as provided herein, own and lease to the Ballpark Tenant the Ballpark Complex Site. Upon the City's written request from time to time, the Team (i) shall furnish to the City copies of soils and other geotechnical reports relating to the Ballpark Complex Site that previously were obtained by the Team, the Architect or the General Contractor, and (ii) shall use good faith efforts to have the entities that rendered such reports address same to the City.

Section 4.2. Land Acquisition.

(a) The City shall acquire the Ballpark Complex Site through transfers made by the Team or its Affiliates. The City shall make the Land available to the Team for the Ballpark Complex, as contemplated by the Project Documents.

(b) Pursuant to the Project Documents, the Team will convey certain tracts of the Land to the City and the City shall lease certain tracts of the Land to the Team, its owners or Affiliates as set forth more specifically in the Project Documents. The City will cooperate with the Team's efforts to qualify certain conveyances as a like-kind exchange for federal income tax purposes, provided that the City shall not be obligated to expend any funds or relinquish any rights under the Existing Ballpark Lease or the Development Property Lease with respect to such exchange.

(c) Upon the conclusion of the transactions contemplated herein and in the Project Documents, the Ballpark Complex Site will be owned by the City and leased to the Ballpark Tenant, and the remainder of the Land will be owned by the City and leased to the Team, its owners or Affiliates under one or more leases, as set forth in the Project Documents.

Section 4.3. Streets.

At the Team's request and in accordance with the Master Plans, the City may consider abandoning any streets or alleys that would constitute any portion of the site for the Ballpark Complex.

Section 4.4. Parking Requirements.

The Ballpark Complex will have sufficient parking spaces available on or in close proximity to the Land to comply with all parking requirements applicable to the Ballpark Complex including, without limitation, all applicable MLB Rules and Regulations.

.

ARTICLE V

LEASE AND NON-RELOCATION MATTERS

Section 5.1. Team Lease.

The Ballpark Complex Lease shall include the following material terms, and such other terms as are customary for a long-term triple-net operating agreement or lease of facilities similar to those contemplated for the Ballpark Complex:

(a) The Ballpark Complex Lease shall be for an initial lease term commencing upon occupancy of the completed Ballpark Complex by the Ballpark Tenant through January 1, 2054. The Ballpark Tenant shall have the option to renew such lease for two (2) successive renewal periods of five (5) years each.

(b) The Ballpark Complex Lease shall be structured as a "triple-net" lease. The Ballpark Tenant shall have the obligation to pay all Operations and Maintenance Costs and shall be obligated to maintain the same in first class condition, reasonable wear and tear excepted, including work, labor and materials reasonably required in the ordinary course of business to be performed and used to: (i) maintain the Ballpark Complex in good, clean working order; (ii) repair components of the Ballpark Complex as a result of ordinary wear and tear; and (iii) replace, at the end of their economic life cycle, those components of the Ballpark Complex whose reasonably expected economic life at the time or original installation was two years or less. Other than as expressly set forth herein, the Ballpark Tenant (or the Team) shall have the right to retain and receive all revenues generated from and related to the Ballpark Complex. The Team shall guarantee the obligations of the Ballpark Tenant under the Ballpark Complex Lease Agreement.

(c) The Team shall provide periodic updates to the City with respect to any material structural changes and material capital improvements to the Ballpark Complex and will respond timely to any reasonable requests by the City for additional information, including with respect to the schedule or costs for such material structural changes and capital improvements.

(d) Should the City pay Excess Tax Revenues or Base Rent Excess Revenues to the Team for reimbursement pursuant to Section 3.3(a) herein, such Excess Tax Revenues and Base Rent Excess Revenues shall be used by the Team for the payment of Initial Construction Costs, Operation and Maintenance Costs or for Capital Improvement Costs.

(e) The Ballpark Tenant will be obligated to pay or cause to be paid Base Rent to the City, commencing on the Rent Commencement Date and annually throughout the Initial Term and any renewal terms of the Ballpark Complex Lease. Upon payment in full of the Ballpark Complex Bonds, the Base Rent shall be paid to the City in the amount of $2,000,000 (Two Million Dollars) per year and the City will remit such Base Rent to the Team for the Capital Improvement Costs of the Ballpark Complex. Upon the expiration and renewal of the Ballpark Complex Lease, the Base Rent shall be $1,000,000 (One Million Dollars) and the City will remit such Base Rent to the Team for Capital Improvement Costs of the Ballpark Complex, provided that the Ballpark Complex Bonds are no longer outstanding. Notwithstanding the above, the Team and the City may agree to an increase in the amount of Base Rent in the Ballpark Complex Lease in order accommodate additional City financing capacity for the City Contribution.

(f) At the expiration of the Initial Term, the Ballpark Tenant, Team or its Affiliate shall have the option to acquire the Ballpark Complex from the City for the option price of $100,000,000 (One Hundred Million Dollars) subject to a credit against such amount for all Base Rent paid during the Initial Term by the Ballpark Tenant to the City, and costs of operation of the Ballpark Complex paid by the Ballpark Tenant, plus any Project Costs and Additional Costs funded by the Team, but in no event less than $1.00 (One Dollar). In the event such purchase option is not exercised at the expiration of the Initial Term and the Ballpark Complex Lease Agreement is extended, the Ballpark Tenant, the Team or its Affiliate shall again have the option to acquire the Ballpark Complex on the same terms as applied at the expiration of the Initial Term. The City shall not be obligated to incur any third party costs associated with the transfer of title of the Ballpark Complex to the Ballpark Tenant or its Affiliate following the exercise of this option.

(g) The Team shall have the right to lease and license the use of the Ballpark Complex and related improvements for professional baseball and for any other lawful use not inconsistent with the Act.

(h) Subject to the timely completion of the Ballpark Complex, commencing as early as the 2020 Major League Baseball season, the Team shall use the Ballpark Complex for all of the Scheduled Home Games beginning in the first Major League Baseball season subsequent to the completion of the Ballpark Complex.

(i) For so long as any bonds are outstanding that are payable from and secured by the User Incremental Funding Payments, the Team shall remit the Parking Tax revenues and Admissions Tax revenues and shall pay Additional Rent to the City, in an amount sufficient to pay debt service on such bonds on a level basis for a 30 year term. The payment of such Additional Rent shall be paid on a prorated monthly basis commencing on the Rent Commencement Date, or as otherwise required by the financing documents pursuant to which such bonds are issued. If, at the end of the Initial Term the option to purchase is not exercised,

and the option to extend the Ballpark Complex Lease is exercised, then the Ballpark Tenant shall continue to be responsible for all operating expenses relating to the Ballpark Complex, subject to the right to retain all revenues derived therefrom and, in addition, upon payment in full of the Ballpark Complex Bonds, the Ballpark Tenant shall pay to the City as Base Rent during the renewal term, the sum of $1,000,000 (One Million Dollars) per year (payable on a prorated basis monthly as described above) for each year of any renewal term. After the Ballpark Complex Bonds have been paid in full, such Base Rent received during the renewal term shall be remitted to the Team for the payment of Capital Improvement Costs of the Ballpark Complex.

(j) The Ballpark Complex Lease shall contain the customary provisions for repair, maintenance, insurance, indemnity, leasehold mortgages, hazardous materials, default and remedy, casualty and condemnation, assignment and compliance with laws which are typical for a major professional sports team that plays its home games in a municipally-owned stadium.

(k) In no event shall the Team or its Affiliates be precluded from mortgaging its (or their) leasehold interest in the Ballpark Complex or the Land.

(l) The City and the Team shall enter into a public safety operations and staffing plan for the Ballpark Complex which shall identify the Base Services to be provided by the City with respect to public safety at the Ballpark Complex. Such plan shall be consistent with current practices at Globe Life Park in Arlington with respect to staffing types, levels and pay rate plans, but shall provide for the adjustment of annual costs pursuant to an inflation index and subject to City personnel wage adjustment, as set forth in the plan. Such plan will provide that the Team may request Additional Services from the City or that the City may initiate the provision of Additional Services as a result of information received from public safety officials after consultation with the Team. The Team shall bear the cost of such Additional Services. The City acknowledges that the Team can be exempt from City public safety operations and staffing ordinances by entering into a public safety plan approved by the City.

Section 5.2. Non-Relocation Agreement.

The City and the Team will enter into a separate Non-Relocation Agreement which will be coterminous with and cross defaulted with the Ballpark Complex Lease and will obligate the Team to play Scheduled Home Games in the Ballpark Complex from the Rent Commencement Date through January 1, 2054. The Non-Relocation Agreement will contain specific performance provisions. In the event the Ballpark Tenant, Team or its Affiliate exercises the right to purchase the Ballpark Complex at the end of the Initial Term, then the Team will be obligated to extend the Non-Relocation Agreement for an additional 10 year period. In the event the Ballpark Tenant, Team or its Affiliate exercises the right to purchase the Ballpark Complex at the end of one or more renewal terms, there will be no obligation to extend the Non-Relocation Agreement.

Section 5.3. Community Events.

(a) On an annual basis the Team will use good faith efforts to host, sponsor, and participate in numerous community and civic events throughout the North Texas region. The Team intends for a substantial portion of these events to be held in the City of Arlington,

provided that no specific number of events is guaranteed, except that the Team will host at least two (2) signature Team or Team-related charitable events, in Arlington each year, (e.g., Fan Fest, Welcome Home event, Awards Banquet, Triple Play, Golf Tournament) and shall continue the Arlington appreciation night. Further, the Team intends to use good faith efforts to be an active corporate participant in charitable and philanthropic activities in the City of Arlington.

(b) All or portions of the Ballpark Complex shall be made available for booking of City sponsored and City hosted events or events at which the City is a major participant at the then current market rate for the requested space; provided the event organizer has contacted the Team at least a year in advance of the event, the space requested is available and does not conflict with the Team's schedule of regular season or postseason Major League Baseball games or related activities. In addition, the Team shall provide large meeting room space in the Ballpark Complex for City sponsored or City hosted events for no licensing fees to the City three times per year, subject to availability and the City paying direct expenses (e.g., staffing, food and beverage).

(c) The Team agrees to reasonably cooperate with the City on all bids for events that qualify for purposes of the State of Texas' Event Trust Fund or Major Events Reimbursement Program. The Team agrees to work with the City on scheduling such events at the Ballpark Complex, subject to availability based on Team requirements. City agrees that any use of the Ballpark Complex in connection with such events will be on the basis of then current market rates and terms of use.

(d) During the Initial Term of the Ballpark Complex Lease and any extensions thereof, the Team agrees to use good faith efforts to host pre or post game public celebrations (if any) related to post season games in Arlington, to the extent consistent with the MLB Rules and Regulations.

Section 5.4. Rangers Corporate Headquarters and Executive Offices.

The Team's corporate headquarters and executive offices shall remain in Arlington for the Initial Term of the Ballpark Complex Lease and any subsequent renewal terms; located either in the Ballpark Complex or related facilities located on the Land. In addition, the Team will use good faith efforts to cooperate with the City on economic development efforts to attract and retain businesses to Arlington.

Section 5.5. MWBE/Local Business.

The Team agrees that it will implement a Community Benefits Plan to provide meaningful community benefits and appropriate opportunities for local companies, as well as racial and ethnic minority or women owned companies ("MWBE Companies"), in the design, development, procurement and construction of the Ballpark Complex. The Team agrees that the Community Benefits Plan will establish an overall goal of 25% (twenty-five percent) use by the Team of qualified MWBE Companies, with reasonable exclusions. The Team agrees to work with the City to develop, in coordination with a Community Advisory Committee, the Community Benefits Plan to ensure it achieves a diverse workforce. The workforce shall be

sourced, to the extent reasonably possible, from local residents, for the design, development, procurement and construction of the Ballpark Complex.

Section 5.6. Development Property Lease, Development Option Agreement, and Convention Center Parking Agreement.

(a) The City and Team agree to enter into one or more leases and agreements, which will include the following: a Development Property Lease, a Development Option Agreement, a Convention Center Parking Agreement, the Stonegate Lease and the Convention and Visitor Bureau sub-lease.

(b) The City and the Team will enter into a lease that provides for the relocation of the Youth Ballpark, at the expense of the Team, to a public park or other off-site location, as mutually agreed by the City and the Team, or to replace the Youth Ballpark with youth baseball fields or youth baseball initiatives at off-site location in the City of Arlington, as mutually agreed. The Ballpark Complex Lease will provide for the continued use and operation of Globe Life Park in Arlington and the Land by the Team and its Affiliates until the Team moves its operations to the Ballpark Complex.

(c) The easement currently granted by the Team across lot J for the benefit of the City, shall remain in place unless and until the underground parking at Globe Life Park in Arlington is demolished.

Section 5.7. Memorial Elements. The Team, in cooperation with the City, shall create an appropriate memorial in the Ballpark Complex to recognize the Team's history in Arlington and the civic leadership that brought the Team to Arlington.

ARTICLE VI

GLOBE LIFE PARK IN ARLINGTON

The City and Team agree that reasonable efforts will be used to explore opportunities for repurposing portions of Globe Life Park in Arlington that retain some elements of the ballpark which could include portions of the façade, the underground parking and/or the Centerfield Building; provided, however, that the parties understand that the Team may, in its discretion, ultimately determine that all of Globe Life Park in Arlington should be demolished by the Team at any time subsequent to the Team's relocation to the Ballpark Complex.

ARTICLE VII

CONDITIONS

Section 7.1. Conditions to the City's Obligations.

The City shall have no obligation to deposit the City Contribution or to consummate the other transactions described herein, unless the following conditions have been satisfied:

(a) A majority of the City's voters who cast votes in the Election shall have voted in favor of the proposition authorizing the venue project and the related taxes submitted in the Election Ordinance;

(b) The City has adopted the Resolution required under the Act;

(c) The Team shall have executed and delivered the Project Documents;

(d) The City owns the Ballpark Complex Site and the Land;

(e) The Team shall have delivered the Master Plans and the Ballpark Complex Budget;

(f) The Team shall have timely performed all of those material covenants, agreements and obligations required hereunder and under the Project Documents to be performed by the Team prior to the City depositing the City Contribution, and the Team shall not be in default under the Project Documents or this Agreement; and

(g) The Team shall have satisfied its obligations with respect to the Team Contribution or delivered assurances of the availability thereof and shall have delivered assurances of completion of the construction of the Ballpark Complex, as required by Section 3.8;

(h) The City has determined that the sale of the Ballpark Complex Bonds will achieve the City Contribution under reasonable market terms to the City.

(i) Major League Baseball shall have reviewed and approved this Agreement and the Project Documents in writing prior to the execution thereof to the extent required under the MLB Rules and Regulations.

Section 7.2. Conditions to the Team's Obligation.

The Team shall have no obligation to deposit the Team Contribution, to develop the Ballpark Complex as set forth herein or to consummate the other transactions described herein, unless the following conditions have been satisfied:

(a) A majority of the City's voters who cast votes in the Election shall have voted in favor of the proposition submitted in the Ordinance calling the Election;

(b) The City shall have adopted a resolution approving the Project Documents;

(c) Major League Baseball shall have reviewed and approved this Agreement and the Project Documents in writing prior to the execution thereof to the extent required under the MLB Rules and Regulations;

(d) The City shall own the Ballpark Complex Site and the Land;

(e) The Team has acquired all necessary rights-of-way, abandonments, zoning changes, land use entitlements and similar governmental actions or approvals by the City necessary or appropriate for the Team to develop the Ballpark Complex in the manner contemplated herein;

(f) The City has not passed any legislation authorizing and has not imposed Targeted Taxes on the Team or its Affiliates related to the Ballpark Complex, or on the Ballpark Complex itself or on the Ballpark Complex Site;

(g) The City has a plan in place to defease the Outstanding Bonds, if necessary, to fund the City Contribution;

(h) The City shall have timely performed all of the material covenants, agreements and obligations required hereunder to be performed by the City hereunder and under the Project Documents prior to the deposit of the Team's Contribution and shall not be in default under the Project Documents or this Agreement; and

(i) The City shall have deposited the City Contribution, as required by Section 3.7.

ARTICLE VIII

TERMINATION

Section 8.1. Termination.

Prior to the Election, this Agreement may not be terminated; after the Election, this Agreement may be terminated under the following circumstances:

(a) By the mutual written consent of the City and the Team prior to the sale of the Ballpark Complex Bonds in the market;

(b) By either the City or the Team if a majority of the City's voters who cast votes in the Election vote against the proposition submitted thereat;

(c) By either the City or the Team if the Project Documents have not been approved and delivered by the Project Documents Deadline, and closing shall not have occurred by the date specified in the Project Documents; or

(d) By the Team if the City fails to fund its City Contribution as required by Section 3.7;

(e) By the City if the Team cannot meet its Team Contribution requirements under Section 3.8;

(f) By the Team prior to the sale of the Ballpark Complex Bonds, if the Team determines, based on revised estimates to the Ballpark Complex Budget, that the aggregate amount of the Project Costs and Additional Costs will be more than $1,250,000,000 (One Billion

Two Hundred Fifty Million Dollars); provided, however, that the Team shall notify the City of its intent to terminate pursuant to this Section, and the Team and the City shall make a good faith effort to reduce the cost of the Ballpark Complex or identify additional funding sources. If the Team and the City cannot reduce the aggregate amount of the Project Costs and Additional Costs below $1,250,000,000 (One Billion Two Hundred Fifty Million Dollars) or find sufficient additional revenue sources within 90 days of the notice, or if the Team has not withdrawn its notice of termination during such 90 day period, then the Team's decision to terminate shall become effective.

(g) No later than ninety (90) days prior to the date of posting or publication of the official statement or notice of sale relating to the Ballpark Complex Bonds is scheduled to occur, the City shall provide written notice to the Team of the estimated expected Available Bond Proceeds. In the event the Available Bond Proceeds will be less than $500,000,000, the Team may provide notice of termination to the City. The notice of termination shall become effective if, after consultation between the City and the Team, alternative financing arrangements cannot be agreed upon within ninety (90) days.

Section 8.2. Termination Procedure.

If either party determines that it wishes to terminate this Agreement pursuant to Section 8.1, then such party must deliver a written notice to the other party to the effect that the notifying party thereby terminates this Agreement. The notice must be in writing and must specify in reasonable detail the factual basis for the termination of this Agreement.

Section 8.3. Termination Upon Execution of Project Documents.

Upon execution of the Project Documents, this Agreement shall automatically terminate and be deemed to have been fully performed by both the City and the Team.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Further Agreements.

The City and the Team agree to use their good faith efforts to complete and execute, as soon as practicable following the execution of this Agreement, all Project Documents necessary, appropriate or desirable to carry out the transactions agreed to by the parties in this Agreement.

Section 9.2. Governing Law.

THIS AGREEMENT SHALL BE INTERPRETED AND THE RIGHTS OF THE PARTIES DETERMINED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES APPLICABLE THERETO AND THE LAWS OF THE STATE OF TEXAS APPLICABLE TO AN AGREEMENT EXECUTED, DELIVERED AND PERFORMED IN SUCH STATE.

Section 9.3. Compliance with Laws.

The Team and the City shall comply in all material respects with all applicable laws in connection with the design, engineering, construction, equipping and furnishing of the Ballpark Complex.

Section 9.4. Venue for Actions.

The venue for any legal action arising out of this Agreement shall lie exclusively in Tarrant County, Texas.

Section 9.5. Taxes.

The City covenants that if, in the future, the City imposes Targeted Taxes on the Team, its Affiliates, the Ballpark Complex or the Ballpark Complex Site, then, in addition to other remedies available to the Team, the City shall fully reimburse the Team for the total amount of such Targeted Taxes from lawfully available revenues, including revenues collected from the Targeted Taxes, to the extent authorized by law.

Section 9.6. Force Majeure.

The time within which any party to this Agreement shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed by condemnation, casualty, damage, strikes or lockouts, acts of God, governmental restrictions, failure or inability to secure materials or labor, reason of priority or similar regulations or order of any governmental or regulatory body, enemy action, terrorism, civil disturbance, fire, unavoidable casualties or any other cause beyond the reasonable control of the party seeking the delay.

Section 9.7. Representatives.

(a) During the term of this Agreement, the City Designee shall have full authority to administer this Agreement on behalf of the City. The Team shall be entitled to rely on the authority of the City Designee for such purposes under this Agreement.

(b) During the term of this Agreement, the Team shall designate Team Representatives. The initial Team Representative shall be Rob Matwick. The Team may designate a permanent or temporary replacement for a Team Representative by delivering a written notice to the City executed by the Team. If the Team assigns its rights under this Agreement to an Assignee, the Assignee shall ensure that one or more of its senior executive officers possesses the authority to be exercised by the Team Representatives. From and after the date of any assignment to the Assignee, the officer or officers designated by the Assignee shall serve as the Team Representatives. The City shall be entitled to rely on the authority of the Team Representatives (acting together) for such purposes under this Agreement.

Section 9.8. Obligations to Defend Validity of Agreement.

If litigation is filed by a third party against the Team or the City in an effort to enjoin either party's performance of this Agreement, the parties hereto who are named as parties in such action shall take all commercially reasonable steps to support and defend the validity and enforceability of this Agreement. Either party may intervene in any such matter in which the other party hereto has been named as a defendant. Each party shall be responsible for its attorneys' fees and costs of litigation.

Section 9.9. Exclusive Dealing.

During the term of this Agreement, the Team will not solicit or accept any proposal of, or enter into any plan or agreement with, any county or any city other than the City regarding any project or facility having a purpose similar to the Ballpark Complex. The Project Documents, if executed, shall contain a similar provision for the period through completion of construction of the Ballpark Complex.

Section 9.10. Confidentiality.

The Team has advised the City that the information to be included in the Project Documents may contain confidential commercial information relating to the Team and its business and affairs that is protected from public disclosure under applicable law, and that premature disclosure thereof will have a material adverse business and financial impact on the Team. Accordingly, the City agrees that it will follow all procedures established by applicable law that give the Team the right to contest the public disclosure of confidential commercial and business information relating to the Team and its Affiliates.

Section 9.11. Successors and Assigns.

The provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Except as expressly provided herein, this Agreement may not be assigned without the prior written consent of the other party hereto; provided, however, the rights and interest of the Team under this Agreement are assignable to any successor-in-interest of the ownership of the Team or to any wholly-owned subsidiaries or other entities formed by the principal owners of the Team and its Affiliates.

Section 9.12. Entire Agreement: Amendment.

This Agreement (including the Exhibits attached hereto) and the other documents delivered pursuant hereto and referenced herein constitute the full and entire understanding and agreement between the parties with regard to the subject matter hereof and thereof and supersede any prior or contemporaneous, written or oral agreements or discussions between the parties. Neither this Agreement nor any term hereof may be amended, waived, discharged or terminated, except by a written instrument signed by the parties hereto and for which all necessary MLB Approvals have been obtained in advance.

Section 9.13. Waiver

No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provision of this Agreement, except by written instrument of the party charged with such waiver or estoppel and for which all necessary MLB Approvals have been obtained in advance.

Section 9.14. MLB Rules and Regulations Subordination

Notwithstanding any other provision of this Agreement, this Agreement and any rights or exclusivities granted by the Team to the City hereunder shall in all respects be subordinate to the MLB Rules and Regulations. The issuance, entering into, amendment or implementation of any of the MLB Rules and Regulations shall be at no cost or liability to any MLB Entity or to any individual or entity related thereto. The territory within which the City is granted rights is limited to, and nothing herein shall be construed as conferring on the City rights in areas outside of, the " operating territory" or "home television territory," as applicable of the Team as established and amended from time to time pursuant to the MLB Rules and Regulations. No rights, exclusivities or obligations involving the Internet or any interactive or on-line media (as defined by the applicable MLB Entities) are conferred by this Agreement, except as are specifically approved in writing by the applicable MLB Entities.

Section 9.15. Notices.

All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered by hand, messenger, or reputable overnight courier, and shall be deemed given when received at the addresses of the parties set forth below, or at such other address furnished in writing to the other parties hereto.

If to the City	If to the Team
City of Arlington, Texas City Manager's Office c/o City Manager 101 W. Abram Street Arlington, Texas 76004-3231	Rangers Baseball LLC 1000 Ballpark Way, Suite 400 Arlington, Texas 76011 Attn: Rob Matwick, Executive Vice- President of Business Operations Copy to: Kate Cassidy, Associate Counsel

Section 9.16. Delays or Omissions.

Except as otherwise provided herein to the contrary, no delay or omission to exercise any right, power or remedy inuring to any party upon any breach or default of any party under this Agreement shall impair any such right, power or remedy of such party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All remedies

either under this Agreement or by law or otherwise afforded to the parties shall be cumulative and not alternative.

Section 9.17. No Joint Venture.

Nothing contained in this Agreement or any other agreement between the Team and the City is intended by the parties to create a partnership or joint venture between the Team, on the one hand, and the City on the other hand and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either party as an agent of the other for any purpose whatsoever. Neither party shall in any way assume any of the liability of the other for acts of the other or obligations of the other. Each party shall be responsible for any and all suits, demands, costs or actions proximately resulting from its own individual acts or omissions.

Section 9.18. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. An electronic (e.g., pdf) copy of this executed Agreement shall be valid as an original for all purposes.

Section 9.19. Titles and Subtitles.

The titles of the articles, sections, paragraphs and subparagraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 9.20. Notice and Cure.

Except as otherwise stated herein, a party's failure to perform any obligation or agreement required to be performed hereunder shall not constitute a breach or default hereunder until and unless the non-defaulting party gives the defaulting party written notice of the non-performance and the defaulting party then fails to cure such non-performance by the tenth (l0th) day after the date on which such notice is given.

[execution page follows]

This Agreement has been executed and delivered as of the date first written above.

CITY OF ARLINGTON

By: _____
TREY YELVERTON
City Manager, City of Arlington, Texas

ATTEST:

_____
MARY SUPINO
City Secretary, City of Arlington

APPROVED AS TO FORM:

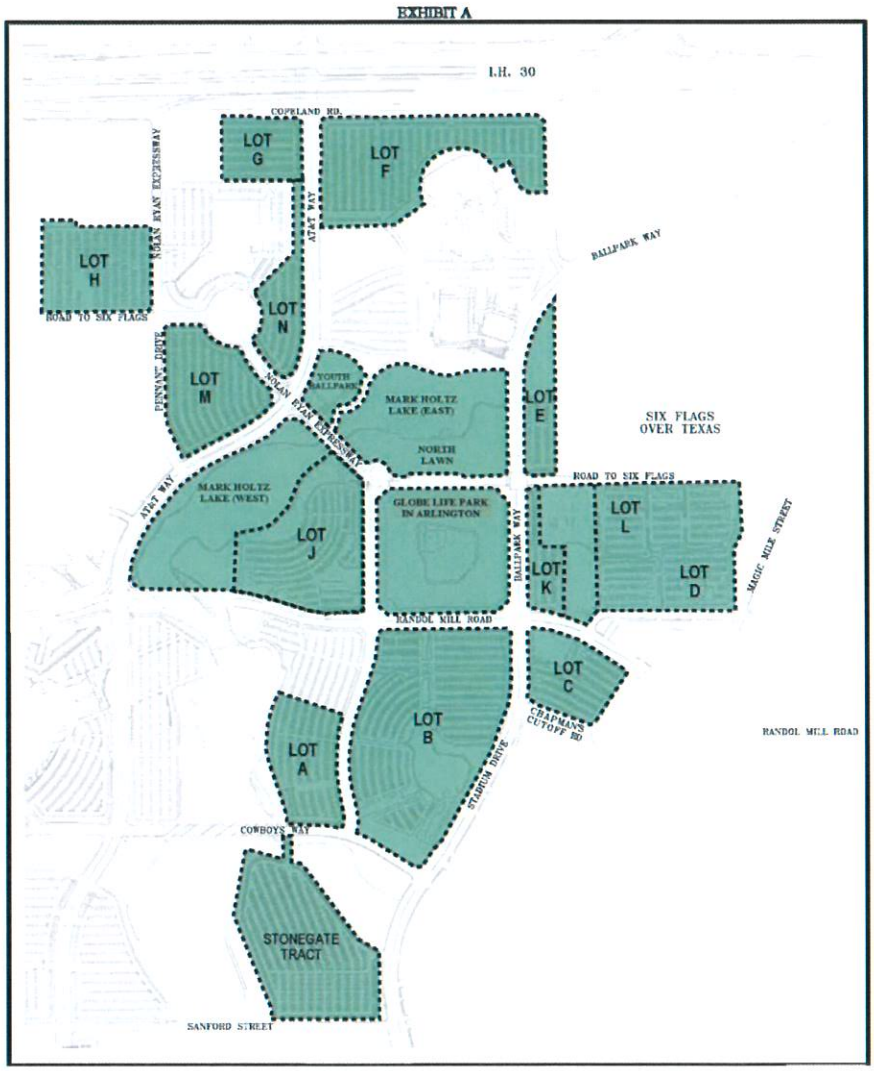
_____
TERIS SOLIS
City Attorney, City of Arlington

RANGERS BASEBALL LLC
A Delaware limited liability company

By: Rob Matwick
Rob Matwick
Executive VP of Business Operations

EXHIBIT A

The Land



PRELIMINARY SITE MAP

#5192829.7

EXHIBIT B

Ballpark Complex Elements

- A new, flexible, retractable roof, multi-functional stadium, coliseum, sports and community venue project.
- First class-facility on a park with other comparably-sized, municipally-owned, multi-use outdoor/indoor sports and community venue projects recently constructed in North America
- Designed to accommodate at least 38,000 people for indoor or outdoor professional, college, and amateur baseball games
- Office space sufficient for the Team's needs
- Reasonably capable of temporary reconfiguration for other types of indoor or outdoor sports and entertainment events
- Luxury suites
- Multiple levels of seating
- At least 2 bullpens, at least 2 indoor locker rooms, indoor training facilities
- Elevators and escalators
- Food service preparation and service facilities
- Baseball playing field, consistent with MLB standards
- Multiple areas for merchandise display and sales
- Bar and restaurant facilities, including dine-in areas
- ADA compliant
- Player and baseball staff areas
- Media area(s), such as press box and area(s) for radio/television production
- Shipping and receiving area(s)
- Trash hauling and warehouse storage area(s)

EXHIBIT C

Preliminary Ballpark Complex Budget

EXHIBIT C

Preliminary Ballpark Complex Budget

SF - 1,220,000

Spectator Facilities	$	133,864,620
Food Service/Retail		43,416,533
Service Level Operations		46,099,760
Operable Roof		125,987,572
Special Systems (MEP)		112,157,317
Scoreboards		28,660,824
CMAR Cost		39,214,930
Insurance/Bonds/Fees		33,087,597
Contingencies & Escalations		68,904,922
Ballpark Construction (excl. Design, Site Preparation, etc.)		631,394,075
Site & Infrastructure		106,315,326
Design, Legal, Financing & Consultant Costs		170,164,786
Project Costs		907,874,187
Additional Costs (Land, Texas Live!, Hotel, Others)		100,000,000
Ballpark Complex Budget	$	1,007,874,187

Disclaimer

The amounts contained in this Budget are preliminary. They may not be relied upon. They may be adjusted in the future. The final Budget will be based upon final plans for the Project prepared for and acceptable to the Team.

HR&A Analyze. Advise. Act.

Economic & Fiscal Impact Analysis of the Texas Rangers in Arlington and Tarrant County

May 2016

INTRODUCTION
HR&A Advisors, Inc.

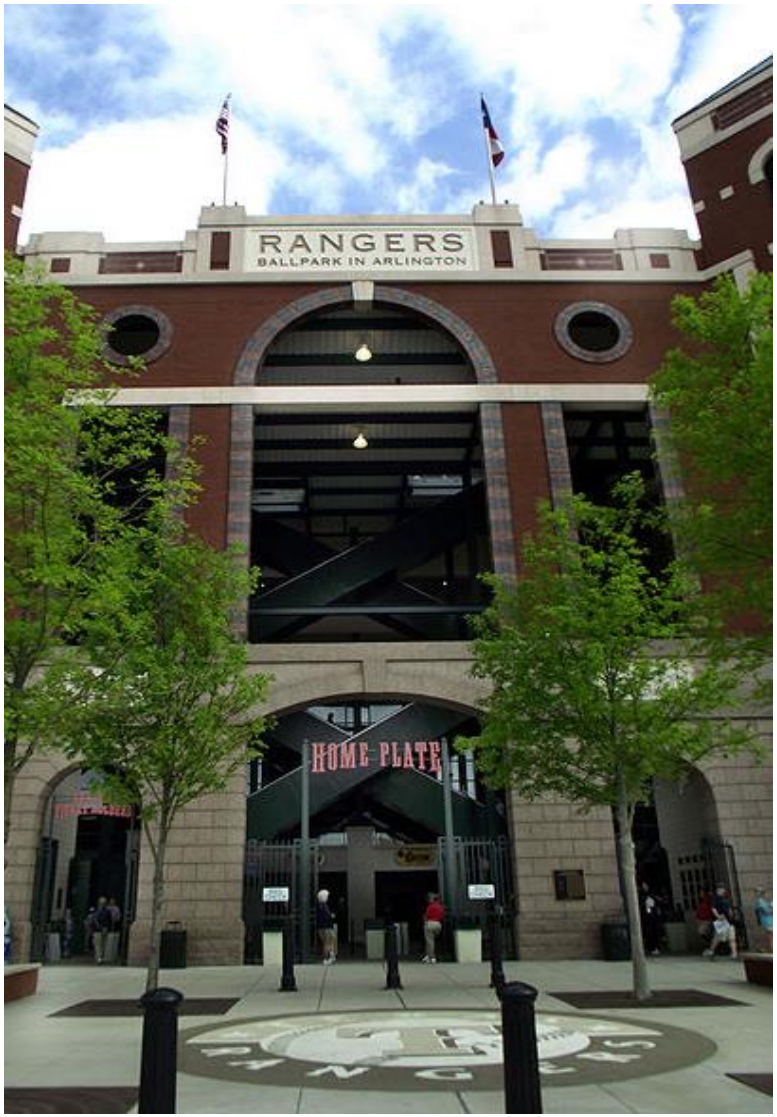
HR&A is a real estate and economic development consulting firm working at the intersection of the public and private sector. Our work transforms communities and revitalizes urban environments in the United States and abroad. We have offices in New York, Washington D.C., Dallas, and Los Angeles.

Introduction 3
HR&A Firm Overview
Study Overview

Economic & Fiscal Impact Analysis 5
Methodology
Impact of the Texas Rangers with a new stadium
Impact of New Stadium

Summary of Findings 13
Fiscal Impacts

INTRODUCTION
Study Overview



On behalf of the Arlington Convention and Visitors Bureau, HR&A has conducted an economic and fiscal impact analysis to quantify the value of the Texas Rangers Major League Baseball franchise to the City of Arlington and Tarrant County beyond their current lease in 2024, assuming the construction of a new stadium. This study estimates:

- Economic impacts related to existing operations at Globe Life Park, construction of a new stadium, and stable-year operations, to the City of Arlington and Tarrant County;
- Key fiscal revenues to the City of Arlington.

HR&A developed estimates of the economic and fiscal impacts based on data from the Texas Rangers as well as the City of Arlington.

STUDY CONTEXT

Texas Rangers & the City of Arlington

Past

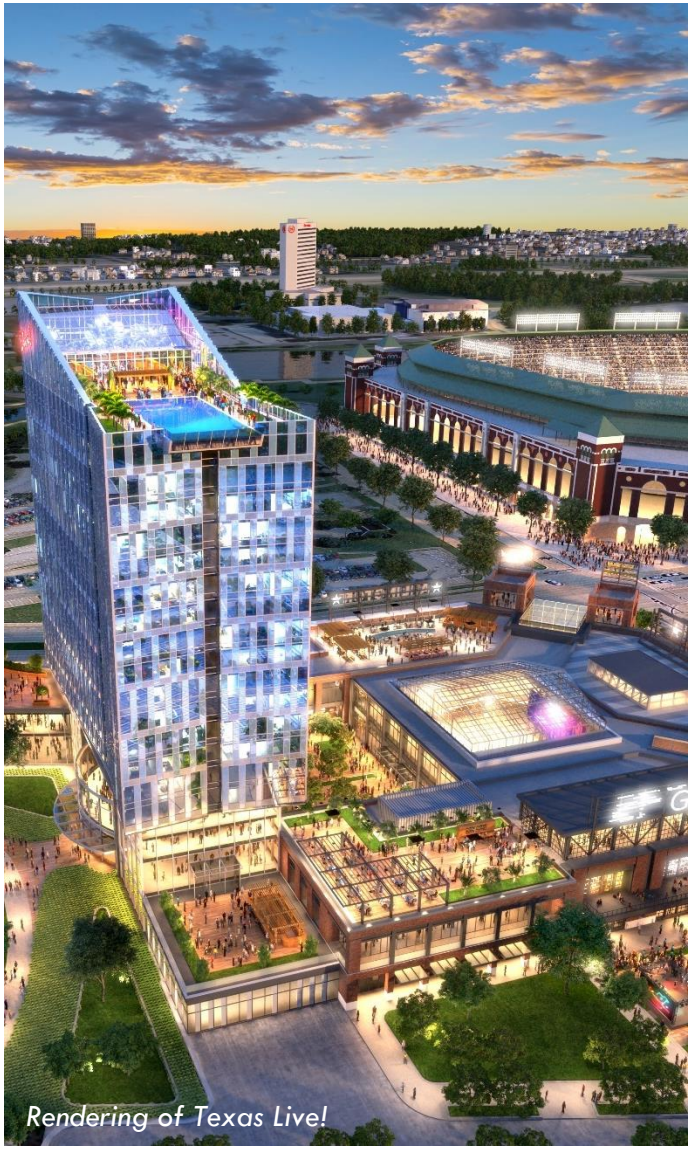
The Texas Rangers and the City of Arlington have a history going back almost half a century. The City received a major league baseball franchise with the relocation of the Washington Senators to Arlington in 1971, changing their name to the Texas Rangers. Over the years, Arlington and the Rangers collaborated in long-term planning to improve their current stadium, now named Globe Life Park, which opened on April 1, 1994. The Rangers currently lease Globe Life Park from the City of Arlington and manage its daily operations.

Present

The City of Arlington has continued to grow and establish new amenities surrounding the stadium. AT&T Stadium, home of the Dallas Cowboys, officially opened nearby in summer 2009.

Future

The City of Arlington has partnered with the Texas Rangers and The Cordish Companies to develop Texas Live!, a new multi-use entertainment venue situated next to Globe Life Park. Texas Live! will consist of a large hotel and convention center complex. Construction is expected to begin in the fall of 2016. The City and Rangers are contemplating the development of a new facility as a home to the Rangers, continuing a successful partnership between the two organizations.

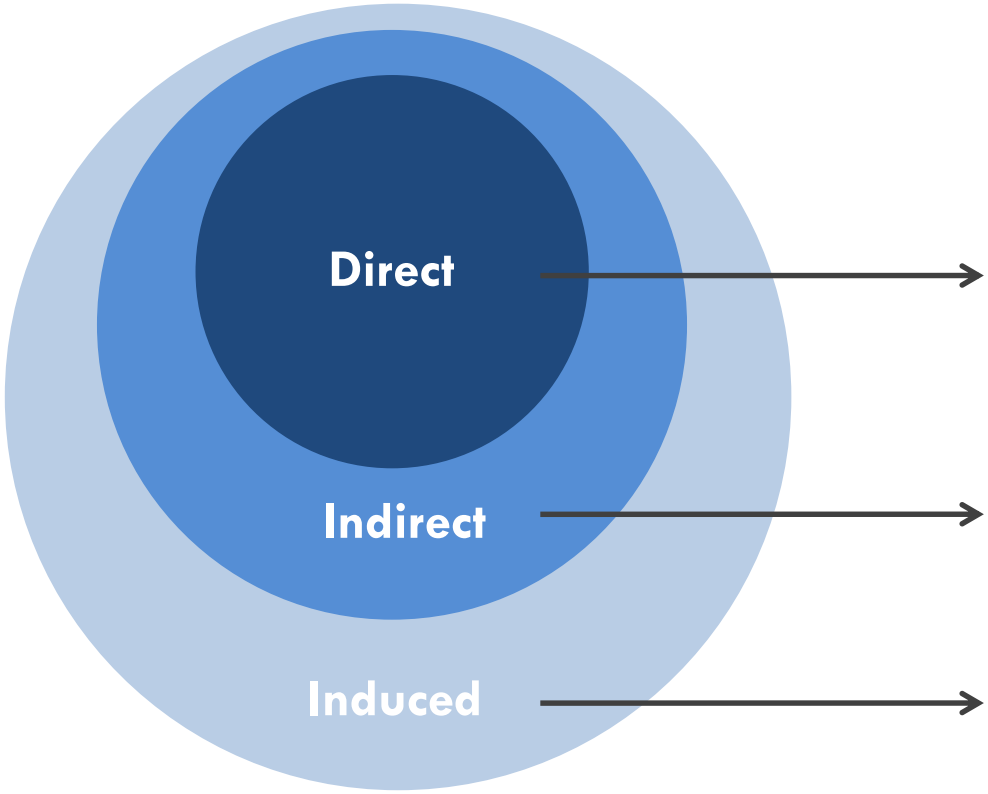


Rendering of Texas Live!

ECONOMIC & FISCAL IMPACT ANALYSIS

METHODOLOGY
Economic Impact Analysis

In order to estimate the economic impacts of the Rangers, HR&A has used the input-output model IMpact analysis for PLANning (IMPLAN). IMPLAN measures both the direct and multiplier effects that result from a given project. Multiplier effects include indirect impacts (as a result of supplier spending) and induced impacts (as a result of employee compensation).



Direct Impact
Initial change attributable to spending associated with the project investment or ongoing, on-site operations.

Indirect Impact
Effect on businesses that supply the industries that the project directly affects.

Induced Impact
Change in household spending of employees associated with the project.

METHODOLOGY
Economic Impact Analysis

HR&A has gathered information on current operations at Globe Life Park and estimated changes to the operations and visitor spending for a new stadium. The following process describes the process of running these estimates through IMPLAN in order to understand the multiplier effects of this spending:

Organize Texas Rangers expenditures and offsite visitor spending, and identify appropriate IMPLAN sector codes for different expenditures. Make regional adjustments for spending in Arlington, Tarrant County, and leakages.

Enter data by sector code into IMPLAN to calculate impacts for both the City of Arlington and Tarrant County.

Interpret IMPLAN results for direct, indirect, induced, and total output overall.

METHODOLOGY
Key Assumptions

Our analysis is built on the following assumptions:

Current Stadium Operations and Offsite Spending (ongoing)

- Current operating costs and wages from the Texas Rangers.
- Offsite spending based on average of 2.4 million visitors information and profiles of likely consumer spending from the City's past analysis.
- Spending related to non-game events, including 177 small events and 25 large events in 2015.

New Stadium Operations and Offsite Spending (ongoing)

- The new stadium will host an additional 10 large non-game events.
- Attendance will increase by 12% in the initial five years of operations from its current average (up to 40,000 in year 1 of operations of the new stadium) and will subsequently decrease and stabilize after this period.
- Fiscal impacts have been calculated based on multiple data sources including sales tax (Arlington and the State of Texas), ballpark annual rent, hotel occupancy tax, and car rental tax.

New Stadium Construction Impacts (one-time)

- $850M in gross construction costs for the new stadium.

IMPACT OF THE TEXAS RANGERS WITH A NEW STADIUM

Total Economic Impact of Operations

The expenditures related to operations from the Rangers and visitor spending totals over $4.49 billion in net present value for Tarrant County ($137.6 million annually) and $2.53 billion in net present value for the City of Arlington ($77.5 million annually) over the term of a new lease at a new facility (2025-2054).

Annual economic impacts

$77.5M

in the City of Arlington

$69.4M direct — **$8.1M** indirect/ induced

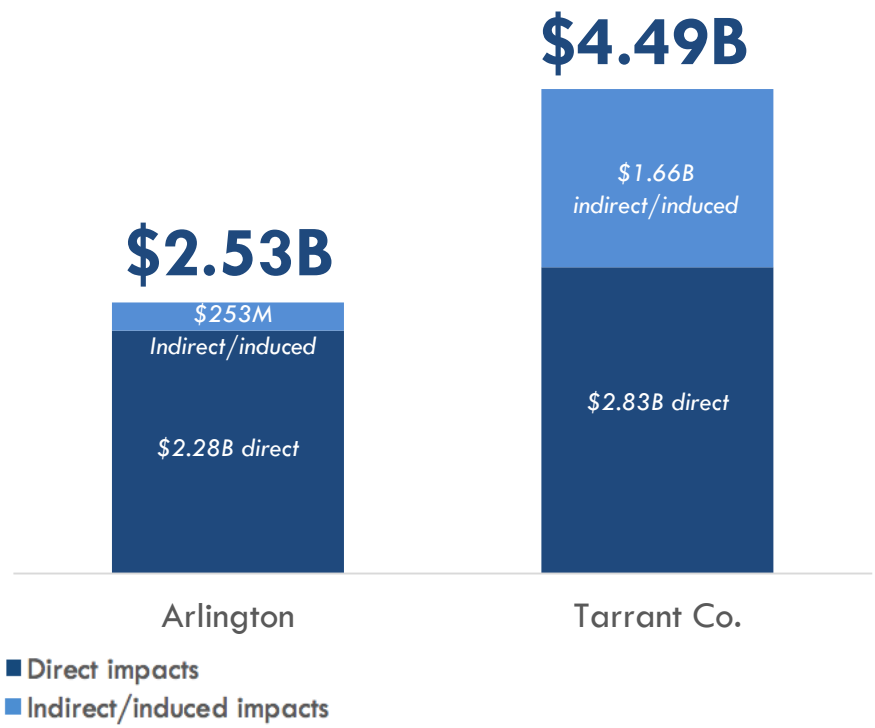
$137.6M

in Tarrant County

$86.9M direct — **$50.7M** indirect/ induced

Net present value of economic output*

(2016-2054)



Source: Texas Rangers, City of Arlington, HR&A Advisors, Inc.
** Present value calculation assumes a 4% discount rate and 3% inflation.*

IMPACT OF THE TEXAS RANGERS WITH A NEW STADIUM

Total Economic Impact of Operations

The impacts of spending by visitors, along with the operating costs associated with the team, has reverberations beyond the initial spending supporting almost 1,450 full-time equivalent (FTE) jobs annually in Arlington and 1,950 jobs annually in Tarrant County. These FTEs have been estimated out of a total 3,400 jobs in Arlington and 4,000 jobs in Tarrant County (including full-time and part-time). In sum, these jobs contribute $66.5 million in wages throughout the county, $43.6 million of which is in Arlington.

Jobs (FTEs) supported annually at stabilized year of operations

1,450 jobs

in the City of Arlington

1,400 direct — **50** indirect/ induced

Delivering $43.6M in wages

1,950 jobs

in Tarrant County

1,700 direct — **250** indirect/ induced

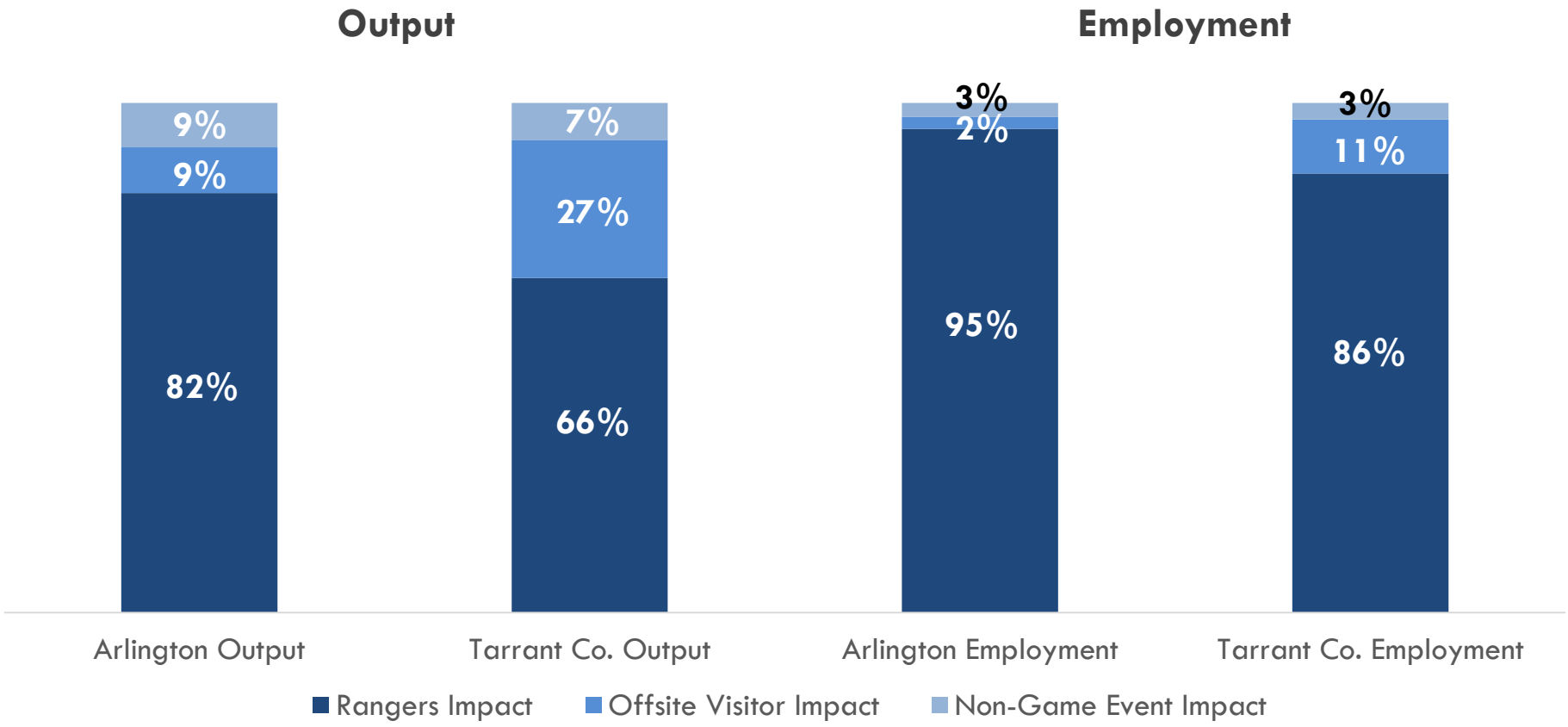
Delivering $66.5M in wages

Source: Texas Rangers, City of Arlington, HR&A Advisors, Inc.

IMPACT OF THE TEXAS RANGERS WITH A NEW STADIUM

Sources of Impacts

Impacts are largely driven by spending and employment by the Rangers, particularly within Arlington. Outside of Arlington, offsite employment for retail, transportation, hotels, and other related spending by visitors becomes more pronounced.

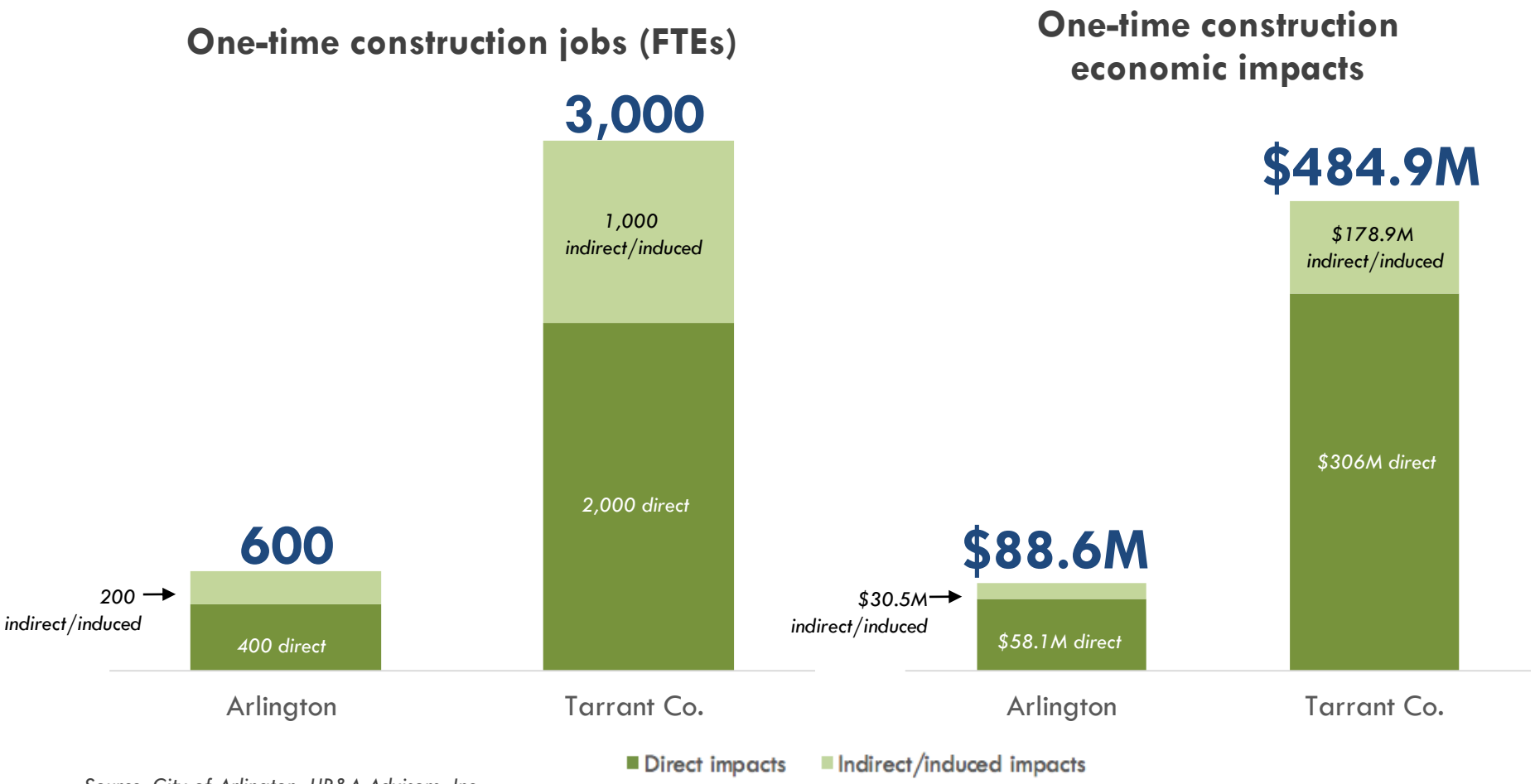


Source: IMPLAN, HR&A Advisors, Inc.

IMPACT OF NEW STADIUM

New Stadium Construction Impacts

Additionally, with a total capital cost of $850 million, the construction of a new stadium will have its own economic effects, supporting 3,000 jobs in Tarrant County and $484 million in economic activity. 19% of these impacts are estimated to be captured within the City of Arlington.



Source: City of Arlington, HR&A Advisors, Inc.

IMPACT OF THE TEXAS RANGERS WITH A NEW STADIUM
Summary

The Texas Rangers support a significant amount of ongoing economic activity in the City of Arlington and Tarrant County:

Operations and visitor spending (ongoing)

Net present value (2016-2054)

- $4.49 billion in economic activity Tarrant County, $2.53 billion of which will be captured in Arlington.

Annual impacts

- 3,400 jobs in Tarrant County, 2,950 jobs in Arlington (FTEs).
- $137.6 million in annual economic activity in Tarrant County, $77.5 million captured in Arlington.

Construction (one-time)

- 3,000 jobs in Tarrant County, 600 jobs in Arlington (FTEs).
- $484.9 million in economic activity in Tarrant County, $88.6 million captured in Arlington.

Image: carlock_family (Flickr)

IMPACT OF THE TEXAS RANGERS WITH A NEW STADIUM

Fiscal Impacts

Ongoing operations of Globe Life Park results In the following fiscal impacts to the City of Arlington attributable to the existence of the Texas Rangers. Due to increased spending, revenue is expected to increase annually with a new stadium.

$134,400,000

of gross fiscal revenue to the City of Arlington from 2016-2054*

Sales Tax
$84.3 million total
(up to $2.7 million annually)
+
Rent to City of Arlington
$40.7 million total
(up to $2 million annually)
+
Hotel Occupancy Tax
$8 million total
(up to $341,000 annually)
+
Car Rental Tax
$1.4 million total
(up to $62,700 annually)

Revenues may go towards paying bond.
Source: Texas Rangers, City of Arlington, HR&A Advisors, Inc.
** Present value calculation assumes a 4% discount rate and 3% inflation.*

HR&A Analyze. Advise. Act.

Economic & Fiscal Impact Analysis of the Texas Rangers in Arlington and Tarrant County

May 2016

Staff Report

Resolution Authorizing the Stonegate Improvements Agreement	
City Council Meeting Date: 05-24-16	Document Being Considered: Resolution

RECOMMENDATION

Consider a resolution authorizing the City Manager or his designee to execute the Stonegate Improvements Agreement with Ballpark Parking Partners LLC.

PRIOR BOARD OR COUNCIL ACTION

On June 24, 2014, City Council approved a resolution authorizing the execution of a contract of sale and related documents with Ballpark Parking Partners LLC for the purchase and leaseback of the Stonegate Tract (1701 E. Sanford Street and 608 Stadium Drive).

ANALYSIS

The Stonegate Improvements Agreement outlines the responsibilities of the City regarding construction of an asphalt surface parking area for approximately 2,000 vehicles, and a 2-lane vehicular bridge with two pedestrian walkways, providing access to Cowboys Way, on the Stonegate Tract (1701 Sanford Street and 608 Stadium Drive) in exchange for a parking easement on the property for the benefit of the City should there be a default by the tenant under the Ballpark Lease. The parking area will be completed and available for parking by April 1, 2017. In accordance with the terms of the Lease Agreement between the City and BPP, BPP is responsible for maintenance of all improvements once constructed. Construction of the improvements will be coordinated with Tarrant County under a future interlocal agreement or through construction contracts with private contractors.

ADDITIONAL INFORMATION

Attached:	Resolution authorizing execution of an Agreement
Under separate cover:	None
Available in the City Secretary's office:	None

STAFF CONTACTS

Trey Yelverton
City Manager
817-459-6101
Trey.Yelverton@arlingtontx.gov

David Wynn, P.E.
Director
Public Works and Transportation
817-459-6560
David.Wynn@arlingtontx.gov

Resolution No. _____

A resolution authorizing the City Manager or his designee to execute the Stonegate Improvements Agreement by and between Ballpark Parking Partners LLC and the City of Arlington, Texas

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That the City Manager or his designee is hereby authorized to execute the Stonegate Improvements Agreement with Ballpark Parking Partners LLC.

II.

A substantial copy of the Stonegate Improvements Agreement is attached hereto and incorporated herein for all intents and purposes.

PRESENTED AND PASSED on this the _____ day of _____, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

_____
W. JEFF WILLIAMS, Mayor

ATTEST:

_____
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY_____

STONEGATE IMPROVEMENTS AGREEMENT

This **STONEGATE IMPROVEMENTS AGREEMENT** (this "Agreement"), is entered into this ____ day of ___, 2016, by and between the **CITY OF ARLINGTON, TEXAS** (the "City"), a duly incorporated municipality and home-rule city of the State of Texas, and **BALLPARK PARKING PARTNERS LLC**, a Delaware limited liability company ("BPP").

RECITALS

A. By deed dated June 30, 2014 (the "Deed"), BPP conveyed to the City fee simple title to Lots 1 and 2 in Block 1 of the Stonegate Addition, an addition to the City of Arlington, Texas as recorded in Instrument No., D209186698, Plat Records, Tarrant County, Texas, which lots contain approximately 17.6 acres of land (collectively, the "Stonegate Tract");

B. On even date therewith, the City leased back the Stonegate Tract to BPP pursuant to the terms of that lease agreement (the "Stonegate Lease"); and

C. An affiliate of BPP is the operator of that major league baseball park owned by the City and known as "Globe Life Park in Arlington."

D. The City has agreed to enter into contracts for the construction of an asphalt surface parking area for approximately 2,000 passenger vehicles on the Stonegate Tract, with adequate striping, concrete curbs, drive aisles, medians, landscaping, lighting and storm water drainage, and a 2-lane vehicular bridge, with two pedestrian walkways each being not less than ten feet in width, providing access to the Stonegate Tract from Cowboys Way, all as more particularly described in the Plans, as such term is defined in Section 1.3(b) below (collectively, the "Improvements"), provided that BPP grants a parking easement to the City on the Stonegate Tract for the benefit of the major league baseball park in Arlington, Texas where the Texas Rangers Baseball Club plays its regular season and post season home games (the "Ballpark").

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

ARTICLE I
CONSTRUCTION OF IMPROVEMENTS

Section 1.1. Construction License**.** The City and its sub licensees will have the temporary license to enter upon and use the Stonegate Tract to engage in necessary activities connected with the construction of the Improvements. This construction license will automatically terminate thirty (30) days after completion of the Improvements, without the need for the execution of any further authorization, consent or other documentation to evidence such termination.

Section 1.2. Construction Period. The asphalt paving and other Improvements to be constructed on the Stonegate Tract are herein referred to as the "Onsite Improvements," and the 2-lane vehicular bridge and other Improvements to be constructed adjacent to the Stonegate Tract are herein referred to as the "Offsite Improvements." The City agrees to cause the completion of construction of the Onsite Improvements by April 1, 2017, subject to delays caused by force majeure or BPP. Construction of the Onsite Improvements will be considered complete when the City notifies BPP in writing (the "City Notice") that, in the reasonable opinion of the City, the Onsite Improvements are substantially completed except for minor punch list items that

do not prevent use of the Onsite Improvements for the purposes for which they are intended. The City agrees to cause the completion of construction of the Offsite Improvements within 365 days after the Corps of Engineers issues a permit allowing construction of the Offsite Improvements to commence. Construction of the Offsite Improvements will be considered complete when the City notifies BPP in writing that, in the reasonable opinion of the City, the Offsite Improvements are substantially completed except for minor punch list items that do not prevent use of the Onsite Improvements for the purposes for which they are intended.

Section 1.3. Construction of Improvements. The City, or the City's assignee which agrees in a written instrument to assume the City's obligations hereunder ("Constructing Party"), will have the right and obligation to construct the Improvements, at the Constructing Party's sole cost and expense. The Constructing Party will construct same in accordance with the following standards and obligations (the obligations set forth in this Section 1.3 being herein collectively referred to as the "Construction Obligations").

(a) Before commencing construction of the Improvements, the Constructing Party will provide BPP, for its approval, true, correct and complete copies of the proposed construction plans prepared by a licensed engineer. BPP will not unreasonably withhold or delay approval of the proposed construction plans. The Constructing Party will be responsible for obtaining all required permits and approvals of governmental authorities required for construction of the Improvements, at the Constructing Party's sole cost and expense.

(b) The construction work will be performed in accordance with the construction plans approved by BPP (the "Plans") and all such improvements will be constructed promptly and efficiently in a good and workmanlike manner in accordance with sound construction practices and in compliance with all applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state, county and municipal governmental authorities.

(c) Before commencement of construction, the Constructing Party will secure (i) commercial general liability insurance with BPP and its mortgagee identified as additional insureds, in an amount not less than a combined single limit equal $2,000,000.00, (ii) workers' compensation insurance in compliance with the laws of the state of Texas, covering employees, volunteers, temporary workers and leased workers; (iii) employer's liability insurance covering employees, volunteers, temporary workers and leased workers with a minimum limit of $1,000,000 each accident and (iv) automobile liability insurance, covering owned, non-owned, leased or hired automobiles, with a minimum combined single limit of $2,000,000 each accident, and such insurance coverage will be in a form and issued by an underwriter approved by BPP, such approval not to be unreasonably withheld. In addition, the Constructing Party will take all safety measures considered by BPP, in its reasonable judgment, to be necessary or appropriate to protect persons performing such work or construction and all visitors and invitees from injury or damage caused by, or resulting from, any work or construction performed by or on behalf of the Constructing Party. Notwithstanding the foregoing, if the City or Tarrant County is the Constructing Party, the City or Tarrant County may self-insure these risks.

(d) In no event will the Constructing Party allow a lien to attach to the Stonegate Tract as a result of or relating to the work of the Constructing Party, and by undertaking any work on the Stonegate Tract the Constructing Party will be considered, to the extent allowed by law, to have agreed to defend and indemnify BPP from and against any such liens. The City will contractually obligate the Constructing Party, if different from the City, to provide lien-free completion of the Improvements, and will withhold statutory retainage from the Constructing Party for at least thirty (30) days past completion to help ensure the same.

(e) After completing construction of the Improvements, the Constructing Party will promptly restore the surface of any unimproved portions of the Stonegate Tract (including the replacement of topsoil, the reseeding of natural grasses or the removal of rocks) damaged or altered by construction of the Improvements (e.g., temporary staging or storage areas). Upon completion, the Constructing Party will leave the Stonegate Tract free and clear of all trash and debris.

(f) The Constructing Party will not make substantial field changes to the Plans or substitute any materials to be incorporated into the Improvements without the prior written consent of BPP, which consent will not be unreasonably withheld. The Constructing Party will maintain close communication and coordination with BPP throughout the development and construction process.

(g) BPP will not be responsible for any costs or fees associated with the construction work (the "Work") undertaken with respect to the Improvements. All costs and expenses for the materials, design, construction and permitting of the Improvements, together with all premiums for insurance and bonds and any inspection or other fees charged by the City in its governmental capacity or any other governmental authority in connection with the Work or the Improvements, will be the City's sole responsibility to pay. The City assumes the risk of any unforeseen costs whether arising from any unforeseen physical condition on the Stonegate Tract (such as unexpected or unusual soil conditions, undiscovered utilities, or the absence of anticipated utilities), defective or nonconforming Work, contractor default, or otherwise.

(h) The Constructing Party will, at the Constructing Party's sole cost and expense, (1) relocate utilities located in, on or adjacent to the Stonegate Tract to the extent necessary to perform the Work and construct the Improvements.

(i) The location of the curb cuts to be installed on Sanford Street and Stadium Drive, and the location of the storm water drains and light poles to be installed on the Stonegate Tract, will be jointly determined by BPP and the City. The light poles will be of a size and type similar the light poles now used to light the Ballpark parking lots.

(j) At BPP's option and expense, the overhead electric lines will be removed and the new electric lines installed to serve the light poles will be placed underground. The City will cause the Constructing Party for this aspect of the Work to provide a cost estimate for this option.

(k) The asphalt pavement must, at a minimum, meet the following specification: 6" HMAC pavement over 8" lime or cement stabilized base compacted to 95% standard proctor.

(l) The bridge that is constructed as part of the Offsite Improvements will be similar in style to the bridge over Johnson Creek on the East Road to Six Flags that approaches the home plate entrance to the Ballpark, with similar design features (such as lighting).

(m) Obligations under this section performable after termination of this Agreement will survive termination.

Section 1.4. Construction Standards. All Work will conform to Approved Construction Standards. For purposes of this Agreement, "Approved Construction Standards" will mean a standard of conducting the Work that is in accordance with the Plans, the drawing set forth on Exhibit A hereto and applicable federal, state or local law.

ARTICLE II
GRANT OF PARKING EASEMENT TO THE CITY

Section 2.1. Grant of Easement. BPP hereby grants to the City, and its successors and permitted assigns, and establishes for the benefit of the Ballpark, a non-exclusive easement on, over, under and across the Stonegate Tract for the purpose of parking of Passenger Vehicles during Event Hours from and after the Parking Easement Effective Date (as defined below). This grant is made subject to all valid and subsisting matters of record that affect the Stonegate Tract, as shown in the real property records of Tarrant County, Texas, as of the date hereof.

Section 2.2. Condition Precedent. The City's right to use the parking spaces on the Stonegate Tract to provide parking for the Ballpark is conditioned upon the occurrence of an Event of Default on the part of the tenant under the Ballpark Lease.

Section 2.3. Easement Appurtenant. The parking easement is appurtenant to and is for the benefit of the Ballpark. the City will have the right to enter upon and use the Stonegate Tract solely for the purpose of parking Passenger Vehicles during Event Hours to provide parking for the Ballpark.

Section 2.4. BPP's Reserved Rights. BPP hereby reserves the right in common with the City to use the Stonegate Tract, and BPP reserves the right to relocate all or any portion of the parking spaces on the Stonegate Tract (and the City's parking easement relating thereto) to another location to facilitate development of or construction on the Stonegate Tract. BPP will act in good faith and in a commercially reasonable manner if it becomes necessary to relocate any such parking spaces to another location in order to accommodate development of or construction on the Stonegate Tract, and any such relocation will be subject to the prior written approval of the City, such approval not to be unreasonably withheld, delayed or conditioned. BPP agrees that any relocation of parking spaces must be sufficient to provide reasonably convenient parking for the Ballpark (whether in surface or structured parking facilities).

Section 2.5. Maintenance. BPP will keep and maintain the Improvements located on the Stonegate Tract in reasonably good condition and state of repair, at its sole cost and expense.

Section 2.6. Condemnation. If any portion of the Improvements located on the Stonegate Tract is taken pursuant to an exercise of the power of eminent domain, condemnation, expropriation or any conveyance in lieu of condemnation under a threat thereof, BPP will apply the proceeds of such award, or an amount equivalent to such proceeds, to the restoration of the remaining Improvements, to the extent that BPP's mortgagee does not require that such proceeds be applied to the indebtedness secured by the Deed of Trust (as defined in Section 3.23 below) or some related purpose.

Section 2.7. Casualty. If any portion of the Improvements located on the Stonegate Tract are damaged or destroyed by fire or other casualty, BPP will be obligated to repair, replace or restore the same, at BPP's sole expense, promptly and efficiently in a good and workmanlike manner in accordance with sound construction practices and in compliance with all applicable laws, ordinances, regulations and requirements of all governmental authorities, but BPP will not be required to expend more for this purpose than the amount of casualty insurance proceeds actually received by BPP that are made available by its mortgagee for repair, replacement or restoration.

Section 2.8. Parking Revenues. If the City operates the parking spaces on the Stonegate Tract, after the Parking Easement Effective Date to provide parking for the Ballpark, the City will remit 50% of the net parking revenues so generated to BPP, to compensate BPP for the City's use of the Stonegate Tract, after deducting the reasonable costs of operation.

Section 2.9. BPP's Right to Terminate the Parking Easement. If the City terminates the Stonegate Lease for any reason, without the prior written consent of BPP, or if after termination of the Stonegate Lease for any reason the City does not file of public record an affidavit evidencing the City's relinquishment of title to the Stonegate Tract, as contemplated in the Deed, then in addition to, and not in lieu of, its other available rights and remedies, BPP will have the right to terminate the parking easement granted to the City in this Article II by delivering written notice of termination to the City.

Section 2.10. Other Parking Opportunities. BPP will consider in good faith any reasonable opportunity presented to BPP to operate the parking spaces on the Stonegate Tract to provide paid parking for events held at the professional football stadium in Arlington, Texas now known as "AT&T Stadium," and any reasonable opportunity presented by the City for BPP to use the Stonegate Tract, during the Business Day outside of Event Hours, to provide parking for real estate projects that may be developed south of the Stonegate Tract, subject to such terms and conditions as may be set forth in a separate written agreement.

Section 2.11. Definitions. The following terms will have the following meanings for purposes of this Agreement:

a. "Affiliate" means, when used with reference to a specified person, any other person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with, the specified person. For the purposes of this definition of Affiliate, the term "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

b. "Ballpark Lease" means the current or future lease agreement between the City of Arlington, as landlord, and the owner of the Texas Rangers Baseball Club or its Affiliate, as tenant, with respect to the Ballpark where the Texas Rangers Baseball Club plays its regular season and post season home games, as such agreement may be amended or modified from time to time.

c. "Business Day" means any calendar day excepting Saturdays, Sundays and all days observed as a legal holiday by the federal government, the State of Texas, Tarrant County, or the City.

(a) "Events" mean (i) Games held at the Ballpark after 6:00 p.m. on Business Days, (ii) Games held at the Ballpark any time on non-Business Days, and (iii) entertainment or public events held at the Ballpark after 6:00 p.m. on Business Days or any time on non-Business Days; provided that for so long as the Stonegate Tract is not being used for parking by BPP, its licensees or invitees during the Business Day, "Events" will include Games and entertainment or public events held at the Ballpark any time on Business Days.

(b) "Event Hours" means any time from and after 6:00 p.m. on a Business Day on which an Event is held, through 6:00 a.m. the following morning; and any time beginning three hours before the start of an Event held on a non-Business Day, and ending at 6:00 a.m. the following morning; provided that for so long as the Stonegate Tract is not being used for parking by BPP, its licensees or invitees

during the Business Day, "Events Hours" will include any time beginning three hours before the start of an Event held on a Business Day and ending at 6:00 a.m. the following morning.

(c) "Event of Default" means an event of default on the part of the tenant under the Ballpark Lease that occurs after the date hereof and remains uncured after the expiration of any applicable notice, grace or cure period.

(d) "Games" mean professional major league baseball games played at the Ballpark.

(e) "Parking Easement Effective Date" means the date on which an Event of Default occurs.

d. "Passenger Vehicles" mean motor vehicles having no more than 2 axles and being not more than 19 feet in length, and expressly exclude mass transit vehicles, buses and recreational vehicles (as that term is defined in Section 94.001 of the Texas Property Code).

ARTICLE III
MISCELLANEOUS

Section 3.1. Successors and Assigns. This Agreement will be binding upon and will inure to the benefit of the parties hereto, and their respective successors and permitted assigns. The City may assign its rights hereunder to any person or entity that is or becomes the owner or operator of the Ballpark at the time of assignment. The City may not otherwise assign its rights hereunder to any person or entity, but after the Parking Easement Effective Date the City may grant a parking lot operator the right to exercise the City's right to operate the Stonegate Tract to provide parking for the Ballpark. Any party assigning its rights hereunder must give written notice to the other parties hereto of that assignment within ten (10) days after the occurrence thereof.

Section 3.2. Third Party Beneficiaries. No third parties will have any right, benefit or interest under, or because of the existence of, this Agreement. No easement or right granted herein will be deemed to be a gift or dedication to or for the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Agreement will be limited to and for the purposes herein expressed.

Section 3.3. Termination. This Agreement will terminate automatically, without the necessity of any further action or approval of any party, upon the tenth (10th) anniversary of the date hereof, so long as (i) the Parking Easement Effective Date does not occur before that anniversary date and (ii) each owner or occupant of a parking area in existence on that date that is located outside the boundaries of the Stonegate Tract and required for operation of the Ballpark under applicable zoning regulations is contractually obligated to make that parking area available for use by persons attending events at the Ballpark, pursuant to a written agreement that (1) is enforceable by the owner of the Ballpark, (2) is filed of record in the real property records of Tarrant County, Texas (on or before the termination date of this Agreement), and (3) provides that it may be amended or terminated only upon the filing in such records of an instrument signed on behalf of the City authorizing such amendment or termination.

Section 3.4. Notices.

(a) A notice, communication, or request under this Agreement by the City to BPP, or by BPP to the City, will be sufficiently given or delivered if dispatched by either (a) certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight delivery service (next business day

service), (c) hand-delivery (if receipt is evidenced by a signature of the addressee or authorized agent), or (d) by electronic mail (email), and addressed to the applicable parties as follows:

If to BPP:

Ballpark Parking Partners LLC
800 Bering Drive, Suite 250
Houston, Texas 77057
Email: neil@aspenpipeline.com
Attention: Neil Leibman, President

With copies to:

Ballpark Parking Partners LLC
1000 Ballpark Way, Suite 400
Arlington, Texas 76011
Email: kcassidy@texasrangers.com
Attention: Kate Cassidy

and

McGuire, Craddock & Strother, P.C.
2501 N. Harwood Street, Suite 1800
Dallas, Texas 75201
Email: pdanze@mcslaw.com
Attn: Philip Danze

If to the City:

City of Arlington
City Hall
101 West Abram
Arlington, Texas 76004
Email:Trey.Yelverton@arlingtontx.gov
Attention: City Manager

With a copy to:

City of Arlington
City Hall
101 West Abram
Arlington, Texas 76004
Email: Teris.Solis@arlingtontx.gov
Attention: City Attorney

Any notice, communication, or request so sent will be deemed to have been "given" (i) as of the next Business Day after being sent, if sent by nationally recognized express mail service, (ii) as of the fifth Business Day after being sent, if sent by registered or certified U.S. mail, or (iii) upon receipt, if sent by hand delivery or email. Either party may change its address for notice purposes by giving notice thereof to the other parties, except that such change of address notice will not be deemed to have been given until actually received by the addressee thereof.

Section 3.5. Partial Invalidity. If any term, covenant, condition, or provision of this Agreement, or the application to any person or circumstance will, at any time or to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will (except to the extent such result is clearly unreasonable) not be affected thereby, and under such circumstances each term,

covenant, condition, and provision of this Agreement will be valid and enforced to the fullest extent permitted by law, insofar as such enforcement is not clearly unreasonable.

Section 3.6. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original, and such counterparts will constitute one and the same instrument.

Section 3.7. Representatives Not Individually Liable. No member, official, representative, or employee of the City will be personally liable to BPP or any successor in interest in the event of any default or breach by the City for any amount which may become due to BPP or successor or on any obligations under the terms of the Agreement. No partner, member, representative, or employee of BPP or any successor, or any of its respective members or any institutional lender providing construction or permanent financing to BPP or such successor, will be personally liable to the City in the event of any default or breach by BPP for any amount which may become due to the City or on any obligations under the terms of this Agreement.

Section 3.8. Estoppel Certificate. Each of the parties hereto will at any time and from time to time, as promptly as reasonably possible after receiving a request from any other party hereto (and in any event within 15 days after receiving such request), deliver to such requesting party and its designee a statement in writing certifying to the best knowledge of the delivering party whether a default exists hereunder on the part of the requesting party (and, if so, specifying the default).

Section 3.9. No Memorandum. No memorandum or other evidence of this Agreement may be filed in the real property records of Tarrant County, Texas until the Parking Easement Effective Date. This Agreement does not create an estate in real property until and unless the Parking Easement Effective Date occurs.

Section 3.10. Governing Law. The validity of this Agreement and all of its terms and provisions, as well as the rights and duties of the parties, will be interpreted and construed in accordance with the laws of the State of Texas.

Section 3.11. No Merger. It is expressly understood and agreed that the easements, rights and privileges granted and conveyed herein will not be merged or extinguished by reason of the fact that the legal or beneficial title to Stonegate Tract and the Ballpark (or any interest therein or part thereof), as the case may be, is or may become vested in the same person or entity.

Section 3.12. Construction. The parties agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement.

Section 3.13. Attorneys' Fees. If any party will initiate legal proceedings to enforce its rights hereunder, the non-prevailing party will pay the reasonable attorneys' fees incurred by the prevailing party.

Section 3.14. Waivers; Remedies. No delay or omission to exercise any right, power or remedy inuring to any party upon any breach or default of any party under this Agreement will impair any such right, power or remedy of such party nor will it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach or default thereafter occurring; nor will any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring, nor will there be any estoppel to enforce any provision of this Agreement, except by written instrument signed by the party charged with such waiver or estoppel. All remedies either under this Agreement or by law or otherwise afforded to the parties will be cumulative and not alternative;

provided that suspension or termination of this Agreement due to any breach will not be an available remedy.

Section 3.15. Obligation to Defend Validity of Agreement. If litigation is filed by a third party against any party in an effort to enjoin that party's performance of this Agreement, the parties who are named as parties in such action shall take all commercially reasonable steps to support and defend the validity and enforceability of this Agreement. Any party may intervene in any such matter in which another party has been named as a defendant. Each party shall be responsible for its attorneys' fees and costs of litigation.

Section 3.16. Ancillary Documents. The City Manager is hereby authorized, on behalf of the City, to execute any and all other documents necessary or appropriate to effectuate the transactions contemplated by this Agreement, provided such documents do not materially alter the relationship of the parties, and to grant such approvals and consents on behalf of the City.

Section 3.17. Further Assurance. The parties hereto will cooperate fully with each other in order to promptly and fully carry out the terms and provisions of this Agreement. Each party hereto will from time to time execute and deliver such other agreements, documents or instruments and take such other actions as may be reasonably necessary or desirable to effectuate the terms of this Agreement.

Section 3.18. Waiver of Immunity. The City hereby waives its governmental immunity from suit and immunity from liability as to any arbitration proceeding or legal action brought by BPP resulting from an uncured default by the City. To effectuate such waiver, the City and BPP hereby agree, for purposes of this Agreement only, that this Agreement is a contract subject to Subchapter 1, Chapter 271, Texas Local Government Code, as amended.

Section 3.19. Authority. Each individual signing this Agreement on behalf of a party personally represents and warrants that he or she has the authority to execute this Agreement on behalf of the party for which he or she is acting, and that no further consent or approval is required for this Agreement to be the valid and binding obligation of the party for which he or she is acting.

Section 3.20. Negation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between the parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. No party shall have the right to act as an agent for another party. The City's status hereunder shall be that of an independent contractor, and not that of an agent of BPP.

Section 3.21. Time. Time is of the essence in the performance of this Agreement.

Section 3.22. No Change to Stonegate Lease. The Stonegate Lease remains in full force and effect and is not amended or modified in any respect by the terms of this Agreement. BPP may continue using the Stonegate Tract in accordance with the terms of the Stonegate Lease throughout the term of this Agreement, subject to the City's rights under Article II from and after the Parking Easement Effective Date.

Section 3.23. Subordination. This Agreement, and all rights, privileges and benefits of the City hereunder, are subject and subordinate to the lien of that certain Fee and Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing from Ballpark Parking Partners LLC, a Texas limited liability company to Brian P. Foley, trustee, for Comerica Bank, as beneficiary, dated April 2, 2013, filed April 3, 2013, recorded in County Clerk's File No. D213083622, Real Property Records, Tarrant County, Texas securing a promissory note in the principal sum of $54,350,000 (the "Note"),

payable to the lenders as their interest may appear, as modified by that certain First Modification Agreement to Fee and Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing filed April 21, 2014, recorded in County Clerk's File No. D214078760, Real Property Records, Tarrant County, Texas (the "Deed of Trust").

Section 3.24. Entire Agreement. This Agreement incorporates all prior negotiations and discussions between the parties regarding its subject matter and represents the entire agreement of the parties hereto with respect thereto. This Agreement may only be modified by written instrument executed by the parties hereto. The parties are not relying on any representations other than those contained in this Agreement.

(Signature Page Follows.)

EXECUTED as of the day and year first above written.

ATTEST:

_____
City Secretary

APPROVED AS TO FORM:

_____
City Attorney

CITY:

CITY OF ARLINGTON, TEXAS

By:_____
City Manager

BPP:

BALLPARK PARKING PARTNERS LLC,
a Texas limited liability company,

By: _____
Name: Neil Leibman
Title: President

EXHIBIT A

Depiction of the Improvements

Exhibit A