



**NOTICE OF SPECIAL MEETING AGENDA  
LANCASTER CITY COUNCIL  
MUNICIPAL CENTER CITY COUNCIL CHAMBERS  
211 N. HENRY STREET, LANCASTER, TEXAS**



**Monday, January 29, 2018 - 7:00 PM**

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**CALL TO ORDER**

**RECOGNITION:** Best Yard Award

**CONSENT AGENDA:**

Items listed under the consent agenda are considered routine and are generally enacted in one motion. The exception to this rule is that a Council Member may request one or more items to be removed from the consent agenda for separate discussion and action.

1. Consider a resolution ordering a General Election to be held on Saturday, May 5, 2018, for the election of a mayor at-large; providing for the publication and posting of notice; and providing for early voting dates, times and locations.

Considere una resolución que ordena una Elección General que se celebrará el Sábado, 5 de mayo 2018, para la elección general de un alcalde; se dispone la publicación y aviso de notificación, prevea fechas de votación anticipada, horas y lugares.

2. Consider a resolution authorizing Dallas County to resell 4360 Highland Street, 2551 Gerry Way, 2633 Concord Lane, 730 E. Pleasant Run Road, and 2724 Pike Drive, tax foreclosed properties, by public or private sale, to the highest qualified purchaser, as provided by Section 34.05 of the Texas Property Tax Code.
3. Consider a resolution implementing Land Bank Program.

**ACTION:**

4. Discuss and consider an extended management agreement for the Country View Golf Course.
5. Discuss and consider a resolution approving a Professional Services Agreement with GSBS for the schematic design of the new City Hall in an amount not to exceed three hundred seventeen thousand eight hundred ninety-seven dollars and eighty cents (\$317,897.80).
6. Discuss and consider a resolution approving the terms and conditions of the Interlocal Agreement by and between Dallas County and the City of Lancaster, for the expenditure of County funds for the widening of Sunrise Road from Beltline Road, north to the Lancaster/Wilmer city limit line, and to the easternmost city limit along Sunrise Road.
7. Consider confirmation of Civil Service Commission appointment as designated by the City Manager.
8. Discuss and consider annual appointments to City of Lancaster Boards and Commissions.

9. Consider confirmation of nominations made by the Mayor for appointments to the City of Lancaster Zoning Board of Adjustment.

## **ADJOURNMENT**

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EXECUTIVE SESSION: The City Council reserve the right to convene into executive session on any posted agenda item pursuant to Section 551.071(2) of the Texas Government Code to seek legal advice concerning such subject.

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ACCESSIBILITY STATEMENT: Meetings of the City Council are held in municipal facilities are wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be made to assist your needs.

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PURSUANT TO SECTION 30.06 PENAL CODE (TRESPASS BY HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.

CONFORME A LA SECCION 30.06 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO 411, CODIGO DEL GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO OCULTADA.

PURSUANT TO SECTION 30.07 PENAL CODE (TRESPASS BY HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY.

CONFORME A LA SECCION 30.07 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO AL AIRE LIBRE CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO H, CAPITULO 411, CODIGO DE GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO AL AIRE LIBRE.

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### **Certificate**

**I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on January 25, 2018 @ 7:00 p.m. and copies thereof were provided to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.**



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Sorangel O. Arenas  
City Secretary

## LANCASTER CITY COUNCIL

### City Council Special Meeting

1.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda.

**Goal(s):** Civic Engagement

**Submitted by:** Sorangel O. Arenas, City Secretary

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### **Agenda Caption:**

Consider a resolution ordering a General Election to be held on Saturday, May 5, 2018, for the election of a mayor at-large; providing for the publication and posting of notice; and providing for early voting dates, times and locations.

Considere una resolución que ordena una Elección General que se celebrará el Sábado, 5 de mayo 2018, para la elección general de un alcalde; se dispone la publicación y aviso de notificación, prevea fechas de votación anticipada, horas y lugares.

### **Background:**

The municipal General Election for City officers this year is the mayoral position, an at-large position. The designated uniform Election Day is Saturday, May 5, 2018.

### **Operational Considerations:**

To conduct the election, the City of Lancaster will participate in a joint election with other governing entities in Dallas County administered by Dallas County Elections. Participating in a joint election with other cities and school districts greatly reduces election costs for all participants. The joint election agreement is a companion item to this agenda item and will be presented at future date.

Early voting will be held at the Lancaster Veterans Memorial Library. This location best serves the election process by offering sufficient space for the voters, easy entry/exit from the room (without entering the Library itself) and offers the necessary technology access for use by Dallas County Elections personnel. This location is familiar to our voters and has consistently been used in recent elections for early voting as well as for Election Day voting. The Library is one of about forty-nine early voting locations designated by Dallas County. During early voting, registered voters may vote at any Dallas County early voting polling location.

There will be three polling locations for Lancaster citizens on Election Day: Lancaster Veterans Memorial Library, Lancaster Elsie Robertson Middle School, and Wilmer Community Center. Voters must vote by precinct on Election Day.

### **Legal Considerations:**

The City Attorney has reviewed the resolution ordering the election. The statutory last day for City Council to order the election is February 6, 2018.

Pursuant to state and federal laws, the resolution (Election Order) is provided in English and Spanish. In addition, the caption on the City's agenda for this meeting for the election order is in English and Spanish.

The 82nd Texas Legislature revised the requirements for notice of early voting locations contained in the election order. Election law only requires the main early voting location to be listed in the election order. The main early voting location (Dallas County Records Building) and the Lancaster early voting location (Veterans Memorial Library) are included in the election order.

**Public Information Considerations:**

All requirements for the posting and publishing of the election order will be completed as outlined in the election order.

**Fiscal Impact:**

The City's cost will depend on the number of entities contracting with Dallas County for election services. There will be further details regarding estimated election costs in the future agenda item on the joint election agreement. If a run-off election is required, the City will incur additional costs.

**Recommendation:**

Staff recommends approval of the resolution, as presented, ordering the General Election for municipal officer on Saturday, May 5, 2018.

**Attachments**

Resolution (Election Order in English)

Resolution (Election Order in Spanish)

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## **RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, ORDERING A GENERAL ELECTION TO BE HELD ON MAY 5, 2018 FOR THE ELECTION OF A MAYOR AT-LARGE; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROVIDING FOR EARLY VOTING DATES, TIMES AND LOCATIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Charter requires that a Mayor shall be elected this year at a General Election to be held on May 5, 2018, under the Texas Election Code and the City's Home Rule Charter; and

**WHEREAS**, by law it becomes the ministerial duty of the City Council to call for such municipal election;

**NOW, THEREFORE, BE IT REMEMBERED THAT** on this the 29th day of January, 2018, at a duly convened meeting of the City Council of the City of Lancaster, Texas, a quorum being present, the Council issued the following order:

**IT IS HEREBY ORDERED** that a General Election be held in the City of Lancaster, Texas, on the 5th day of May, 2018, the same being the first Saturday of the month, 7:00 a.m. to 7:00 p.m., for the purpose of electing one Mayor at-large for a three (3) year term; and,

**IT IS FURTHER ORDERED:** That such general election shall be held as a Joint Election administered by the Dallas County Elections Administrator in accordance with the provisions of the Texas Election Code and a Joint Election Agreement; and,

None but legally qualified voters of the City of Lancaster, shall be entitled to vote for a Mayor; and,

The candidate for each such office receiving a majority of all votes cast for all candidates for such office shall be elected to serve such term or until his or her successor is duly elected and qualified; and,

In the event any candidate for any one of said offices fails to receive a majority of all votes cast for all the candidates for such office, a run-off election shall be held. If a run-off election becomes necessary, the run-off election shall be held on Saturday, June 10, 2017. The Dallas County Elections Administrator will conduct the run-off election; and,

A Presiding Election Judge and an Alternate Presiding Election Judge shall be appointed in accordance with the Joint Election Agreement; and,

Notice of said election shall be published once in the official newspaper of the City not earlier than April 5, 2018, the 30th day before Election Day, and not later than April 25, 2018, the 10th day before Election Day. Such notice shall also be posted on the Bulletin Board used to publish notice of City Council Meetings not later than April 13, 2018, the last business day prior to the 21st day before Election Day; and,

A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting stating the date and place of posting and deliver a copy of said notice posted to the Mayor of the City of Lancaster after the posting is made; and,

## **EARLY VOTING**

Antoinette "Toni" Pippins-Poole, Dallas County Elections Administrator, is the appointed early voting clerk in compliance with Section 271.006 of the Texas Election Code. Other deputy early voting clerks will be appointed as needed to process early voting mail and to conduct early voting at the branch locations.

Early voting by personal appearance will be conducted at the main and branch locations beginning Monday, April 23, 2018 through Friday, April 27, 2018, between 8:00 a.m. - 5:00 p.m.; Saturday, April 28, 2018, between 8:00 a.m. - 5:00 p.m.; Sunday, April 29, 2018, between 1:00 p.m. - 6:00 p.m.; and Monday, April 30, 2018 through Tuesday, May 1, 2018, between 7:00 a.m. - 7:00 p.m.; and,

Any qualified voter of Lancaster may vote early for the Joint Election by personal appearance at either the main early voting location or at any Dallas County Branch Early Voting location;

## **MAIN EARLY VOTING POLLING PLACE:**

### **Dallas County Records Building**

509 Main Street  
Dallas, Texas 75202

## **BRANCH EARLY VOTING POLLING PLACES:**

Branch early voting for the joint election to be held on May 5, 2018, will be conducted at various branch early voting polling locations including the Lancaster Veterans Memorial Library at 1600 Veterans Memorial Parkway, Lancaster, Texas 75134. A list of all Dallas County Early Voting Polling locations is available at [www.dallascountyvotest.org](http://www.dallascountyvotest.org).

## **EARLY VOTING BY MAIL**

Application for a ballot by mail shall be  
mailed to: Toni Pippins-Poole - Early  
Voting Clerk  
Office of the Elections Department  
2377 N. Stemmons Freeway, Suite 820  
Dallas, Texas 75207

Application for ballot by mail must be received no later than the close of business on April 24, 2018;  
and,

The polling places for voters on Election Day shall be the Lancaster Veterans Memorial Library, 1600 Veterans Memorial Parkway, Lancaster, Texas 75134; the Lancaster Elsie Robertson Middle School, 822 W. Pleasant Run Road, Lancaster, Texas 75146; and the Wilmer Community Center, 101 Davidson Plaza, Wilmer, Texas 75172. The polls shall be open from 7:00 a.m. to 7:00 p.m.

The City Secretary shall present such returns to the City Council for the canvassing of said elections;  
and,

The canvass of said election returns for the election of officers shall be conducted by the City Council not earlier than the 3rd day nor later than the 11th day after the election.

**DULY ORDERED** by the City Council of the City of Lancaster, Texas, on this the 29th day of January, 2018.

## **ATTEST:**

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Sorangel O. Arenas, City Secretary

## **APPROVED:**

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Marcus E. Knight, Mayor

## **APPROVED AS TO FORM:**

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David T. Ritter, City Attorney

## **RESOLUCIÓN NO.**

**UNA RESOLUCIÓN DEL CONSEJO MUNICIPAL DE LA CIUDAD DE LANCASTER, TEXAS, ORDENANDO UNA ELECCIÓN GENERAL QUE SE CELEBRARÁ EL SABADO, 5 DE MAYO DE 2018 PARA LA ELECCIÓN DE UN ALCALDE EN GENERAL; SE DISPONE LA PUBLICACIÓN Y PUBLICACIÓN DE LA NOTIFICACIÓN; PREVEA FECHAS DE VOTACIÓN ANTICIPADA, HORAS Y LUGARES; Y PROPORCIONAR UNA FECHA EFECTIVA**

**CONSIDERANDO**, que la Constitución de la Ciudad requiere que un alcalde será elegido este año en las elecciones generales que se celebrarán el 5 de mayo de 2018, bajo el Código Electoral de Texas y Carta de Autonomía de la Ciudad; y

**CONSIDERANDO** que, por ley se convierte en el deber ministerial del Ayuntamiento para pedir dicha elección municipal;

**AHORA, POR LO TANTO**, en este día 29 de enero de 2018, en una reunión debidamente convocada del Consejo Municipal de la Ciudad de Lancaster, Texas, el quórum está presente, el Consejo emitió la siguiente orden:

**POR LA PRESENTE SE ORDENA** que una elección general se celebrará en la ciudad de Lancaster, Texas, el día 5 de mayo de 2018, el mismo ser el segundo sábado del mes, de 7:00 am a 7:00 pm, con el propósito de elegir un alcalde en general por un período de tres (3) años; y,

**TAMBIÉN SE ORDENA:** Que tal elección general se celebrará como elección conjunta administrado por el Administrador de Elecciones del Condado de Dallas, de conformidad con las disposiciones del Código Electoral de Texas y un acuerdo de elección conjunta; y,

Ninguno pero legalmente calificados votantes de la ciudad de Lancaster, Texas, tendrán derecho a votar por un alcalde; y,

El candidato para cada una de esas oficinas que obtenga la mayoría de los votos emitidos para todos los candidatos a dicho cargo será elegido para servir a dicho término o hasta que su sucesor sea debidamente elegido y calificado; y,

En el caso de que cualquier candidato a cualquiera de dichas oficinas no recibe una mayoría de los votos emitidos para todos los candidatos a dicho cargo, se procederá a una segunda vuelta electoral. Si una segunda vuelta de ser necesario, la segunda vuelta se celebrará el sábado, 16 de junio de 2018. El Administrador de Elecciones del Condado de Dallas llevará a cabo la elección de la salida; y,

Un Juez Electoral Presidente y Juez Electoral Presidente Alterno serán nombrados de conformidad con el Convenio de Elecciones Conjuntas; y,

Aviso de dicha elección se publicará una vez en el periódico oficial de la Ciudad no antes del 5 de abril 2018, el día 30 antes de las elecciones, y no más tarde del 25 de abril de 2018, el día 10 antes de las elecciones. Dicho aviso también se publicarán en el tablón de anuncios utilizado para publicar el aviso de las Reuniones del Consejo de la ciudad a más tardar el 13 de abril 2018, el último día hábil antes del día 21 antes de las elecciones; y,

Una copia del aviso publicado que contiene el nombre del periódico y la fecha de publicación se conservará como un registro de dicha notificación, y la persona que publica el

aviso deberá hacer un registro en el momento de la publicación se indicará la fecha y lugar de expedición y entregar una copia de dicho aviso publicado a la alcaldesa de la ciudad de Lancaster después de la publicación se hace; y,

## **VOTACIÓN TEMPRANA**

Antonieta "Toni" Pippins-Poole, Administrador de Elecciones del Condado de Dallas, es el encargado de la votación temprana designado de conformidad con la Sección 271.006 del Código Electoral de Texas. Otros secretarios adjuntos de votación anticipada serán designados según sea necesario para procesar el correo de votación temprana y para llevar a cabo la votación anticipada en las sucursales.

La votación anticipada en persona se llevará a cabo en las principales y secundarias lugares que comienzan Lunes, 23 de abril 2018 a través de Viernes, 27 de abril 2018, entre las 8:00 am - 5:00 pm; Sábado, 28 de abril 2018, entre las 8:00 am - 5:00 pm; Domingo, 29 de abril 2018, entre 1:00 pm - 6:00 pm; y Lunes, 30 de abril 2018 a través de Martes, 1 de mayo 2018, entre 7:00 am -7:00 pm; y

Cualquier votante calificado de Lancaster puede votar por adelantado para la elección conjunta en persona, ya sea en el principal centro de votación anticipada o en cualquier lugar del Condado de Dallas Poder Votación Temprana;

## **LUGARE PRINCIPAL DE VOTACIÓN TEMPRANA ELECTORAL:**

### **Edificio Registro para el Condado de Dallas**

509 Main Street  
Dallas, Texas 75202

## **LUGARES DE VOTACIÓN TEMPRANA:**

Sucursal de votación anticipada para la elección conjunta que se celebrará el 5 de mayo de 2018, se llevará a cabo en varias sucursales lugares de votación anticipada, incluyendo la Biblioteca Lancaster Veteranos en 1600 Veterans Memorial Parkway, Lancaster, Texas 75134. Una lista de todo el condado de Early Dallas Votación Los lugares de votación está disponible en [www.dallascountyvotes.org](http://www.dallascountyvotes.org)

## **VOTACIÓN TEMPRANA POR CORREO**

Solicitud de votación por correo deberá enviarse por correo a:

Toni Pippins-Poole  
Oficial de votación anticipada  
Oficina del Departamento de Elecciones  
2377 N. Stemmons Freeway, Suite 820  
Dallas, Texas 75207

Solicitud de boleta por correo debe ser recibida a más tardar al cierre de las operaciones el 24 de abril de 2018; y,

Los lugares de votación para los electores en la jornada electoral será el Lancaster Veterans Memorial Library, 1600 Veterans Memorial Parkway, Lancaster, Texas 75134; y la Escuela Secundaria Lancaster Elsie Robertson, 822 W. Pleasant Run Road, Lancaster, Texas 75146. Los lugares de votación estarán abiertos de 7:00 am a 7:00 pm

La Secretaria de la Ciudad presentará dichos retornos al Ayuntamiento para el escrutinio de dichas elecciones; y,

El escrutinio de los citados resultados de las elecciones para la elección de autoridades se llevará a cabo por el Ayuntamiento, no antes de los 3 días ni más tarde de los 11 días después de la elección.

Ordenadas oportunamente por el Consejo Municipal de la Ciudad de Lancaster, Texas en este día 29 de enero de 2018.

**DOY FE:**

**APROBADO:**

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Sorangel O. Arenas, Secretaria de la Ciudad

\_\_\_\_\_  
Marcus E. Knight, el Alcalde

**APROBADA EN FORMA:**

\_\_\_\_\_  
David T. Ritter, Abogado de la Ciudad

## LANCASTER CITY COUNCIL

### City Council Special Meeting

2.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda.

**Goal(s):** Financially Sound Government

**Submitted by:** Fabrice Kabona, Assistant to the City Manager

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### **Agenda Caption:**

Consider a resolution authorizing Dallas County to resell 4360 Highland Street, 2551 Gerry Way, 2633 Concord Lane, 730 E. Pleasant Run Road, and 2724 Pike Drive, tax foreclosed properties, by public or private sale, to the highest qualified purchaser, as provided by Section 34.05 of the Texas Property Tax Code.

### **Background:**

Following a judgment of the District Court of Dallas County, parcels of land were offered for sale at public auction for foreclosure of the tax liens, securing payment of delinquent property taxes, accrued penalty and interest, and court costs. These parcels are in the City of Lancaster. These parcels did not receive sufficient bid as set by law and were struck off to City of Lancaster as follows:

- 4360 Highland Street: \$16,000.00
- 2551 Gerry Way: \$14,422.72
- 2633 Concord Lane: \$13,771.18
- 730 E. Pleasant Run Road: \$155,550.00
- 2724 Pike Drive: \$7,601.56

Dallas County is preparing for the resell of the properties, as tax foreclosed properties, which are now in the ownership of the taxing authorities. Pursuant to Section 34.05(a) of the Tax Code, Dallas County is requesting the City of Lancaster's consent to sell said properties to the highest qualified purchaser, by either public or private sale.

The sale of said properties will bring them back onto the City of Lancaster's tax roll, increasing the tax base and often recouping portions of delinquent taxes due as a result of judgments.

### **Operational Considerations:**

As trustee for the City of Lancaster, Dallas County will coordinate the public or private sale of the tax foreclosed properties.

### **Legal Considerations:**

Dallas County handles all legal matters associated with the public or private sale process. The resolution authorizing the resell has been reviewed and approved as to form by the City Attorney.

**Public Information Considerations:**

Dallas County is responsible for all applicable legal notices required under the Texas Property Code for the public sale of tax foreclosed properties. This item is being considered at a Regular Meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

**Fiscal Impact:**

The judgment at the time of strike off was as follows:

- 4360 Highland Street: \$9,156.46
- 2551 Gerry Way: \$8,523.36
- 2633 Concord Lane: \$8,034.37
- 730 E. Pleasant Run Road: \$7,148.01
- 2724 Pike Drive: \$4,075.07

The City may recoup some of its back taxes, and the properties will be placed back on the tax rolls and we will begin to receive tax revenue. At this time, the City is receiving no tax revenue from these parcels. The City of Lancaster retains responsibility for the maintenance of all struck off properties until sold.

**Options/Alternatives:**

1. City Council may approve the resolution, as presented.
2. City Council may deny the resolution, as presented.

**Recommendation:**

Staff recommends approval of the resolution, as presented.

**Attachments**

Resolution

Exhibit A

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**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING DALLAS COUNTY TO RESELL TAX FORECLOSED PROPERTIES BY PUBLIC OR PRIVATE SALE, TO THE HIGHEST QUALIFIED PURCHASER, AS PROVIDED BY SECTION 34.05 OF THE TEXAS PROPERTY TAX CODE.**

**WHEREAS**, this matter was briefed to the Lancaster City Council ("City Council") on January 22, 2018 wherein the City Council agreed to use this form of Resolution to provide the County of Dallas consent to sell specific properties to the highest qualified purchaser by public or private sale; and

**WHEREAS**, several parcels of land were offered for sale by the Sheriff of Dallas County, Texas, at public auction pursuant to a judgment of the District Court of Dallas County, Texas, for foreclosure of the tax liens securing payment of delinquent property taxes, accrued penalty and interest, and court costs; and

**WHEREAS**, those parcels of land which did not receive a sufficient bid as set by law were struck off to the County of Dallas, the City of Lancaster and Lancaster Independent School District (Taxing Authorities) pursuant to Section 34.01(j) of the Property Tax Code; and

**WHEREAS**, by this resolution, the County of Dallas, as Trustee for itself and the other Taxing Authorities is authorized to resell these struck off parcels of land, which did not receive a sufficient bid as set by law and to execute quitclaim deeds for said parcels conveying the right, title, and interest acquired or held by the City of Lancaster as a party to the judgment foreclosing tax liens, and

**WHEREAS**, the City of Lancaster desires to resell said parcel(s) in an expeditious manner pursuant to Section 34.05 of the Property Tax Code.

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

**SECTION 1.** The City does hereby provide specific authorization to the County of Dallas to act as Trustee to offer for sale by public or private sale the parcels of land shown in Exhibit "A" attached hereto and made a part hereof and the Lancaster City Council does hereby consent to the sale of said parcels to the highest purchaser, even if the amount tendered is less than the market value of the land specified in the judgment of foreclosure or the total amount of the judgment against the property in compliance with Section 34.05(i) of the Texas Property Tax Code, or for an amount equal to or greater than its current market value as shown by the most recent certified appraisal role, if the sum of the amount of the judgment plus post-judgment taxes, penalties, and interest owing against the property exceeds the market value in compliance with Section 34.05(j) of the Texas Property Tax Code, and each taxing unit entitled to receive proceeds of the sale consents to the sale for that amount.

**SECTION 2.** This Resolution shall take effect immediately from and after its passage in accordance with the provisions of the law.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 29th day of January, 2018.

**ATTEST:**

**APPROVED:**

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Sorangel O. Arenas, City Secretary

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Marcus E. Knight, Mayor

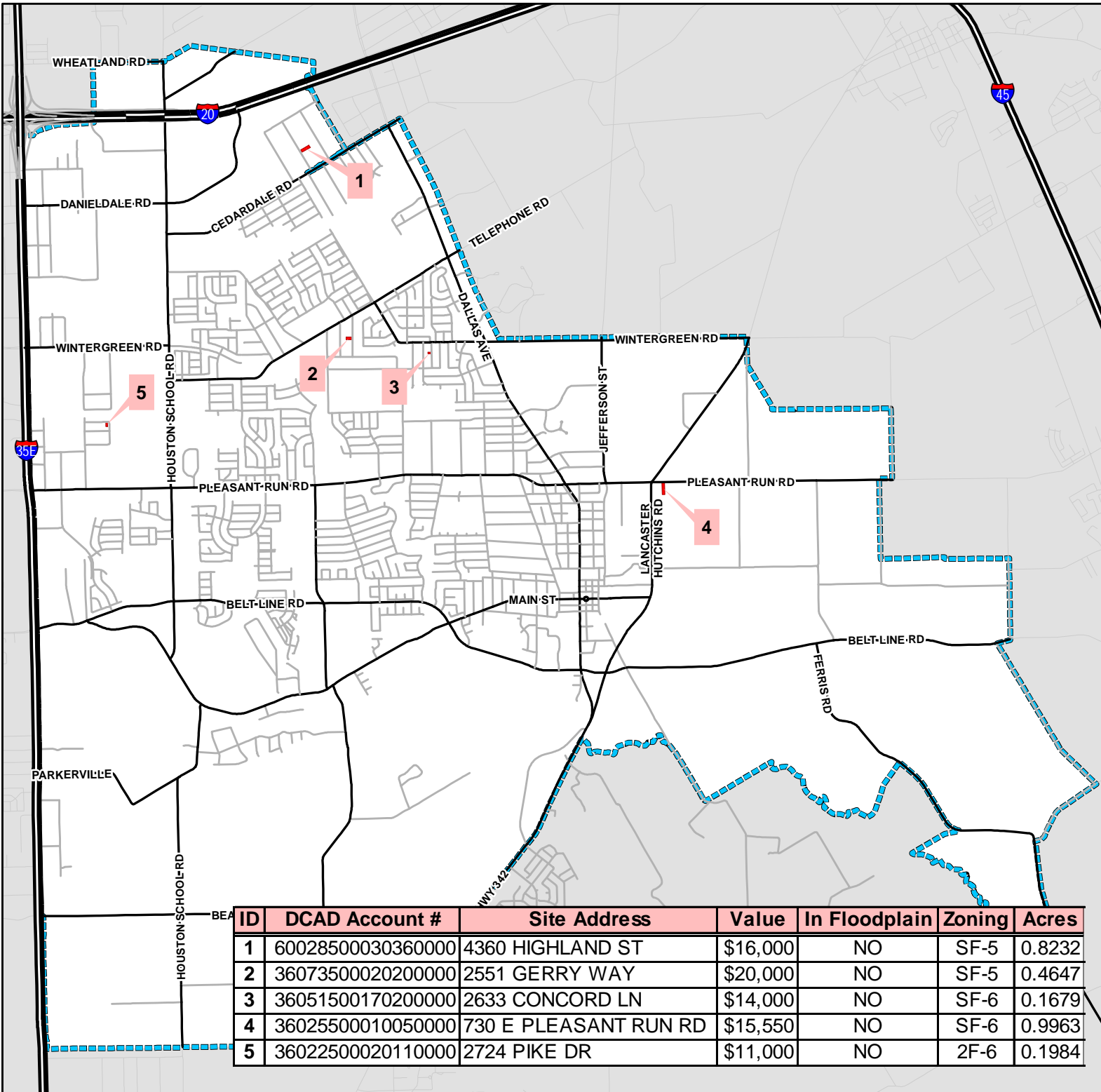
**APPROVED AS TO FORM:**



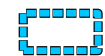
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David T. Ritter, City Attorney

City of Lancaster  
Tax Foreclosed  
Property Sturck Off  
to City of Lancaster  
12/26/2017



**Legend**



City Limits



Foreclosed Property



0 0.375 0.75 1.5 Miles

## LANCASTER CITY COUNCIL

### City Council Special Meeting

3.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda.

**Goal(s):** Quality Development

**Submitted by:** Shane Shepard, Director of Economic Development

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#### **Agenda Caption:**

Consider a resolution implementing Land Bank Program.

#### **Background:**

During the 2016 Strategic Planning Session, City Council identified a goal to develop a Land Bank Program for City property as a strategy to achieve its goal of quality development in the City. In addition, the City contracted with The Retail Coach to develop a Retail Strategy in 2016 and retained Willdan and Associates in 2017 to create Lancaster's Economic Development Strategic Plan. Preliminary research has noted a portion of blighted, distressed, and underutilized buildings and sites throughout the City, but specifically along major highway corridors and thoroughfares, which has deterred real estate development or redevelopment in those areas. This policy would create a strategy to encourage targeted reinvestment by prioritizing public and private sector investments along key corridors.

The City Council received a presentation during a City Council Work Session on January 8, 2017 outlining the Land Bank Strategy Policy 'draft' for consideration.

Councilmember Strain-Burk provided comments to the 'draft' presented during the aforementioned Work Session. Also, attached is a red-line copy with her suggested changes.

#### **Operational Considerations:**

The purpose of a Land Bank Program is to provide the framework to implement a strategy to return unproductive real property to beneficial reuses, through an equitable, transparent, and public process, revitalize neighborhoods to strengthen the City of Lancaster's tax base, and support socially and economically diverse communities.

#### **Legal Considerations:**

The City Attorney has approved the resolution as to form.

#### **Public Information Considerations:**

The item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

#### **Options/Alternatives:**

1. City Council may approve the resolution, as presented.
2. City Council may approve with change.
3. City Council may deny the resolution, as presented..

**Recommendation:**

Staff recommends approval of resolution as presented

**Attachments**

Resolution

Exhibit A

Exhibit A - with Council Comments

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**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE LAND BANK STRATEGY POLICY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lancaster is committed to achieving the highest quality development, infrastructure, and quality of life for its citizens; and

**WHEREAS**, the City Council of the City of Lancaster is committed to the overall economic development of the community through job creation, growth of new business enterprises, and the expansion of existing business enterprises thus enhancing the growth of the commercial tax base of the community; and

**WHEREAS**, preliminary research has noted a portion of blighted, distressed, and underutilized buildings and sites throughout the City, but specifically along major highway corridors and thoroughfares, which has deterred real estate development or redevelopment in those areas; and

**WHEREAS**, the City desires to establish a strategy to support economic revitalization through returning blighted, vacant, abandoned, and tax-delinquent properties to productive use; and

**WHEREAS**, The City recognizes that a Land Bank Strategy is a valuable tool to enhance the City's efforts to strengthen the City of Lancaster tax base and support socially and economically diverse communities;

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

**SECTION 1.** The City Council hereby adopts the Land Bank Strategy Policy, which is attached here to and incorporated herein as Exhibit "A".

**SECTION 2.** That implementation of the Land Bank Strategy Policy is authorized and effective immediately upon adoption by the City Council of the City of Lancaster.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 29th day of January, 2018.

**ATTEST:**

**APPROVED:**

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Sorangel O. Arenas, City Secretary

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Marcus E. Knight, Mayor

**APPROVED AS TO FORM:**

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David T. Ritter, City Attorney



# City of Lancaster

<b>SUBJECT:</b> Land Bank Strategy		<b>POLICY NO.:</b> TBD
<b>APPROVED BY:</b> City Council Resolution	<b>POLICY DATE:</b> 1/22/2018	<b>REVISED DATE:</b> 1/22/2018

- I. Summary
  - A. Policy Overview
  - B. Policy Statement
  - C. Policy Goals
- II. Background
  - A. History
  - B. Purpose
  - C. Public Benefits of Reinvestment
- III. Policy Goals
- IV. Implementation
  - A. Role of the City of Lancaster
  - B. Acquisition Criteria of Land
  - C. Target Area Considerations
  - D. Post Considerations
  - E. Priorities for Use of Property
  - F. Disposition of Properties

# **I. SUMMARY**

## **A. Policy Overview**

The City of Lancaster is dedicated to achieving the highest quality development, infrastructure, and quality of life for its citizens. These objectives are met, in part, by the enhancement and expansion of the city's existing business base. To promote this growth and development, specifically in areas that are currently served by public infrastructure and transit, but underserved by residential and commercial real estate markets, it is the intent of this policy to establish a land banking program to be coordinated with other public initiatives within targeted areas in order to stimulate private investment in the community. The benefits of this policy accrue not only to targeted areas, but to the City as a whole. In addition to placing vacant and underutilized properties back into productive activity, reinvestment reduces development pressure on sensitive agricultural and environmental land on the periphery of the City of Lancaster and reduces the need to build new infrastructure by making more efficient use of existing infrastructure.

## **B. Policy Statement**

In some specific instances, the City of Lancaster has concluded that the sale and conveyance, lease, or trade of certain property through a negotiated process promotes quality development and expansion of the City's existing business tax base without the necessity of accepting written bids pursuant to a published notice.

Therefore, the City does hereby adopt a policy and program as part of its planning, economic development and business incentives that the City Council, upon receipt of a written recommendation from the City Manager, may acquire abandoned, tax delinquent and other problem properties and make them available for redevelopment to non-profit/for-profit developers and the general public by selling or exchanging land without competitive bidding and at or below market value pursuant to exceptions provided by Section 272.001 Texas Local Government Code. The City may consider providing economic development grants and incentives pursuant to Chapter 380 of the Texas Local Government Code to offset all or a portion of the purchase price of such land and improvements when such sale or exchange must be for fair market value.

The Director of Economic Development will provide an analysis of a clearly defined economic development program for any land parcel to be conveyed, leased, or traded pursuant to Section 272.001 Texas Local Government Code when an economic development incentive is to be provided. Such analysis would include the type and quality of development, alternative use of the property by the City, the increase in sales and property tax base and the creation of jobs as a result of the sale or exchange.

## **C. Policy Goals**

The goals of the Land Bank Policy are:

1. Increase new development on vacant lots
2. Increase redevelopment of underused buildings and sites
3. Increase rehabilitation, upgrade, adaptive reuse of existing buildings
4. Improve maintenance of existing buildings and sites
5. Increase business recruitment and assistance
6. Minimize and eliminate violations of housing and building codes and public nuisances on property to be developed
7. Hold parcels of land for future strategic governmental purposes

## **II. BACKGROUND**

### **A. History**

During its 2016 Strategic Planning Session, City Council identified a goal to develop a land bank program for City property as a strategy to achieve its goal of Quality Development in the City of Lancaster. In addition, the City contracted with The Retail Coach to develop a Retail Strategy in 2016 and retained Willdan and Associates in 2017 to create Lancaster's Economic Development Strategic Plan. Preliminary research has noted the surplus of blighted, distressed, and underutilized buildings and sites throughout the City, but specifically along major highway corridors and thoroughfares, which has deterred real estate development or redevelopment in those areas. This policy creates a strategy to encourage targeted reinvestment by prioritizing public and private sector investments along key corridors.

### **B. Purpose**

The purpose of a Land Bank Policy is to provide the framework to implement a strategy to return unproductive real property to beneficial reuses, through an equitable, transparent, and public process, revitalize neighborhoods to strengthen the City of Lancaster's tax base, and support socially and economically diverse communities.

Land banking is the process or policy by which local governments acquire surplus properties and convert them to productive use or hold them for long term strategic public purposes. Municipalities can control market speculation and development of land in order to provide for the public interest, such as to provide public services, control urban sprawl, or provide affordable housing. The government can choose to develop the land itself or to allow other developers to use the land while retaining ownership and ultimately controlling the land, or disposing of the land through sale or transfer at or below fair market rate to encourage private redevelopment. Properties can consist of residential, commercial, and industrial land and also improved properties. Cost write-downs may be available for projects that provide tangible public benefits, such as new or retained jobs, diverse housing options, or other features. By turning vacant, abandoned, or distressed properties into community assets, land banking fosters greater community prosperity and strengthens broader metropolitan economic well-being.

### **C. Public Benefits of Reinvestment**

Current analysis shows that a portion of Lancaster's commercial corridors have blighted, underused, and vacant properties that could be used to support increasing demand for housing, jobs, and services. Benefits do not only accrue to targeted areas, but the City as a whole. In addition to placing underutilized properties back into productive activity, the Land Bank Policy creates the opportunity to achieve the following public benefits:

- More efficient use of existing infrastructure, reducing needs to always build new infrastructure and increase sustainability with the City
- Development patterns that promote a more livable Lancaster
- Infill development that is pedestrian-scale, compatible with neighborhoods
- Economic development in historic commercial corridors
- Design standards that reflect local neighborhood character
- Creates additional housing options within the Lancaster area, including additional location, types and densities
- Provides alignment with current development standards that promote compatibility between new and existing development and promote certainty in marketplace
- Promotes neighborhood preservation and enhancement through redevelopment of blighted, distressed, and underutilized properties.



### III. **POLICY GOALS**

The City of Lancaster is committed to identifying measurable goals, establishing benchmarks to measure progress towards those goals, and reporting such results to the public on a regular basis.

The Goals of the Land Bank Policy are:

1. Increase new development on vacant lots
2. Increase redevelopment of underused buildings and sites
3. Increase rehabilitation, upgrade, adaptive reuse of existing buildings
4. Improve maintenance of existing buildings and sites
5. Increase business recruitment and assistance
6. Minimize and eliminate violations of housing and building codes and public nuisances on property to be developed
7. Hold parcels of land for future strategic governmental purposes

These goals are associated with land use control and shaping regional and community growth, ensuring an orderly land development of certain types of public and private uses (open space, residential/housing, retail, commercial, and industrial) and protecting land with notable environmental attributes. The goals ensure the supply of land and provide opportunities to retain land for future development in highly competitive real estate markets. This approach allows municipal governments to acquire land to be reserved for specific purpose, for example for commercial or retail uses. The strategic acquisition of undeveloped land further increases in its value due to services provided. To a limited extent public land banking is currently applied in many urban centers through the advanced purchase of land for specific public uses such as industrial parks and redeveloped retail centers.

Quantifiable benchmarks based on the Policy goals could include figures for the following:

- Reduction of number of vacant and abandoned lots
- Reduction of time lots remain vacant or abandoned
- Increase in square footage of mixed-use development produced
- Increase in retail or commercial businesses
- Reduction in code compliance complaints
- Reduction in number of blocks or buildings categorized as distressed.

## **IV. IMPLEMENTATION**

### **A. Role of the City**

The City would be an agent for equitable land recycling and management through consistency with land use plans and planning provisions. The City is committed to remediating blight and distressed properties. As the steward of the property, the City is expected by the public to be an arbiter of land use and management by way of various authority and departmental functions like code enforcement, planning, and zoning and more generally, blight elimination and economic development. The City will specifically focus on recycling and repurposing land for suitable infill development, stabilization of standing structures supporting commercial districts, and vacant land suitable for community needs. The City has an ongoing role providing for basic needs, citywide public infrastructure, and services and amenities, such as parks. Land assembly for purposes of mixed-used residential, commercial, and large-scale redevelopment in geographically concentrated areas will be the role of the City.

The City will have the authority to:

- Acquire and dispose of property
- Contract with third parties
- Determine fair market value of a property
- Determine the potential of renovation of a structure;
- Expend funds consistent with its approved annual budget.

The City will serve in four functions:

- Asset banking by acquiring inventories of real property from five primary sources:
  - Tax delinquent and tax foreclosures
  - Excess residential real estate foreclosures
  - Nuisance abatement line enforcement
  - Direct market purchase
  - Deposits by third parties of properties to be held pending redevelopment
- Secondary market stabilization by intervening in property transactions in order to address the contraction and expansion of property 'liquidity' relative to demand
- Capital reserves by maintaining real property reserves to respond to future strategic need of the community.
- Banking regulation by exercising its authority consistent with the common good.

### **B. Acquisition Criteria of Land**

The City may acquire property through asset banking from its primary sources. In determining whether to acquire a property, the City will target those properties that meet one or more of the following criteria:

- There is a qualified end user committed to purchasing and returning the property to productive use;
- There is a prospective end user, neighborhood resident, local government entity-community stakeholder, or other interested party who has requested that the City review the property for acquisition;
- A developer is interested in investing money into the property, but cannot afford to get into a bidding war as their future investment in the property will not make economic sense.
- The redevelopment of the property will support strategic development efforts, is likely to act<sup>5</sup> as catalyst for further development, or is part of a comprehensive development plan;
- Acquisition will help stabilize or improve neighborhood conditions by reducing blight;

- Property has potential impact for reconstruction or perhaps demolition;
- Property is undesirable in current state, but could be brought up to a state where it is attractive to development
- Acquisitions will help create or preserve homeownership opportunities;
- There is an existing market for the property, but title issues prevent the property from being developed to its highest and best use;
- Acquisitions of the property will further the City's strategic plan and the City has the resources to maintain and market the property.

### **C. Target Area Considerations**

The City will take in the following pre-acquisition conditions:

- The City will follow parcel categorization and any zoning, citywide or special district plans when and where they exist, when identifying which parcels to acquire.
- The City will assess the condition, marketability, potential holding and maintenance costs, and possible end users of every property prior to acquisition.
- When possible, the City will conduct a complete condition assessment of all structures prior to acquisition.
- The City will ensure that it has available funds to fund and maintain the property for an extended ownership period of no less than three (3) years.
- The City shall strive for clear, insurable, and marketable title across its entire inventory. As such, the City may only acquire property:
  - That already has clear and marketable title; or
  - Whose title issues can be resolved given the particular powers specifically available to cities like quiet title and discharge of tax liens and municipal claims; or
  - At the discretion of the City under special circumstances
- If property is either designated as historic or located in an established historic district, the City will initiate communication with the appropriate designating historic commission or body to determine potential disposition options prior to acquisition.
- Prospective end users, community stakeholders, or their interested parties may submit a request to assess properties brought to the City's attention, provided the City has the resources to do so.

### **D. Post Considerations**

- Upon acquiring any property with a structure, the City will conduct a complete condition assessment if one has not already been conducted, secure the property, add the property to its maintenance schedule, and prepare a marketability assessment for the property.
- As soon as practical following acquisition, the City will move forward with property disposition, demolition, or marketing following acquisitions.
- Upon acquiring a property, the City will make its ownership known to the public. If the City has been in contact with a prospective end user, it will communicate its ownership of the property to the interested party or parties.

## **E. Priorities for Use of Property**

- Return of the property to productive tax paying status
- Land assemblage for economic development
- Long term (over 5 years) “banking” of properties for future strategic uses
- Neighborhood revitalization
- Homeownership and affordable housing

## **F. Disposition of properties**

- The City will prioritize its disposition resources, including any dollars allocated for demolition, maintenance, and renovation, based on the following general criteria:
  - Where investment furthers the City’s Comprehensive Plan and other Special District Master Plans.
  - Where the targeted elimination of blight will make an impact on the overall stability of the neighborhood
  - Where unrestricted dollars can bridge funding gaps to stabilize neighborhoods and preserve property values
  - Where an investment will support mixed-use development
- Transaction will be structured in a manner that permits the City to enforce conditions upon title pertaining to development and use of the property for a specific period
- The proposed end use must follow current zoning and special use requirements, or a rezoning or variance must be obtained as a condition of the transfer
- Options to purchase property may be available under terms negotiated by the prospective end user and the City. Any option fee will be credited to the purchase price at closing. If closing does not occur, the fee is forfeited.
- In every transfer of Real Property, the City will require good and valuable consideration as determined by the City in the sole discretion.



# City of Lancaster

<b>SUBJECT:</b> Land Bank Strategy		<b>POLICY NO.:</b> TBD
<b>APPROVED BY:</b> City Council Resolution	<b>POLICY DATE:</b> 1/22/2018	<b>REVISED DATE:</b> 1/22/2018

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  - C. Target Area Considerations
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# **I. SUMMARY**

## **A. Policy Overview**

The City of Lancaster is dedicated to achieving the highest quality **sustainable** development, infrastructure, and quality of life for its citizens. These objectives are met, in part, by the enhancement and expansion of the city's existing business base. To promote this growth and development, specifically in areas that are currently served by public infrastructure and transit, but underserved by residential and commercial real estate markets, it is the intent of this policy to establish a land banking program to be coordinated with other public initiatives within targeted areas in order to stimulate private investment in the community. The benefits of this policy accrue not only to targeted areas, but to the City as a whole. In addition to placing vacant and underutilized properties back into productive activity **for the highest and best use**, reinvestment reduces development pressure on sensitive agricultural and environmental land on the periphery of the City of Lancaster and reduces the need to build new infrastructure by making more efficient use of existing infrastructure.

## **B. Policy Statement**

In some specific instances, the City of Lancaster has concluded that the sale and conveyance, lease, or trade of certain property through a negotiated process promotes quality development and expansion of the City's existing business tax base without the necessity of accepting written bids pursuant to a published notice.

Therefore, the City does hereby adopt a policy and program as part of its planning, economic development and business incentives that the City Council, upon receipt of a written recommendation from the City Manager, may acquire abandoned, tax delinquent and other problem properties and make them available for redevelopment to non-profit/for-profit developers and the general public by selling or exchanging land without competitive bidding and at or below market value pursuant to exceptions provided by Section 272.001 Texas Local Government Code. The City may consider providing economic development grants and **other incentives along with** incentives pursuant to Chapter 380 of the Texas Local Government Code to offset all or a portion of the purchase price of such land and improvements when such sale or exchange must be for fair market value.

The Director of Economic Development will provide an analysis of a clearly defined economic development program for any land parcel to be conveyed, leased, or traded pursuant to Section 272.001 Texas Local Government Code when an economic development incentive is to be provided. Such analysis would include the type and quality of development, alternative use of the property by the City, the increase in sales and property tax base and the creation of jobs as a result of the sale or exchange, **which will help the property attain its highest and best use plus maintain and enhance and preserve the adjacent properties.**

## **C. Policy Goals**

The goals of the Land Bank Policy are:

1. Increase new development on vacant lots
2. Increase redevelopment of underused buildings and sites
3. Increase rehabilitation, upgrade, adaptive reuse of existing buildings
4. Improve maintenance of existing buildings and sites
5. Increase business recruitment and assistance
6. Minimize and eliminate violations of housing and building codes and public nuisances on property to be developed
7. Hold parcels of land for future strategic governmental purposes

## II. **BACKGROUND**

### **A. History**

During its 2016 Strategic Planning Session, City Council identified a goal to develop a Land Bank program for City property as a strategy to achieve its goal of Quality Development in the City of Lancaster. In addition, the City contracted with The Retail Coach to develop a Retail Strategy in 2016 and retained Willdan and Associates in 2017 to create Lancaster's Economic Development Strategic Plan. Preliminary research has noted the surplus of blighted, distressed, and underutilized buildings and sites throughout the City, but specifically along major highway corridors and thoroughfares, which has deterred real estate development or redevelopment in those areas. This policy creates a strategy to encourage targeted reinvestment by prioritizing public and private sector investments along key corridors.

### **B. Purpose**

The purpose of a Land Bank Policy is to provide the framework to implement a strategy to return unproductive real property to beneficial reuses, through an equitable, transparent, and public process, revitalize neighborhoods to strengthen the City of Lancaster's tax base, and support socially and economically diverse communities.

Land banking is the process or policy by which local governments acquire surplus properties and convert them to productive use or hold them for long term strategic public purposes. Municipalities can control market speculation and development of land in order to provide for the public interest, such as to provide public services, control urban sprawl, or provide affordable housing. The government can choose to develop the land itself or to allow other developers to use the land while retaining ownership and ultimately controlling the land, or disposing of the land through sale or transfer at or below fair market rate to encourage private redevelopment. Properties can consist of residential, commercial, and industrial land and also improved properties. Cost write-downs may be available for projects that provide tangible public benefits, such as new or retained jobs, diverse housing options, or other features. By turning vacant, abandoned, or distressed properties into community assets, land banking fosters greater community prosperity and strengthens broader metropolitan economic well-being.

### **C. Public Benefits of Reinvestment**

Current analysis shows that a portion of Lancaster's commercial corridors have blighted, underused, and vacant properties that could be used to support increasing demand for housing, jobs, and services. Benefits do not only accrue to targeted areas, but the City as a whole. In addition to placing underutilized properties back into productive activity, the Land Bank Policy creates the opportunity to achieve the following public benefits:

- More efficient use of existing infrastructure, reducing needs to always build new infrastructure and increase sustainability with the City
- Development patterns that promote a more livable and sustainable Lancaster
- Infill development that is pedestrian-scale, compatible with neighborhoods
- Economic development in historic commercial residential corridors
- Design standards that reflect local neighborhood character and retain the city's historical assets
- Creates additional housing options within the Lancaster area, including additional location, types and densities
- Provides alignment with current development standards that promote compatibility between new and existing development and promote certainty in marketplace
- Promotes neighborhood preservation, community character, follows NTCOG Best Practices and enhancement through redevelopment of blighted distressed, and underutilized properties.

### III. POLICY GOALS

The City of Lancaster is committed to identifying measurable goals, establishing benchmarks to measure progress towards those goals, and reporting such results to the public on a regular basis.

The Goals of the Land Bank Policy are:

1. Increase new development on vacant lots
2. Increase redevelopment of underused buildings and sites
3. Increase rehabilitation, upgrade, adaptive reuse of existing buildings
4. Improve maintenance of existing buildings, **historical assets**, and sites
5. Increase business recruitment and assistance **and maintain or enhance the surrounding property values**
6. Minimize and eliminate violations of housing and building codes and public nuisances on property to be developed
7. Hold parcels of land for future strategic governmental purposes

These goals are associated with land use control and shaping regional and community growth, ensuring an orderly land development of certain types of public and private uses (open space, residential/housing, retail, commercial, **historical preservation**, and industrial) and protecting land with notable environmental attributes. The goals ensure the supply of land and provide opportunities to retain land for future development in highly competitive real estate markets. This approach allows municipal governments to acquire land to be reserved for specific purpose, for example for commercial or retail uses. The strategic acquisition of undeveloped land further increases in its value due to services provided. To a limited extent public land banking is currently applied in many urban centers through the advanced purchase of land for specific public uses such as industrial parks and redeveloped retail centers.

Quantifiable benchmarks based on the Policy goals could include figures for the following:

- Reduction of number of vacant and abandoned lots
- Reduction of time lots remain vacant or abandoned
- Increase in square footage of mixed-use development produced
- Increase in retail or commercial businesses
- Reduction in code compliance complaints
- Reduction in number of blocks or buildings categorized as distressed.
- **Implementation of citizen's goals to preserve City's community character**



## IV. IMPLEMENTATION

### A. Role of the City

The City would be an agent for equitable land recycling and management through consistency with land use plans and planning provisions. The City is committed to remediating blight and distressed properties. As the steward of the property, the City is expected by the public to be an arbiter of land use and management by way of various authority and departmental functions like code enforcement, planning, and zoning and more generally, blight elimination and economic development. The City will specifically focus on recycling and repurposing land for **maintaining** suitable infill development, stabilization of standing structures supporting commercial districts, **retaining historical character and assets**, and vacant land suitable for community needs. The City has an ongoing role providing for basic needs, citywide public infrastructure, and services and amenities, such as parks. Land assembly for purposes of mixed-used residential, commercial, and large-scale redevelopment in geographically concentrated areas will be the role of the City.

The City will have the authority to:

- Acquire and dispose of property
- Contract with third parties
- Determine fair market value of a property
- Determine the potential of renovation of a structure;
- Expend funds consistent with its approved annual budget.

The City will serve in four functions:

- Asset banking by acquiring inventories of real property from five primary sources:
  - Tax delinquent and tax foreclosures
  - Excess residential real estate foreclosures
  - Nuisance abatement line enforcement
  - Direct market purchase
  - Deposits by third parties of properties to be held pending redevelopment
- Secondary market stabilization by intervening in property transactions in order to address the contraction and expansion of property 'liquidity' relative to demand
- Capital reserves by maintaining real property reserves to respond to future strategic need of the community.
- Banking regulation by exercising its authority consistent with the common good.

### B. Acquisition Criteria of Land

The City may acquire property through asset banking from its primary sources. In determining whether to acquire a property, the City will target those properties that meet one or more of the following criteria:

- There is a qualified end user committed to purchasing and returning the property to productive use;
- There is a prospective end user, neighborhood resident, local government entity-community stakeholder, or other interested party who has requested that the City review the property for acquisition;
- A developer is interested in investing money into the property, but cannot afford to get into a bidding war as their future investment in the property will not make economic sense.
- The redevelopment of the property will support strategic development efforts, is likely to act as catalyst for further development, or is part of a comprehensive development plan;

- Acquisition will help stabilize or improve neighborhood conditions by reducing blight;
- Property has potential impact for reconstruction or perhaps demolition;
- Property is undesirable in current state, but could be brought up to a state where it is attractive to development
- Acquisitions will help create or preserve homeownership opportunities;
- There is an existing market for the property, but title issues prevent the property from being developed to its highest and best use;
- Acquisitions of the property will further the City's strategic plan and the City has the resources to maintain and market the property.

### **C. Target Area Considerations**

The City will take in the following pre-acquisition conditions:

- The City will follow parcel categorization and any zoning, citywide or special district plans when and where they exist, when identifying which parcels to acquire.
- The City will assess the condition, marketability, potential holding and maintenance costs, and possible end users of every property prior to acquisition.
- When possible, the City will conduct a complete condition assessment of all structures prior to acquisition.
- The City will ensure that it has available funds to fund and maintain the property for an extended ownerships period of no less than three (3) years.
- The City shall strive for clear, insurable, and marketable title across its entire inventory. As such, the City may only acquire property:
  - That already has clear and marketable title; or
  - Whose title issues can be resolved given the particular powers specifically available to cities like quiet title and discharge of tax liens and municipal claims; or
  - At the discretion of the City under special circumstances
- If property is either designated as historic or located in an established historic district, the City will initiate communication with the appropriate designating historic commission or body to determine potential disposition options prior to acquisition.
- Prospective end users, community stakeholders, or their interested parties may submit a request to assess properties brought to the City's attention, provided the City has the resources to do so.

### **D. Post Considerations**

- Upon acquiring any property with a structure, the City will conduct a complete condition assessment if one has not already been conducted, secure the property, add the property to its maintenance schedule, and prepare a marketability assessment for the property.
- As soon as practical following acquisition, the City will move forward with property disposition, demolition, or marketing following acquisitions.
- Upon acquiring a property, the City will make its ownership known to the public. If the City has been in contact with a prospective end user, it will communicate its ownership of the property to the interested party or parties.

## **E. Priorities for Use of Property**

- Return of the property to productive tax paying status while fostering its highest and best use
- Land assemblage for economic development
- Long term (over 5 years) “banking” of properties for future strategic uses
- Neighborhood revitalization and preservation of its character
- Homeownership and affordable housing

## **F. Disposition of properties**

- The City will prioritize its disposition resources, including any dollars allocated for demolition, maintenance, and renovation, based on the following general criteria:
  - Where investment furthers the City’s Comprehensive Plan and other Special District Master Plans.
  - Where the targeted elimination of blight will make an impact on the overall stability of the neighborhood
  - Where unrestricted dollars can bridge funding gaps to stabilize neighborhoods and preserve property values
  - Where an investment will support mixed-use development
- Transaction will be structured in a manner that permits the City to enforce conditions upon title pertaining to development and use of the property for a specific period
- The proposed end use must follow current zoning and special use requirements, or a rezoning or variance must be obtained as a condition of the transfer
- Options to purchase property may be available under terms negotiated by the prospective end user and the City. Any option fee will be credited to the purchase price at closing. If closing does not occur, the fee is forfeited.
- In every transfer of Real Property, the City will require good and valuable consideration as determined by the City in the sole discretion.

## LANCASTER CITY COUNCIL

### City Council Special Meeting

4.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda

**Goal(s):** Quality Development

**Submitted by:** Rona Stringfellow, Assistant City Manager

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#### **Agenda Caption:**

Discuss and consider an extended management agreement for the Country View Golf Course.

#### **Background:**

At the January 08, 2018 meeting, City Council received a presentation outlining the current operations of the Country View Golf Course under the oversight of Touchstone Golf, LLC.

As a result of the Touchstone management temporary agreement, staff has worked to secure national accounts to re-stock the golf store, get necessary equipment to maintain greens at a lower price, receive maintenance on the existing carts, and continuing to work through an extensive transition list.

#### **Operational Considerations:**

This is a request to approve a 12 month management agreement with Touchstone Golf, LLC. The City Manager's Office will continue to manage the Golf Course in the same way that other City's assets are managed (i.e. Airport). The General Manager, under contract with Touchstone, will report to the City Manager's Office and continue to receive direction, approval, etc. under this reporting structure.

Highlights of the agreement include but are not limited to the following:

- Continued management from January 2018 through December 2018;
- Employment of appropriate staff;
- Application of a liquor license and a concessionaire's agreement;
- Monthly operational and financial reports.

#### **Legal Considerations:**

The City Attorney has reviewed and approved the resolution and agreement as to form.

#### **Public Information Considerations:**

This item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

#### **Fiscal Impact:**

The monthly base management fee is four thousand two hundred fifty dollars (\$4,250.00). The City will be responsible for any additional out-of-pocket expenses and cost for maintaining & operating the Golf Course facility.

**Options/Alternatives:**

1. City Council may approve the resolution, as presented.
2. City Council may deny the resolution, as presented.

**Recommendation:**

Staff is recommending approval of the resolution, as presented.

**Attachments**

Resolution

Exhibit "1"

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**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS FOR A PROFESSIONAL SERVICES AGREEMENT WITH TOUCHSTONE GOLF, LLC FOR MANAGEMENT OF THE COUNTRY VIEW GOLF COURSE AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Country View Golf Course is a municipally owned and operated golf course that is a quality of life amenity for the citizens of Lancaster and surrounding areas; and

**WHEREAS**, the City Council of the City of Lancaster desires to contract with proven professional management company in the golf industry for management oversight to the Country View Golf Course; and

**WHEREAS**, the City Council of the City of Lancaster desires to contract with Touchstone Golf, LLC for the above referenced services.

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

**SECTION 1.** That the City Council of the City of Lancaster hereby authorizes a professional services agreement for management services for the Country View Golf Course and authorize the City Manager to execute the Agreement, which is attached hereto and incorporated herein as Exhibit "1".

**SECTION 2.** That any prior Resolution of the City Council of the City of Lancaster in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

**SECTION 3.** That should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

**SECTION 4.** This Resolution shall become effective immediately from and after its passage, as the law and charter in such cases provide.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 29th day of January, 2018.

**ATTEST:**

**APPROVED:**

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Sorangel O. Arenas, City Secretary

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Marcus E. Knight, Mayor

**APPROVED AS TO FORM:**

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David T. Ritter, City Attorney

## **GOLF COURSE FACILITY MANAGEMENT AGREEMENT**

This Agreement (as amended, "Agreement") is made this 1<sup>st</sup> day of February 2018, between Touchstone Golf, LLC ("TOUCHSTONE"), a Delaware limited liability company and the City of Lancaster, Texas ("OWNER").

A. OWNER holds title to an 18-hole golf course facility and other amenities known as Country View Golf Course, including clubhouse, lodging, food and beverage operations, and all improvements and business operations thereof or in connection therewith ("Golf Course Facility").

B. OWNER is in need of a professional manager of the complete operation of the Golf Course Facility, including, but not limited to, administration of all receipts and disbursements, operation and maintenance of the golf course, clubhouse, related facilities and equipment golf course, marketing, sales and membership development.

C. OWNER desires that TOUCHSTONE provide the management and other services which are necessary for the operations of the Golf Course Facility in a professional manner with budgets and operations structured to attempt to accomplish OWNER's financial needs.

D. TOUCHSTONE has agreed to provide such services on the terms and conditions herein contained.

### **I. BASIC TERMS**

A. Basic Terms:

1. Contract Term: Twelve (12) months, beginning February 1, 2018, and ending January 01, 2019 (the "Initial Term") unless extended as provided.

2. Extension: On a month to month basis thereafter with mutual agreement.

3. Base Management Fee: \$4,250 per month payable monthly in advance.

4. This Agreement replaces that certain agreement dated November 1, 2017 with an expiration date of December 31, 2017.

5. Facility Description: 18-hole golf course, driving range, practice greens,, golf shop, restaurant and clubhouse, cart storage, maintenance shop, and parking lot.

6. Delivery Date for the annual operating budget, business plan and facility improvement plan: February 15.

7. Intentionally left blank

8. Special Provisions:

(a) Intentionally left blank.

(b) Transition Fee: Upon termination OWNER shall pay to TOUCHSTONE a fee of one month's Base Management Fee to compensate TOUCHSTONE for assisting the new golf course manager with the transition of operations.

(c) Liquor License: TOUCHSTONE or its affiliate will process an application for a beer, wine and mixed-beverage liquor license for the property's benefit at OWNER's cost and upon issuance of such license, TOUCHSTONE and OWNER shall enter into a management and concession agreement for the service of alcohol at the Golf Course Facility. OWNER shall be responsible for reimbursing TOUCHSTONE or its affiliate for the upfront application and legal costs for obtaining such license.

9. Addresses for Notices:

IF TO TOUCHSTONE: Mr. Douglas J. Harker  
Executive President  
Touchstone Golf, LLC  
11612 Bee Cave Road, Suite 150  
Austin, Texas 78738  
email: dharker@touchstonegolf.com

Copy to: Mr. Robert Bramlette  
c/o Gardere Wynne  
1000 Louisiana, Suite 3400  
Houston, Texas 77002  
email: rbramlette@gardere.com

IF TO OWNER: Mrs. Opal-Mauldin Jones  
City Manager  
City of Lancaster  
P.O. Box 940  
Lancaster, Texas 75146  
Email: orobertson@lancaster-tx.com

Copy to: Mr. David Ritter  
Brown & Hofmeister, L.L.P.  
740 E. Campbell Road, Suite 800  
Richardson, Texas 75081  
Email: dritter@bhlaw.net

B. The headings in this Agreement are for convenience only and shall not affect its interpretation. The singular includes the plural and words importing one gender include the other gender.



## **II. REPRESENTATIONS AND RESPONSIBILITIES**

Each party hereby warrants and represents that it has full authority to enter into this Agreement and to perform hereunder. Each party agrees to cooperate with the other and its officers, employees, agents and contractors in connection with this Agreement.

## **III. POWERS AND RESPONSIBILITIES OF TOUCHSTONE**

A. OWNER hereby appoints TOUCHSTONE to manage the Golf Course Facility and TOUCHSTONE hereby accepts such appointment on the terms and conditions herein contained. Without limiting the generality of the foregoing, TOUCHSTONE shall provide to OWNER the management services more particularly set out in this Section III.

B. TOUCHSTONE will operate the Golf Course Facility in a good, workmanlike and professional manner by:

1. Providing day-to-day management and oversight of operation of the Golf Course Facility;
2. Arranging for the employment of competent management that is trained in the necessary facets of golf course management, with sufficient experience in the golf course industry to oversee management of the Golf Course Facility;
3. Arranging for the employment of a competent staff and deploying such staff and other resources to insure proper care of the buildings, grounds, and Golf Course Facility;
4. Managing all hiring, training and termination of all Golf Course Facility management and personnel, including administering all labor relations. The General Manager shall be subject to the approval of OWNER. All personnel of the Golf Course Facility shall be employees of TOUCHSTONE or its affiliate;
5. Assisting with OWNER's accounting process including the transmittal of TOUCHSTONE's standard chart of accounts so that OWNER's Golf Fund can create financial statements for the Golf Course Facility;
6. Preparing and maintaining accurately in all material respects the POS system utilized by the Golf Course Facility;
7. Oversee the planning and implementation of all marketing programs, including a golf tee time sales plan, membership plan, tournament/catering event sales plan, e-marketing, promoting the food and beverage operation, implementing pricing and revenue management techniques, and placing appropriate media/advertising;
8. Assisting with creating a unique website including an online reservation portal;

9. Maintaining the Golf Course Facility in a condition consistent with quality levels budgeted for;

10. Coordinating with OWNER to cause the Golf Course Facility to operate in compliance with applicable laws, regulations, and permit conditions;

11. Overseeing all other matters reasonably necessary for the efficient performance of the operations in connection with the Golf Course Facility;

12. Arranging, coordinating, and implementing the purchase of supplies and equipment, as needed, to operate the Golf Course Facility through TOUCHSTONE's national accounts relationships where available;

13. Implementation of the Touchstone Golf Foundation to enhance guest service and community outreach; and

14. With the exception of the General Manager, TOUCHSTONE may terminate its employees without the consent of the OWNER.

C. Subject to OWNER'S written consent, which shall not be unreasonably withheld, and, subject to any provisions to the contrary herein contained, TOUCHSTONE may subcontract the whole or any part of the performance of its obligations and duties herein described to any wholly-owned subsidiary of TOUCHSTONE, or to any other person, firm or corporation approved by OWNER. The subcontracting of the whole or any part of its obligations and duties as aforesaid shall not relieve TOUCHSTONE from liability for the performance of such obligations and duties under this Agreement before or after such contracting.

D. For the term of this Agreement, should the OWNER elect not to be covered by TOUCHSTONE'S general liability and property insurance programs OWNER will carry reasonable amounts of liability and property and contents insurance insuring all Golf Course Facility assets and operations, including improvements now or hereafter located on the Golf Course Facility real estate, against loss or damage by fire and other casualty, including theft, vandalism and malicious mischief, and such other risks common to Golf Course Facility properties. In this case Touchstone will be named as an additional insured. Unless provided by TOUCHSTONE, OWNER will also provide other insurance coverage as it considers necessary and normal for the operation of the Golf Course Facility, including but not limited to worker's compensation, automobile liability and liquor liability insurance/DRAM shop insurance. OWNER at its discretion may provide crime and business interruption coverage. To the extent available, all of the foregoing insurance policies obtained by the OWNER shall include waivers of subrogation and shall provide coverage from cross liability among co-insureds and shall name TOUCHSTONE as an additional insured.

E. Unless otherwise directed by OWNER all contracts and agreements which relate specifically to the Golf Course Facility shall be entered into by and in the name of OWNER. No contract or agreement shall be entered into without OWNER approval unless in accordance with the budget and terminable on 30-day notice. TOUCHSTONE shall provide OWNER copies of all such contracts and agreements which are binding upon or obligate OWNER within ten (10) business days of their execution.

F. OWNER shall pay promptly all operating expenses of the Golf Course Facility in accordance with Sections VII.A, unless the amounts thereof are in dispute. OWNER shall designate bank account(s) and shall authorize TOUCHSTONE and Golf Course Facility employees, as necessary, to make deposits to such accounts.

G. TOUCHSTONE does not give any general or specific guarantee as to the profitability of the Golf Course Facility, the attendance thereat or the revenues therefrom.

H. Upon expiration of the term of this Agreement, or upon the prior termination of this Agreement, and in any year prior to such expiration or termination, TOUCHSTONE agrees and covenants to cooperate fully with OWNER or OWNER's designated successor manager (subject to compliance with the restrictions elsewhere in this Agreement) in the smooth and businesslike transfer of the operations of Golf Course Facility including but not limited to assignment of accounts, contracts, policies, licenses, permits and improvements in connection with the Golf Course Facility to OWNER or OWNER's designees, except such proprietary rights as to which TOUCHSTONE has the sole or exclusive rights, and TOUCHSTONE agrees and covenants to execute all documents required or convenient to accomplish any such transfer in a timely, effective and efficient manner. On the expiration or on the termination of this Agreement for any reason, all Golf Course Facility property and interests therein, including cash, accounts, books, records, contracts; policies; licenses, permits and improvements in the Golf Course Facility property, except proprietary rights as to which TOUCHSTONE has the sole and exclusive rights and property as to which the parties have agreed shall be the property of TOUCHSTONE, will be promptly turned over to OWNER and be the property of OWNER. OWNER shall assume the leases of all equipment located at the Golf Course Facility unless TOUCHSTONE elects otherwise in writing. TOUCHSTONE shall execute and deliver to OWNER all documents necessary to legally effectuate each of the transactions. Unless otherwise agreed in writing by the parties hereto, TOUCHSTONE shall remove its personnel and personal property from the Golf Course Facility upon such expiration or termination. Upon such expiration or termination, TOUCHSTONE shall surrender to OWNER all cash and other assets of the Golf Course Facility. The duties of TOUCHSTONE set forth in this Section are expressly conditioned upon OWNER'S full payment of the Base Management Fee and any fee due upon termination as set forth in this Agreement.

I. TOUCHSTONE, without the prior written consent of OWNER, shall not make, or suffer to be made, any alterations of the Golf Course Facility or any part thereof if the cost of such alteration, in the aggregate, would be in excess of twenty-five hundred dollars (\$2,500) unless already included within the Golf Course Facility's then approved budget (either operating or capital). TOUCHSTONE shall not allow any mechanic's or materialman's or similar liens to be placed upon Golf Course Facility premises and OWNER's property in which such premises are situated.

J. TOUCHSTONE shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, age, national origin, or non-disqualifying handicap. TOUCHSTONE shall not discriminate because of race, religion, color, ancestry, sex, national origin, or non-disqualifying handicap against any person by refusing to furnish such person any service or privilege offered to or enjoyed by the general public, nor shall TOUCHSTONE or its employees publicize the Golf Course Facility in any manner that would directly or inferentially reflect on the acceptability of the patronage of any person because of race, religion, color, ancestry, sex, national origin, or non-disqualifying handicap, nor shall the Golf Course Facility be so used. TOUCHSTONE shall indemnify, defend, and hold OWNER, its officers, directors, employees, agents and affiliates harmless and Owner agrees to indemnify, and hold TOUCHSTONE, its officers, directors, employees, agents and affiliates harmless, in the event of such an occurrence.

#### **IV. MANAGEMENT COMPENSATION**

The following payments and consideration shall be made to TOUCHSTONE for the services to be provided by TOUCHSTONE under this Agreement: The Base Management Fee set forth in Section I to be paid to TOUCHSTONE, with the first payment of the Base Management Fee payable within ten (10) business days of the execution of this Agreement, and thereafter payable monthly in advance during the Contract Term.

A. Intentionally left blank.

B. TOUCHSTONE shall be reimbursed for reasonable out-of-pocket expenses, reasonable travel lodging expenses as provided for in the applicable budget or as otherwise approved by OWNER. Such expenses are not to exceed one thousand dollars (\$1,000) per month without approval by OWNER and shall be paid from the bank account utilized to pay operating expenses upon presentation of reasonable documentation of such expense.

#### **V. PLANNING AND BUDGETS**

On or before the dates set forth in Section I, TOUCHSTONE and OWNER shall have prepared and received OWNER's approval of a operating and capital budget for the remaining months of the current fiscal year of OWNER year. Until such time that the operating budget is complete and approved by OWNER, TOUCHSTONE shall use its best commercially reasonable efforts to operate the Golf Course Facility under the existing budget framework provided to TOUCHSTONE by OWNER or in a manner consistent with the current market position of the Golf Course Facility.

#### **VI. RECORDS, ACCOUNTS, AND REPORTS**

A. TOUCHSTONE shall assist OWNER with their accounting process including the monthly transmittal of the Golf Course Facility's revenue and attendance metrics information from the point of sale system;

B. Intentionally left blank.

C. TOUCHSTONE shall provide monthly reports to OWNER from the POS system in order for OWNER to prepare monthly financial statements for the Golf Course Facility.

## **VII. RESPONSIBILITY FOR EXPENSES**

A. Everything done by TOUCHSTONE pursuant to and in the performance of this Agreement and all expenses incurred by it under this Agreement shall be for and on behalf of OWNER. OWNER shall pay and be responsible for all costs and expenses of maintaining, operating, and supervising the operation of the Golf Course Facility, provided they are in accordance with the contracts and consistent with the approved budget or within permitted variances provided for elsewhere in this Agreement, to include, but not limited to the following:

1. The salaries, fringe benefits, workers compensation insurance and expenses of employees;
2. All costs and expenses of any advertising or business promotion;
3. Costs of goods sold, including inventory and supplies necessary to conduct the business of the Golf Course Facility;
4. All capital expenditures, including expenditures for repairs and maintenance, and equipment and supplies;
5. Premiums for insurance maintained;
6. All expenses of regulatory compliance, permits, etc., it being specifically agreed that (i) legal fees incurred with attorneys' retained by OWNER in connection with regulatory compliance for the liquor license(s), food service, and golf course operations are approved, and (ii) reasonable and necessary legal fees of attorneys retained by OWNER or otherwise approved by OWNER in advance, directly related to the operation and protection of the Golf Course Facility and OWNER's liability are approved;
7. Cost and expenses of utilities;
8. General and administrative and accounting costs, including forms and checks;
9. If included within the budget, consulting fees for certain expertise (e.g. agronomy) needed to address specific needs of the Golf Course Facility or if not included in the budget, if approved by OWNER and
10. Management Fees and reimbursable expenses of TOUCHSTONE as set forth herein.

B. OWNER is responsible for providing sufficient funds to cover the operating expenses for the Golf Course Facility. TOUCHSTONE, acting as authorized independent contractor for OWNER, will deposit all revenues of the Golf Course Facility into an operating account or accounts for the Golf Course Facility. TOUCHSTONE will have no obligation to contribute funds to the accounts of the Golf Course Facility.

C. TOUCHSTONE may cause the Golf Course Facility to incur any expense (i) that is included in the approved annual operating budget; (ii) that is needed to remedy any emergency situation that, in TOUCHSTONE'S professional judgment, is potentially hazardous, unsafe or damaging to the Golf Course Facility or to persons reasonably expected to be present at the Golf Course Facility (e.g., employees, patrons, authorized visitors) ("Emergency Expenditure"), as more particularly set forth hereinabove; or (iii) as otherwise expressly approved by OWNER. TOUCHSTONE shall not incur any expense that is not consistent with the annual operating budget without the prior written consent of the OWNER, except in the case of an emergency (as elsewhere provided in this Agreement) or as otherwise provided in this Agreement. TOUCHSTONE shall not enter into any contract, even if otherwise authorized hereunder, which binds or purports to bind OWNER or the Golf Course Facility without the prior written approval of OWNER if the term of such contract exceeds the Contract Period unless such contract is terminable on 30-days' notice. Excepting only Emergency Expenditures or expenditures included in the approved budget, TOUCHSTONE shall not incur any single expense, even if otherwise authorized hereunder, which is chargeable to OWNER or to the Golf Course Facility if the amount equals or exceeds five thousand dollars (\$5,000).

D. TOUCHSTONE may also reallocate among line items, provided the total expenses to be incurred do not increase. No other reallocations of line items may be made by TOUCHSTONE without the prior written consent of OWNER. Unbudgeted minor expenditures unforeseen at the time of preparation of the annual operating budget, and reasonably deemed necessary by TOUCHSTONE, may be made without OWNER's authorization except that unbudgeted expenditures in excess of 2% of any major subtotaled line item's budget may not be made without OWNER's written approval in advance. In the event such request is submitted and OWNER does not respond within five (5) business days of receipt of the request, OWNER shall be deemed to have consented to such unbudgeted expenditures.

## **VIII. TERMINATION**

A. The term of this Agreement shall be for the Initial Term plus Renewal Terms, if applicable.

B. This Agreement may sooner be terminated:

1. Intentionally left blank.

2. Except as to matters subject to subsection 4 below as to which there is no cure period, upon the failure of the defaulting party to correct a material breach of this Agreement after the non-defaulting party has given not less than fifteen (15) days written notice of the default in writing to the defaulting party. In the event the material breach is of a type that requires longer than fifteen (15) days to cure, the defaulting party has taken steps before the end of the fifteen (15) day period to remedy the breach as are proper and diligent in all the circumstances and the defaulting party is diligently pursuing such cure. Any notice given pursuant to this subsection shall specify the full particulars of the default alleged.

3. In the event of gross negligence in the operation of the Golf Course Facility by TOUCHSTONE, upon written notice from OWNER.

4. Immediately upon written notice from TOUCHSTONE to OWNER in the event OWNER fails to make any required deposit to pay expenses of the Golf Course Facility (including the Base Management Fee) as required by this Agreement.

## **IX. INDEMNITY**

TOUCHSTONE shall indemnify, defend, and hold OWNER, its officers, directors, employees, agents and affiliates harmless from any loss or damage including, but not limited to, injury, loss, economic damage, property damage, costs and expenses, including reasonable attorneys' fees and costs of litigation (collectively, the "Damages"), to the extent caused by TOUCHSTONE'S negligence, gross negligence, willful misconduct, or TOUCHSTONE'S material breach of this Agreement.

To the extent permitted under Texas law, and without waiving any governmental immunity from suit or damages as a Texas municipal corporation and a subdivision of state, OWNER shall indemnify, defend, and hold TOUCHSTONE, its officers, directors, employees, agents and affiliates harmless from the Damages, to the extent caused by OWNER's negligence, gross negligence, willful misconduct, or OWNER's material breach of this Agreement.

## **X. REPRESENTATIONS AND WARRANTIES**

A. OWNER represents and warrants to TOUCHSTONE as follows:

1. OWNER is duly organized and validly existing under the laws of the state of its creation and is qualified to do business and is in good standing in the state in which the Golf Course Facility is located, with full power and authority to enter into and execute this Agreement and to consummate the transactions contemplated hereby.

2. Except as disclosed in writing to TOUCHSTONE prior to the execution hereof or disclosed on Exhibit A, to the best of OWNER's knowledge, OWNER has not received written notice from any governmental authority that the existing use, maintenance and operation of the Golf Course Facility or any portion thereof violates any law or ordinance which has not been cured and to the best of OWNER'S knowledge, the Golf Course Facility is currently in compliance with applicable laws and ordinances, including without limitation, applicable liquor license rules and regulations. OWNER has not received any written notice from any mortgagee, insurance company, fire marshal or building inspector requiring or requesting the performance of any work or alterations to the improvements which has not been performed.

3. OWNER has filed all federal, state, county, municipal and city income and other tax returns and reports required to have been filed by OWNER with respect to the Golf Course Facility, and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments received by OWNER or is contesting such taxes in accordance with the requirements of applicable law.

4. There are no actions, suits, or proceedings pending or, to the best of OWNER's knowledge, threatened in any court or before or by any governmental authority against or affecting OWNER or the Golf Course Facility, except as disclosed in Exhibit A attached hereto and made a part hereof. There is no pending eminent domain or condemnation proceedings against the Golf Course Facility or any part thereof and to the

best of OWNER's knowledge, no such proceedings are presently threatened or contemplated by any authority with the power of eminent domain.

5. The OWNER is not aware of any contracts or other obligations outstanding for the sale, exchange or transfer of the Golf Course Facility or any portion thereof.

B. TOUCHSTONE represents and warrants to OWNER as follows:

1. TOUCHSTONE is duly organized and validly existing under the laws of the state of its creation as a Delaware limited liability company, and is qualified to do business and is in good standing in the state in which the Golf Course Facility is located, with full power and authority to enter into and execute this Agreement and to consummate the transactions contemplated hereby. TOUCHSTONE has received all requisite partner or corporate approvals necessary for the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and this Agreement constitutes the legal, valid and binding obligation of TOUCHSTONE, enforceable against TOUCHSTONE in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting debtors' and creditors' rights generally and general equitable provisions.

## **XI. CONFIDENTIALITY**

A. To the extent permissible under Texas law, and acknowledging that as a governmental entity and a subdivision of state, OWNER is subject to the provisions of various open government laws, including but not limited to the Texas Public Information Act, each party at all times hereafter shall attempt to preserve the secrecy and confidentiality of all the other party's confidential information (as defined hereafter) as it relates to the operation of other party's golf facilities, shall not attempt to use or in any way appropriate the same for its own use or benefit and shall not knowingly disclose or knowingly permit to be disclosed to any person (other than employees of OWNER and TOUCHSTONE) confidential information without the prior written consent of the applicable party, except as required by law, including but not limited to the Texas Public Information Act. Nothing contained in this Agreement shall obligate either party to transfer to the other party any confidential information at any time, including, upon termination of this Agreement. "Confidential information" means all information and data related to TOUCHSTONE, used by TOUCHSTONE in connection with TOUCHSTONE'S obligations hereunder and related to other Golf Course Facilities of TOUCHSTONE, which information and data relates to TOUCHSTONE trade secrets, ideas, know-how, improvements, inventions, technologies or internal business facts (including financial and operating information), except such information or data which is generally available to the public without OWNER's fault or is acquired in good faith by OWNER from a third party who OWNER has no reason to believe acquired the same in other than good faith and who is not under any obligation to TOUCHSTONE in respect thereof. TOUCHSTONE agrees to label any document containing information it considers to be "confidential information" accordingly in order to facilitate OWNER's handling of any Texas Public Information Act requests for the information.

B. TOUCHSTONE is permitted to identify its relationship with the Golf Course Facility in its advertising and marketing literature and website, including a photograph of the



Golf Course Facility acceptable to OWNER, with a generic reference stating that the Golf Course Facility, is a client (or upon expiration of the Contract Period, was a client) of TOUCHSTONE.

## **XII. FORCE MAJEURE**

A. For the purposes of this Section XII, "force majeure" shall mean an act of God, strike, lockout or other industrial disturbance, act of a public enemy, war blockade, public riot, lightning, fire, storm, earthquake, flood, explosion, governmental restraint, breakage or accidents to equipment and any other cause, whether of the kind specifically enumerated above or otherwise, which shall not reasonably be within the control of the party claiming suspension. Force Majeure does not include any financial incapacity.

B. If TOUCHSTONE or OWNER is unable, wholly or in part, by reason of force majeure (as herein defined) to carry out an obligation under this Agreement, such obligation shall be suspended so far as it is affected by such force majeure during the continuance thereof. The party unable to perform shall give the other party prompt notice of such force majeure with reasonably full particulars thereof and, insofar as is known, the probable extent to which it will be unable to perform or be delayed in performing such obligation. The party unable to perform shall use all possible diligence to remove such force majeure as quickly as possible.

C. The requirement that any "force majeure" shall be removed with all possible diligence shall not require the settlement by the party unable to perform due to strikes, lockouts or other labor disputes or the meeting of any claims of or demands by any supplier or government entity contrary to the wishes of TOUCHSTONE or OWNER or which may be harmful to OWNER or to TOUCHSTONE.

## **XIII. NO WAIVER**

No delay or failure on the part of any party in exercising any right hereunder shall impair any such right or any remedy of the party so delaying or failing, nor shall it be construed to be a waiver of any continuing breach or default hereunder or any acquiescence therein or of any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default hereunder be deemed a waiver of any other breach or default theretofore or thereafter occurring.

## **XIV. AMENDMENTS**

This Agreement can be changed, waived, released or discharged only by written amendment executed by the parties hereto.

## **XV. SEVERABILITY**

A. If it is held by a court of competent jurisdiction that:

1. any part of this Agreement is void, voidable, illegal or unenforceable; or
2. this Agreement would be void, voidable, illegal or unenforceable unless any part of this Agreement were severed from this Agreement;

3. that part shall be severable from and shall not affect the continued operation of the rest of this Agreement.

B. The provisions of Section XV(A) shall not apply if the part of the Agreement affected is a substantive part in which event the parties shall in good faith renegotiate the provisions of the part so affected.

## **XVI. ASSIGNMENT**

A. This Agreement shall be binding on all parties hereto and their respective successors and assigns.

B. A party shall not assign its rights and shall not be (except as provided herein) released from its obligations in, to, or under, this Agreement.

## **XVII. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which, when so executed, shall be deemed to be an original and such counterparts shall together constitute an agreement.

## **XVIII. NOTICES**

Any notice, document or other item to be given delivered, furnished or received under this Agreement shall be deemed given, delivered, furnished or received when given in writing and personally delivered to an officer of the applicable party, sent by e-mail or facsimile, receipt of which is confirmed, or upon delivery by a national overnight courier service to the addresses set forth in this Agreement or such other address as the party has notified the other party is their current delivery address.

## **XIX. MISCELLANEOUS**

A. The relationship between OWNER and TOUCHSTONE is that of independent contractors, and except as herein expressly provided, neither party is granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other or to bind the other in any manner or thing whatsoever.

B. This Agreement constitutes the entire agreement between the parties as to the management of the Golf Course Facility, and all prior or contemporaneous, oral or written agreements or instruments are merged herein.

C. The remedies provided herein for breach of this Agreement are not exclusive; and, in event of breach, the parties hereto have all the remedies provided by law.

D. This Agreement is not intended and does not create any rights or interest in persons not a party hereto.

E. In those circumstances provided herein in which approval by a party is required, such approval shall not be unreasonably withheld, conditioned or delayed.

F. Time shall be of the essence as to each and every time requirement within this

Agreement.

## **XX. APPLICABLE LAW**

This Agreement is subject to the law of the state in which the Golf Course Facility is located and the parties submit to the jurisdiction of the courts of that State.

IN WITNESS WHEREOF, the parties, have signed this agreement on the date first hereinbefore written.

**TOUCHSTONE GOLF, LLC**, a Delaware limited liability company

By: \_\_\_\_\_

Name: Douglas J. Harker

Title: Executive Vice President

**The City of Lancaster, Texas**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**KNOWN LITIGATION AND OTHER MATTERS**

NONE

## LANCASTER CITY COUNCIL

### City Council Special Meeting

5.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda

**Goal(s):** Quality Development

**Submitted by:** Rona Stringfellow, Assistant City Manager

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#### **Agenda Caption:**

Discuss and consider a resolution approving a Professional Services Agreement with GSBS for the schematic design of the new City Hall in an amount not to exceed three hundred seventeen thousand eight hundred ninety-seven dollars and eighty cents (\$317,897.80).

#### **Background:**

In the City Council Goals and Objectives identified design and development of a new City Hall as a strategic objective. GSBS Architects made a presentation to Council in June 2017 regarding their approach to City Hall design. City Council requested a tour of similar sized projects and downtown developments.

On Friday, November 3, 2017, Council toured Kaufman, Grapevine and Southlake City Halls as well as the Tarrant County Northeast Courthouse. The tour was an opportunity for Council to gather ideas on current trends as well as designs for sustainable, public and community facilities located within historic downtown. GSBS Architects compiled the feedback.

At the December 4, 2017 City Council Special Work Session, GSBS made a presentation regarding the next steps in the design and development process which is to bring the schematic design agreement for consideration.

#### **Operational Considerations:**

GSBS will need to enter into an agreement with the City of Lancaster to continue develop the design.

#### **Legal Considerations:**

The City Attorney has reviewed the resolution and agreement and approved it as to form.

#### **Public Information Considerations:**

The item is being considered at a meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

#### **Options/Alternatives:**

1. City Council may approve the resolution, as presented.
2. City Council may deny the resolution, as presented.

#### **Recommendation:**

Staff recommends approving the resolution, as presented.

**Attachments**

Resolution

Schematic Design Agreement

AIA B101-2017 Agreement

Supplemental Conditions Agreement

Exhibit A

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**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE AWARD OF PROFESSIONAL SERVICES FOR THE CITY HALL DESIGN IN AN AMOUNT NOT EXCEED THREE HUNDRED SEVENTEEN THOUSAND EIGHT HUNDRED NINETY-SEVEN DOLLARS AND EIGHTY CENTS (\$317,897.80); AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lancaster Goals and Objectives identified design and development of a new City Hall as a strategic objective;

**WHEREAS**, the City Council of the City of Lancaster desires to design a new City Hall.

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

**SECTION 1.** The City Council of the City of Lancaster does hereby authorize the award of a Professional Services Agreement not to exceed three hundred seventeen thousand eight hundred ninety-seven dollars and eighty cents (\$317,897.80) pursuant to the contract, attached hereto and incorporated herein by reference as Exhibit 1.

**SECTION 2.** The City Council of the City of Lancaster does hereby authorize the City Manager to issue appropriate purchase orders to conform to this resolution.

**SECTION 3.** Any prior Resolution of the City Council of the City of Lancaster in conflict with the provisions contained in the Resolution are hereby repealed and revoked.

**SECTION 4.** Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

**SECTION 5.** The Resolution shall take effect immediately from and after its passage, and it is duly resolved.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 29th day of January, 2018.

**ATTEST:**

**APPROVED:**

---

Sorangel O. Arenas, City Secretary

---

Marcus E. Knight, Mayor

**APPROVED AS TO FORM:**

---

David T. Ritter, City Attorney

**CITY OF LANCASTER, TEXAS**

**ARCHITECTURAL SERVICES AGREEMENT**  
**(SCHEMATIC DESIGN)**

For the consideration hereinafter set forth, **GSBS, P.C. (d/b/a “GSBS Architects”)** (“Architect”), a Utah corporation with an office in Fort Worth, Texas, agrees to provide architectural services to the **City of Lancaster, Texas** (“City” or “Owner”), for the project(s) and work identified in this Architectural Services Agreement (“Agreement”) for an amount not to exceed three hundred seventeen thousand eight hundred ninety-seven dollars and eighty cents (\$317,897.80). This Agreement is effective as of January 29, 2018 and unless earlier terminated pursuant to the provisions hereof, shall continue through the completion of performance of the Work specified hereunder.

**WHEREAS,** Owner desires to obtain professional architectural services from Architect for the **Lancaster City Hall** project; this contract and the accompanying AIA B101-2017 (“Project”); and

**WHEREAS,** Architect is an architectural firm selected to provide such services, based upon Architect’s municipal experience, references and qualifications, and is willing to undertake the performance of such services for Owner in exchange for payment and fees as hereinafter specified.

**NOW, THEREFORE,** in consideration of the covenants and agreements contained herein and in the Contract Documents, and subject to the terms and conditions hereinafter stated, Owner and Architect do mutually agree as follows:

**ARTICLE 1. CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE**

The term “Contract Documents” shall include and consist of the following documents:

1. This Agreement;
2. Standard Form of Agreement Between Owner and Architect, AIA Document B101-2017, and Exhibit A attached thereto;
3. Other amendments and/or modifications to the above documents as are agreed upon by Architect and Owner.

These Contract Documents are incorporated by reference into this Agreement as if set out herein in their entirety. The Contract Documents are intended to be complimentary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided, however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed above.



## **ARTICLE 2. EMPLOYMENT OF ARCHITECT**

Architect will perform as an independent contractor all services under this Agreement to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural profession, both public and private, currently practicing in the North Texas area under similar conditions including, but not limited to, the exercise of reasonable, informed judgments and prompt, timely action. If Architect is representing that it has special expertise in one or more areas to be utilized in this Agreement, then Architect agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

## **ARTICLE 3. SCOPE OF SERVICES**

Architect shall perform such services as are necessary to the Project specifically including, but not necessarily limited to, the tasks enumerated more fully in the Contract Documents.

## **ARTICLE 4. ARCHITECT'S LIABILITY**

A. Acceptance of the final plans, instruments of service, or other deliverable documents and products by Owner shall not constitute nor be deemed a release of the responsibility and liability of Architect, 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 Owner for any defect in the designs, working drawings, specifications or other documents and work prepared by said Architect, its employees, associates, agents or subconsultants.

B. If at any time during the term of this Agreement, Architect shall fail to commence the Work in accordance with the provisions of this Agreement or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Agreement or fail to use an adequate number of quality or quality of personnel to complete the Work or fail to perform any of its obligations under this Agreement, then Owner shall have the right, if Architect shall not cure any such default after thirty (30) days written notice thereof, to terminate this Agreement. Any such act by Owner shall not be deemed a waiver of any other right or remedy of Owner. If, after exercising any such remedy due to Architect's non-performance under this Agreement, the cost to Owner to complete the Work to be performed under this Agreement is in excess of that part of the Agreement sum which has not theretofore been paid to Architect hereunder, Architect shall be liable for and shall reimburse Owner for such excess.

C. Owner may deduct from any amounts due or to become due to Architect any sum or sums owing by Architect to Owner. In the event of any breach by Architect of any provision of this Agreement or in the event of any claim against Owner arising out of Architect's performance under this Agreement, Owner shall have the right to retain out of any payment due or to become due to Architect an amount determined by Owner to be sufficient to protect Owner from any and all loss, damage or expense therefrom, until the breach or claim has been satisfactorily remedied or adjusted by Architect.

## **ARTICLE 5. CONFIDENTIAL INFORMATION**

Architect 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 Agreement, which is of a confidential, non-public or proprietary nature. Architect 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 Agreement. As used herein, "confidential information" means all oral and written information concerning Owner, its affiliates and subsidiaries, and all oral and written information concerning Owner, 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 Architect 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 by Architect, or are required to be disclosed by a governmental authority under applicable law.

## **ARTICLE 6. INDEMNITY**

Notwithstanding any other provision in the Contract Documents to the contrary:

- A. Architect shall defend, indemnify and hold harmless Owner, its City Council, officers, employees and agents from and against all citations, claims, costs, damages, demands, expenses, fines, judgments, losses, penalties or suits, which in any way arise out of, relate to, or result from the performance of the Work or which are caused by the intentional acts or negligent acts or omissions of Architect or its subcontractors, and any other third parties for whom or which Architect is legally responsible (the "Indemnified Items"). By way of example, the Indemnified Items may include personal injury and death claims and property damage claims, including those for loss of use of property. Indemnified Items shall include attorney's fees and costs of court, court costs, and settlement costs. Indemnified Items shall also include any expenses, including attorney's fees and expenses, incurred by an indemnified individual or entity in attempting to enforce this indemnity.
- B. In its sole discretion, the City shall have the right to approve counsel to be retained by Architect in fulfilling its obligation to defend and indemnify the City. Architect shall retain approved counsel for the City within seven (7) business days after receiving written notice from the City that it is invoking its right to indemnification under this Agreement. If Architect does not retain counsel for the City within the required time, then the City shall have the right to retain counsel and the Architect shall pay these attorney's fees and expenses. The City retains the right to provide and pay for any and all costs of defending Indemnified Items, but it shall not be required to do so.
- C. The obligations set forth in this Article shall survive the expiration or termination of this Agreement.

- D. Architect shall cause all contracts for subcontracted services to include a like indemnity that shall cover both the Owner and Architect. Nothing herein shall limit the insurance requirements or applicability of same set forth in this Agreement and the Contract Documents.
- E. The above indemnity is a business understanding between the parties and applies to all different theories of recovery, including breach of contract or warranty, tort including negligence, statutory liability or any other cause of action.

## ARTICLE 7. MISCELLANEOUS

### §7.1 Severability

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceable provisions shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein; and it is the intention of the parties that in lieu of each provision that is found to be illegal, invalid, or unenforceable, the parties seek to reasonably negotiate a new provision to this Agreement which is legal, valid, and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

### §7.2 Notice

Except as otherwise provided in this Agreement or the Contract Documents, all notices and other communications required or permitted to be given under this Agreement, shall be in writing, addressed to the parties at their respective addresses as provided below, and may be delivered in person, sent by overnight express mail or courier service, or by certified mail, postage prepaid, return receipt requested. The addresses of each party are as follows:

If to the Owner:           City of Lancaster  
                                  City Manager  
                                  211 N. Henry Street  
                                  Lancaster, TX 75140

If to Architect:           GSBS Architects  
                                  7291 Glenview Drive  
                                  Fort Worth, TX 76180

Each party may from time to time change its address for receipt of notices by sending notice thereof in the manner provided herein to the other party. Each notice given by certified mail shall be deemed delivered on the date of delivery as shown on the return receipt, or if delivery is attempted, at the last address specified and the notice is returned, notice shall be deemed delivered on the date the notice was originally sent. Each notice delivered in any other manner shall be deemed delivered as of the time of actual receipt thereof. The parties acknowledge and agree to provide to the other party within seventy-two (72) hours of transmission such notice documents bearing the original signatures.

### **§7.3 Unsatisfactory Work**

Nothing contained in this Agreement shall require Owner to pay for any work that is unsatisfactory as determined by Owner or which is not submitted in compliance with the terms of this Agreement, nor shall such failure to withhold payment pursuant to the provisions of this Section constitute a waiver of any right, at law or in equity, which Owner may have if Architect is in default, including the right to bring legal action for damages or for a specific performance of this Agreement.

### **§7.4 No Respondeat Superior**

Architect 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 Owner and Architect, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between Owner and Architect.

### **§7.5 Conflict of Interest**

Architect covenants and agrees that Architect and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Agreement. All activities, investigations and other efforts made by Architect pursuant to this Agreement will be conducted by employees, associates or subcontractors of Architect.

### **§7.6 Non-Waiver**

The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement, or to exercise any right under this Agreement, shall not be construed as a waiver or relinquishment to any extent of any such party's right to assert or rely upon any such provision or right in that or any other instance, rather, the same shall be and remain in full force and effect.

### **§7.7 Signatures**

The undersigned officers and/or agents of the parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary motions, resolutions or other act extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, the parties execute below:

CITY OF LANCASTER, TEXAS

GSBS ARCHITECTS

\_\_\_\_\_  
OPAL MAULDIN-JONES, CITY MANAGER

\_\_\_\_\_  
[NAME; TITLE]

Date: JANUARY 29, 2018

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



# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

## Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 29TH day of JANUARY  
in the year 2018

*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:  
*(Name, legal status, address and other information)*

CITY OF LANCASTER  
211 NORTH HENRY STREET  
LANCASTER, TEXAS 75146

This document has important  
legal consequences.  
Consultation with an attorney is  
encouraged with respect to its  
completion or modification.

and the Architect:  
*(Name, legal status, address and other information)*

GSBS ARCHITECTS  
7291 GLENVIEW DRIVE  
FORT WORTH, TEXAS 76180

for the following Project:  
*(Name, location and detailed description)*  
CITY OF LANCASTER NEW CITY HALL  
HISTORIC TOWN SQUARE

The Owner and Architect agree as follows.

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### ARTICLE 1 INITIAL INFORMATION

**§ 1.1** This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

**§ 1.1.1** The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

**§ 1.1.2** The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*



**§ 1.1.3** The Owner's budget for the Cost of the Work, as defined in Section 6.1:  
(Provide total and, if known, a line item breakdown.)

**§ 1.1.4** The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

.2 Construction commencement date:

.3 Substantial Completion date or dates:

.4 Other milestone dates:

**§ 1.1.5** The Owner intends the following procurement and delivery method for the Project:  
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

**§ 1.1.6** The Owner's anticipated Sustainable Objective for the Project:  
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

**§ 1.1.6.1** If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

Init.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:  
(List name, address, and other contact information.)

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:  
(List name, address, and other contact information.)

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

.2 Civil Engineer:

.3 Other, if any:  
(List any other consultants and contractors retained by the Owner.)

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)



§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

.2 Mechanical Engineer:

.3 Electrical Engineer:

§ 1.1.11.2 Consultants retained under Supplemental Services:

§ 1.1.12 Other Initial Information on which the Agreement is based:

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's

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sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than (\$ ) for each occurrence and (\$ ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than (\$ ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than (\$ ) each accident, (\$ ) each employee, and (\$ ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.



### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

#### § 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the

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Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

**§ 3.2.5.2** The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

**§ 3.2.6** The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.2.7** The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### **§ 3.3 Design Development Phase Services**

**§ 3.3.1** Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

**§ 3.3.2** The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.3.3** The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### **§ 3.4 Construction Documents Phase Services**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.4.2** The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

**§ 3.4.4** The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.4.5** The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### **§ 3.5 Procurement Phase Services**

#### **§ 3.5.1 General**

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.



### **§ 3.5.2 Competitive Bidding**

**§ 3.5.2.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

**§ 3.5.2.2** The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

**§ 3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### **§ 3.5.3 Negotiated Proposals**

**§ 3.5.3.1** Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

**§ 3.5.3.2** The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

**§ 3.5.3.3** If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### **§ 3.6 Construction Phase Services**

#### **§ 3.6.1 General**

**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

**§ 3.6.1.2** The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

**§ 3.6.1.3** Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### **§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work

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completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

**§ 3.6.2.2** The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment.

### **§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.



**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

### **§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

**§ 3.6.6.2** The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

**§ 3.6.6.3** When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

**§ 3.6.6.4** The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

**§ 3.6.6.5** Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

## ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

### § 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

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Supplemental Services	Responsibility (Architect, Owner, or not provided)

#### § 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

#### § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;

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- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 ( ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ( ) visits to the site by the Architect during construction
- .3 ( ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ( ) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.



§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead

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and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

**§ 6.2** The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

**§ 6.3** In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

**§ 6.4** If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

**§ 6.5** If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

**§ 6.6** If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

**§ 6.7** If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§ 7.1** The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

**§ 7.2** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

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**§ 7.3** The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

**§ 7.5** Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### **§ 8.2 Mediation**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is



stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

**§ 8.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

☐

Arbitration pursuant to Section 8.3 of this Agreement

☐

Litigation in a court of competent jurisdiction

☐

Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

### **§ 8.3 Arbitration**

**§ 8.3.1** If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

**§ 8.3.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

**§ 8.3.2** The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

**§ 8.3.3** The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

### **§ 8.3.4 Consolidation or Joinder**

**§ 8.3.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 8.3.4.2** Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

#### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.



§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.



## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
(Insert amount)
- .2 Percentage Basis  
(Insert percentage value)  
  
percent (            %) of the Owner's budget for the Cost of the Work,  
as calculated in accordance with Section 11.6.
- .3 Other  
(Describe the method of compensation)

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation.)

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus            percent  
(            %), or as follows:  
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	percent (	%)
Design Development Phase	percent (	%)
Construction Documents Phase	percent (	%)
Procurement Phase	percent (	%)
Construction Phase	percent (	%)
<hr/>		
Total Basic Compensation	one hundred percent	(100%)

**§ 11.6** When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

**§ 11.6.1** When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

**§ 11.7** The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.  
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
----------------------	---------------

#### **§ 11.8 Compensation for Reimbursable Expenses**

**§ 11.8.1** Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;

Init.

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- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

## § 11.10 Payments to the Architect

### § 11.10.1 Initial Payments

#### § 11.10.1.1 An initial payment of

( \_\_\_\_\_ ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

#### § 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of

( \_\_\_\_\_ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

### § 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid

( \_\_\_\_\_ ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
*(Insert rate of monthly or annual interest agreed upon.)*

\_\_\_\_\_%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

## ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this agreement.)*

- .3 Exhibits:

*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

☐

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this agreement.)*

☐

Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

- .4 Other documents:

*(List other documents, if any, forming part of the Agreement.)*

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

ARCHITECT (Signature)

(Printed name and title)

(Printed name, title, and license number, if required)

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## **THE CITY OF LANCASTER, TEXAS**

### **SUPPLEMENTARY CONDITIONS TO AIA DOCUMENTS B101-2017**

These Supplementary Conditions are incorporated into the Architectural Services Agreement between **GSBS, P.C. (d/b/a “GSBS Architects”** (“Architect”) and the **City of Lancaster, Texas** (“City” or “Owner”), dated January 29, 2018. The following terms and conditions supplement and modify the “Standard Form of Agreement Between Owner and Architect,” AIA Document B101-2007. Where a portion of AIA Document B101-2007 is modified or deleted by these Supplementary Conditions, the unaltered portions of AIA Documents B101-2007 shall remain in effect.

### **SUPPLEMENTARY CONDITIONS TO AIA DOCUMENT B101-2007**

#### **COVER SHEET:**

for the following Project: Production of, and securing final City approval for: All Design/Schematic Documents for the New City Hall for the City of Lancaster, Texas, comprising all documents needed for the Schematic Design phase, as discussed in Section 3.2.5, herein, and all other Schematic Design Phase Services as discussed in Section 3.2, herein.

#### **ARTICLE 1 INITIAL INFORMATION**

**§1.1** (1) All City of Lancaster RFP/RFQ/Bidding specifications relevant to the Project, and (2) The City of Lancaster Schematic Design Fee Cash Flow document shall be incorporated herein as “Initial Information.”

**§1.3** In the second line, replace “shall appropriately” with “may.”

#### **ARTICLE 2 ARCHITECT’S RESPONSIBILITIES**

**§2.2** Add at the end of the section, “and, in any event, in accordance with such schedule as is specified in this Agreement.”

**§2.3** Add at the end of the section: “If at any time after entering into this Agreement, the City has any objection to the Architect’s representative or to any of Architect’s personnel, or any objection to any personnel of consultants retained by Architect and assigned to the Project, Architect shall promptly propose substitutes to whom the City has no objection.”

**§2.4** Delete from the second line “reasonably appear to.”

**§2.5** Delete second sentence. Add the following regarding types and limits of insurance coverage:

The Architect shall, at its own expense, procure, pay for and maintain during the term of this Agreement the following insurance written by companies approved by the State of Texas and acceptable to Owner. The Architect shall furnish to the Owner certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, and expiration dates in compliance with all applicable required provisions.

**.1 General Liability:** Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000.00 per occurrence, \$1,000,000.00 Products/Completed Operations Aggregate, and \$1,000,000.00 General Aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

**.2 Automobile Liability:** Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence.

**.3 Worker's Compensation:** Worker's Compensation insurance with statutory limits; and Employer's Liability coverage with minimum limits for bodily injury: (a) by accident, \$100,000.00 each accident, and (b) by disease, \$100,000.00 per employee, with a per policy aggregate of \$500,000.00.

**.4 Professional Liability:** Professional Liability insurance to provide coverage against any claim which the Architect and all consultants engaged or employed by the Architect become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000.00 per claim, \$2,000,000.00 annual aggregate.

If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of this Agreement and acceptance by Owner.

With reference to the foregoing required insurance, the Architect shall endorse applicable insurance policies as follows: (1) a waiver of subrogation in favor of Owner, its officials, employees and officers shall be contained in the Workers' Compensation insurance policy; (2) the Owner, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader; and (3) all insurance policies shall be endorsed to the effect that Owner will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or a material change of the policies. All insurance shall be purchased from an insurance company that meets a financial rating of B+IV or better as assigned by A. M. Best Company or equivalent.

### **ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

**§3.1.3** In the sixth line, delete "except for reasonable cause." In the seventh line, replace "shall" with "may."



§3.1.4 Add at the end of the section, “which approval shall not be unreasonably withheld.”

§3.1.7 Add this new subsection, to read as follows: “Architect shall provide Owner copies of all subcontracts and agreements with subcontractors who perform Work on the Project. Owner approval of all subcontractors performing Mechanical/Equipment/Plumbing work, Civil Engineering work, Electrical Engineering work, Structural Engineering work, and Landscape Architecture work is required.”

**§3.3 DESIGN DEVELOPMENT PHASE SERVICES**

**§3.4 CONSTRUCTION DOCUMENT PHASE SERVICES**

**§3.5 BIDDING OR NEGOTIATION PHASE SERVICES**

**§3.6 CONSTRUCTION PHASE SERVICES**

Sections §3.3 – 3.6 are deleted from this document, the intent between the City and Architect to procure only the Schematic Design Phase Services under this Agreement.

**ARTICLE 4 ADDITIONAL SERVICES**

§4.2 Add the following: “If additional design sets of drawings provided hereunder are required, Architect shall provide same over and above the number of design sets already provided as part of Architect’s Work under this Agreement. Architect shall be paid by Owner for each additional design set of drawings over and above the number of sets provided as part of this Agreement, in the agreed upon amounts per set as stated in the scope of work.”

§4.3.1.1 Add at the end of the subsection, “except pursuant to §1.3.”

§4.3.1.4 Delete the subsection and replace with the following, “Services necessitated by decisions or any other failure of performance on the part of the Owner’s consultants or contractors;”.

§4.3.1.5 Delete this subsection.

§4.3.1.6 Delete this subsection.

§4.3.1.7 Delete this subsection.

§4.3.1.8 Delete this subsection.

§4.3.1.9 Delete this subsection.

§4.3.1.10 Replace “cause” with “casualty.”

§4.3.2. and 4.3.3. Delete these Sections.



**§4.3.4** In the last line, replace “shall” with “may.”

## **ARTICLE 5 OWNER’S RESPONSIBILITIES**

**§5.2** Add in the first line, after the word “update” the following: “the Architect regarding.”

**§5.4** Replace “Owner” with “Architect.”

**§5.6** In the third line, replace “shall” with “may.”

## **ARTICLE 6 COST OF THE WORK**

**§6.4** In the first line, replace “90” with “120.” In the last line, replace “shall” with “may.”

**§6.5** Add at the end of the section, “Notwithstanding any provision herein to the contrary, this provision does not guarantee or authorize any automatic adjustment to the Cost of the Work, and the Owner’s decision on any adjustment shall be final.”

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§§7.1, 7.2, 7.3, 7.3.1, and 7.4** Delete these sections and replace with the following:

“All materials, documents and ‘Instruments of Service’ prepared or assembled by the Architect under this Agreement shall become the sole property of the Owner and shall be delivered to the Owner without restriction on future use. The Architect may retain in its files copies of all drawings, specifications and other pertinent information for the work. The Architect shall have no liability for changes made to any materials or other documents by others subsequent to the completion of this Agreement.”

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§8.1 GENERAL**

**§8.1.1** Delete the following phrase from the third and fourth lines of the first sentence: “. . . but in any case not more than 10 years after the date of Substantial Completion of the Work.”

**§8.1.2** Delete this section.

**§8.1.3** Delete this section.

### **§8.2 MEDIATION**

**§8.2.1** Delete the second sentence of this section.

**§8.2.2** Delete the first sentence of this section, and replace with the following sentence: “The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them first, informally and, second, by mediation.” Delete the last sentence of this section, and replace with the following: “The parties shall have fifteen (15) days after receipt of a request for mediation to agree on a mediator. If the parties are unable to agree on a mediator within fifteen (15) days, each party shall have an additional five (5) days to designate a mediator. The two mediators so designated shall then designate a third unbiased mediator who shall be the mediator to conduct the mediation. The decision of the mediator shall be non-binding.

**§8.2.4** Select the box “Litigation in a court of competent jurisdiction.”

### **§8.3 ARBITRATION**

Delete this section. It is understood and agreed that arbitration is not agreed to as a dispute resolution method under this Agreement.

## **ARTICLE 9 TERMINATION OR SUSPENSION**

**§9.1** In the third line, replace “seven days” with “ten days.” Replace the last sentence with the following: “Before resuming services, the Architect shall be paid all sums due prior to suspension.”

**§9.2** In the second and fourth lines, replace “shall” with “may.”

**§9.3** In the second line, replace “seven days” with “thirty days.”

**§9.4** In the first line, replace “seven days” with “thirty days.”

**§9.5** In the first line, replace “seven days” with “thirty days.”

**§9.6** Delete this section and insert the following: “In the event of termination that is not the fault of the Architect, the Architect shall be compensated for services performed prior to termination.”

**§9.7** Delete this section.

## **ARTICLE 10 MISCELLANEOUS PROVISIONS**

**§10.1** Delete this section and replace with the following: “This Agreement shall be governed by the law of the State of Texas, and venue for any dispute shall be in any court of competent jurisdiction in Dallas County, Texas.”

**§10.3** Add “prior” before “written” in the second line of this section. Put a period after the word “other” in the third line, and delete the remaining language from the last two lines of this section.

## **ARTICLE 11 COMPENSATION**

### **§11.8 COMPENSATION FOR REIMBURSABLE EXPENSES**

**§11.8.1** Delete this section.

**§11.8.2** Delete this section.

### **§11.9 COMPENSATION FOR USE OF ARCHITECT’S INSTRUMENTS OF SERVICE**

Delete this section.

### **§11.10 PAYMENTS TO THE ARCHITECT**

**§11.10.3** Delete this section.

## **ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Add: “City of Lancaster, Texas Architectural Services Agreement; and these Supplementary Conditions.”

## **ARTICLE 13 SCOPE OF THE AGREEMENT**

**§13.2.3** Add: “City of Lancaster, Texas Architectural Services Agreement and contract documents referenced therein, and the order of precedence provisions stated therein.”

## City of Lancaster Schematic Design Fee Cash Flow



				February-18	March-18	April-18	May-18
		\$ 317,897.80					
Schematic Design	20%	\$ 317,897.80	\$ 31,790.80	\$ 95,369.00	\$ 95,369.00	\$ 95,369.00	

## LANCASTER CITY COUNCIL

### City Council Special Meeting

6.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda.

**Goal(s):** Sound Infrastructure  
Quality Development

**Submitted by:** Dale Jackson, Building Official

---

#### **Agenda Caption:**

Discuss and consider a resolution approving the terms and conditions of the Interlocal Agreement by and between Dallas County and the City of Lancaster, for the expenditure of County funds for the widening of Sunrise Road from Beltline Road, north to the Lancaster/Wilmer city limit line, and to the easternmost city limit along Sunrise Road.

#### **Background:**

Dallas County desires to begin the design phase of the widening of Sunrise Road between Beltline Road and Pleasant Run Road. Dallas County was under the impression that all of Sunrise Road north of Beltline Road was in the City of Wilmer and executed a funding agreement between Dallas County and the City of Wilmer. However there are portions of Sunrise Road in the City of Lancaster. The need to relocate a gas main is the cause of the uncertainty of the final alignment of Sunrise Road. Additionally, there are other issues regarding the actual boundary between the Cities of Lancaster and Wilmer. Staff is confirming the boundary between the cities of Lancaster and Wilmer.

Because Dallas County may encroach upon the City of Lancaster, they cannot continue with the design of the road without an executed Funding Agreement between Dallas County and the City of Lancaster. In the attached funding agreement, it stipulates that there will be no cost to the City of Lancaster.

#### **Operational Considerations:**

Dallas County is requesting this agreement to continue with the design of Sunrise Road.

#### **Legal Considerations:**

The City Attorney has reviewed and approved the attached funding agreement and the attached Resolution.

#### **Fiscal Impact:**

There will be no cost to the City of Lancaster.

#### **Options/Alternatives:**

1. City Council may approve the Resolution, as presented.
2. City Council may approve with modifications.
3. City Council may deny the Resolution.

**Recommendation:**

Approve the resolution authorizing the funding agreement for Sunrise Road between the City of Lancaster and Dallas County with the stipulation that the agreement is for design only.

**Attachments**

Resolution

Exhibit A

Capital Projects Agreement 2014-0457

Master Agreement 2011-861

---

## RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A FUNDING AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER, TEXAS AND DALLAS COUNTY, TEXAS IN ORDER TO CONTRACT FOR THE IMPLEMENTATION OF THE MAJOR CAPITAL IMPROVEMENT PROJECTS AUTHORIZED BY COURT ORDER 2014-0457 WHICH APPROVED SPECIFIED PROJECTS INCLUDING IMPROVEMENTS TO SUNRISE ROAD BETWEEN PLEASANT RUN ROAD AND BELT LINE ROAD IN THE CITY OF LANCASTER; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Project is located within the City of Lancaster, Texas ("City") and the City of Wilmer, Texas; and

**WHEREAS**, City of Lancaster and Dallas County, Texas ("County") entered into a Master Agreement Governing Major Capital Improvement Programs on May 10, 2011, by Commissioners Court Order 2011-861 for the purpose of Transportation Improvements on roads inside Dallas County; and

**WHEREAS**, Chapter 791 of the Texas Government Code and Texas Transportation Code Section 251 provide authorization for local governments to contract with each other for the performance of governmental functions and services, and joint funding of road or street projects.

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

**SECTION 1.** That the Funding Agreement, attached hereto and incorporated herein by reference as Exhibit A, having been reviewed by the City Council of the City of Lancaster, Texas, and found to be acceptable and in the best interest of the City and its citizens, be, and the same is hereby, in all things approved.

**SECTION 2.** That the Mayor of the City of Lancaster, Texas, is hereby authorized to execute said agreement.

**SECTION 3.** That any prior Resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

**SECTION 4.** That should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

**SECTION 5.** That this Resolution shall take effect immediately from and after its passage, and it is duly resolved.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 29th day of January, 2018.

**ATTEST:**

**APPROVED:**

---

Sorangel O. Arenas, City Secretary

---

Marcus E. Knight, Mayor

**APPROVED AS TO FORM:**

---

David T. Ritter, City Attorney



## **DALLAS COUNTY CAPITAL IMPROVEMENT PROGRAM FUNDING AGREEMENT**

The City of Lancaster, Texas, hereinafter called "City", and the County of Dallas, Texas, hereinafter called "County", desire to enter into a Funding Agreement, hereinafter called "FA", in order to contract for the implementation of the Major Capital Improvement Projects authorized by Court Order 2014-0457 dated April 01, 2014 which approved specified projects including Sunrise Road, MCIP 31405 between Pleasant Run Road and Belt Line Road in the City of Lancaster, Texas, hereinafter called "Project".

### **Witnesseth**

**WHEREAS**, the Project is located within the City of Lancaster, Texas and the City of Wilmer, Texas: and

**WHEREAS**, the City of Wilmer has requested that it be designated as the Lead Agency for the Project Design phase and will provide the Project Manager; and

**WHEREAS**, City and County entered into a Master Agreement Governing Major Capital Improvement Program on May 10, 2011, by Commissioners Court Order 2011-861 for the purpose of Transportation Improvements on roads inside Dallas County; and

**WHEREAS**, Chapter 791 of the Texas Government Code and Texas Transportation Code Section 251 provide authorization for local governments to contract with each other for the performance of governmental functions and services, and joint funding of road or street projects.

**NOW THEREFORE THIS FUNDING AGREEMENT** is made by and entered into by the City and the County for the mutual consideration stated herein.

### **Article I. Project Funding Agreement**

This FA is between the County and the City to establish a preliminary proposed budget for the Project which will facilitate the movement of public transportation to benefit both the City and County. This FA is to specifically identify the Project as well as any changes in the rights and responsibilities of each of the parties as set forth in the Master Agreement which is hereby incorporated herein as if written word for word and any additions thereto. All terms of the Master Agreement remain in full force and effect except as modified herein. In the event of any conflict between the Master Agreement and this FA, this FA shall control.

### **Article II Incorporated Documents**

This FA incorporates, as if fully reproduced herein word for word and number for number, the following items:

1. Master Agreement authorized by County Commissioners Court Order 2011-861 dated May 10, 2011, and additions thereto as incorporated herein.
2. Project Vicinity Map, as shown in Exhibit "A".
3. Current Cost Estimates and Funding Sources, as shown in Exhibit "B".

### **Article III**

#### **Term of Agreement**

This FA becomes effective when signed by the last party whose signature makes the respective agreement fully executed. This Agreement shall remain in effect until:

1. Incorporated into the Project Specific Agreement; or
2. Terminated upon the terms and conditions as set forth in the Master Agreement, Article IV Section A, Termination.

### **Article IV**

#### **Project Description**

This FA is entered into by the parties to develop public transportation improvements within the City of Lancaster, Texas. The project is defined as the design for the widening of Sunrise Road, between Pleasant Run Road and Belt Line Road in Lancaster, Texas, from a two-lane undivided rural facility to a four-lane undivided urban facility with sidewalks and property acquisition on the west side of Sunrise Road required for a ninety (90) foot wide right-of-way section and any additional easements as defined by the project design. The City does hereby give its approval for the expenditure of County funds for the design, construction, improvement, maintenance, or repair of a street located within the municipality and County.

### **Article V**

#### **Fiscal Funding**

Notwithstanding anything to the contrary herein, this FA is expressly contingent upon the availability of City funding for each item and obligation contained herein. County shall have no right of action against the City of Lancaster as regards this FA, specifically including any funding by City of the Project in the event that the City is unable to fulfill its obligations under this FA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this FA or failure of any funding party to budget or authorize funding for this FA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the City, at its sole discretion, may provide funds from a separate source or terminate this FA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Notwithstanding anything to the contrary herein, this FA is expressly contingent upon the availability of County funding for each item and obligation contained herein. City shall have no right of action against the County as regards this FA, specifically including any funding by County of the Project in the event that the County is unable to fulfill its obligations under this FA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this FA or failure of any funding party to budget or authorize funding for this FA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the County, as its sole discretion, may provide funds from a separate source or terminate this FA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

## **Article VI**

### **Agreements**

#### **I. County and City Responsibilities:**

1. City of Wilmer will be the Lead Agency for the Project.
2. City and County have mutually agreed that the Project limits are between Pleasant Run Road and Beltline Road on the attached Exhibit "A".
3. County and City shall execute the necessary agreements for the implementation, design, and construction of the Project mutually agreed upon and incorporated herein by this FA.
4. The Project will require the acquisition of road right-of-way which is specifically all real property needed or convenient for roadway and/or drainage purposes as shown in the Project design or right-of-way plans and specifically includes all real property outside of the designed right-of-way needed, if applicable, or convenient to the construction, drainage, interface with adjoining streets or alleys, driveways or other access ways or other Project permanent or temporary easements which is approved by City and County. Such right-of-way acquisition shall be the responsibility of the City of Wilmer as Lead Agency.
5. City will attend Project task force meetings and public meetings

#### **II. County Responsibilities:**

1. County will attend Project task force meetings and public meetings.
2. County will fund project design to be performed by contract between City of Wilmer and consultant.
3. The design will be submitted to the County for approval, prior to proceeding with the final design. The County shall review and comment on all design documents within thirty (30) days. If the City of Wilmer has not received comments within thirty (30) days, the City of Wilmer will assume the County has reviewed the plans, had no comments and the Project may proceed.

#### **III. City Responsibilities:**

1. City will execute an agreement with the City of Wilmer to establish existing and proposed roadway ownership boundaries and specify maintenance responsibilities for new roadway.
2. City of Lancaster and the City of Wilmer shall be responsible for property acquisition west of Sunrise Road and north of Greene Road as shown in Exhibit A. The City of Lancaster and the City of Wilmer will execute an agreement to determine the boundary lines between the two cities.
3. City will retain right to review plans, specifications, estimates, and other deliverables during the contract.

## **Article VII**

### **Funding**

#### **I. Funding**

County and City mutually agree to proportionately fund the Direct Project and Program cost as follows:

1. Notwithstanding any provision in the Master Agreement, this FA, any amendment thereto, or any other agreement between the parties regarding this Project, the total Project cost is estimated at One Million Two Hundred Thousand Dollars and no cents (\$1,200,000.00) as shown in Exhibit "B". The County's total obligation to this Project Design is to provide funding in the amount not to exceed Six Hundred Thousand Dollars and no cents (\$600,000.00), reduced by all County in-house delivery costs of the total Project.
2. The County in-house Project delivery costs may include, but are not limited to, preliminary scoping and research, special services, site inspection meetings and coordination.
3. The City of Lancaster will have no financial obligation to this Project except for the execution of the future boundary agreement (discussed in Article VI, III, 1, *supra*) between the City of Lancaster and the City of Wilmer.
4. The City of Wilmer will have a total obligation to this Project in the amount of Six Hundred Thousand Dollars and no cents (\$600,000.00), to be provided through property acquisition on the west side of Sunrise Road required for a ninety (90) foot wide right-of-way section and any additional easements as defined by the project design.
5. Any payments to be made by any party hereto shall be from current revenue or other lawfully available funds in accordance with Chapter 791 of the Texas Government Code.

## **Article VIII**

### **Miscellaneous**

- I. No Third Party Beneficiaries. The terms and provisions of this FA are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of City and County that any entity other than City or County receiving services or benefits under this FA shall be deemed an incidental beneficiary only. This FA is intended only to set forth the contractual right and responsibilities of the parties hereto.
- II. Applicable Law. This FA is and shall be expressly subject to the Sovereign Immunity of County and Governmental Immunity of City, Title 5 of the Texas Civil Practice and Remedies Code, as amended, and all applicable Federal and State laws. This FA shall be governed by and construed in accordance with the laws and case decisions of the State of Texas. Exclusive venue for any legal action regarding this FA filed by either City or County shall be in Dallas County, Texas.
- III. Notice. Any notice provided for in this Agreement to be given by either party to the other, shall be required to be in writing and shall be deemed given when personally delivered, or two (2) business days after being deposited in the United States Mail, postage prepaid, by certified mail, return receipt requested, or by registered mail, and addressed as follows:

To County: County of Dallas  
Dallas County Administration Building  
411 Elm Street, Fourth Floor  
Dallas County, Texas 75202-3389

To City: City of Lancaster, Texas  
City Manager  
211 North Henry Street  
Lancaster, Texas 75146

Either party may change its address for notice by giving the other party notice thereof.

- IV. Assignment. This FA may not be assigned or transferred by either party without the prior written consent of the other party.
- V. Binding Agreement; Parties Bound. This FA has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties, their successors and permitted assigns.
- VI. Amendment. This FA may not be amended except in a written instrument specifically referring to this FA and signed by the parties hereto.
- VII. Number and Gender. Words of any gender used in this FA shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise.
- VIII. Counterparts. This FA may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- IX. Severability. If one or more of the provisions in this FA shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not cause this FA to be invalid, illegal or unenforceable, but this FA shall be construed as if such provision had never been contained herein, and shall not affect the remaining provisions of this FA, which shall remain in full force and effect.
- X. Entire Agreement. This FA embodies the complete agreement of the parties, supersedes all oral or written previous and contemporary agreements between the parties and relating to matters in the FA.
- XI. Contingent. This Agreement is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and by resolution of the City Council. This Agreement is also contingent upon executed Agreements between Dallas County and the City of Wilmer. If either Agreement terminates, this FA shall terminate as well.

*(the remainder of this page intentionally left blank)*

The City/Town of Lancaster, State of Texas, has executed the Agreement pursuant to duly authorized City/Town Council Resolution \_\_\_\_\_, Minutes \_\_\_\_\_ Dated the \_\_\_\_ day of \_\_\_\_\_, 2018.

The County of Dallas, State of Texas, has executed this agreement pursuant to Commissioners Court Order Number \_\_\_\_\_ and passed on the \_\_\_\_ day of \_\_\_\_\_, 2018.

**City of Lancaster, Texas**

**County of Dallas**

\_\_\_\_\_  
Marcus E. Knight, Mayor

\_\_\_\_\_  
Clay Lewis Jenkins, County Judge

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest\Approved as to Form

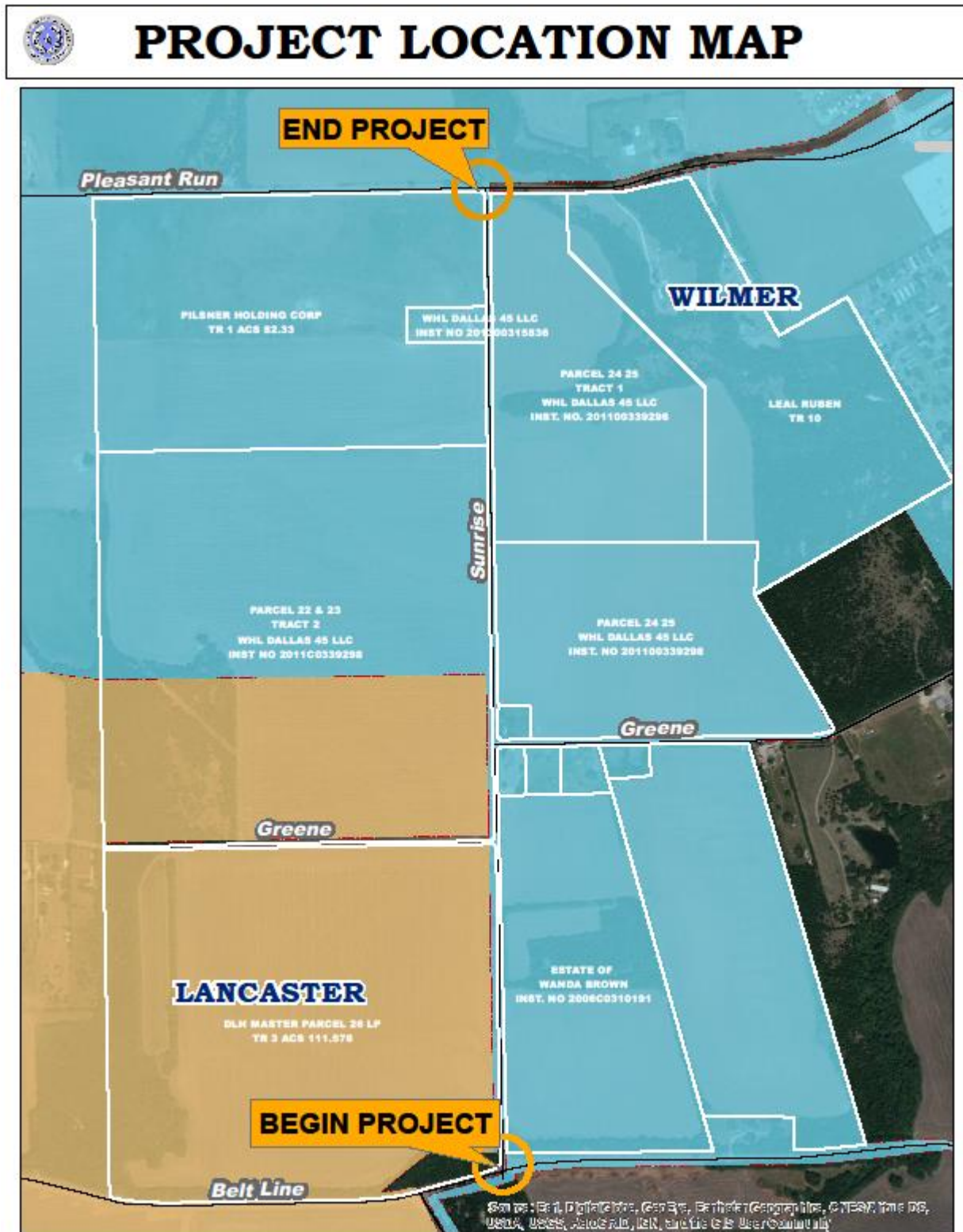
\_\_\_\_\_  
Approved as to Form\*:  
Faith Johnson  
District Attorney

\_\_\_\_\_  
City Secretary \ Attorney

\_\_\_\_\_  
Sherri Turner  
Assistant District Attorney

\*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

## EXHIBIT A





**EXHIBIT “B”**  
**Dallas County Capital Improvement**  
**Program Funding Agreement**  
**CURRENT COST ESTIMATES & FUNDING SOURCES**

**Project Name: Sunrise Road, MCIP 31405**

<b>Estimated Project Design &amp; Partial Right-of-Way Cost</b>	
<b>Design &amp; Dallas County IHPD</b>	<b>\$600,000.00</b>
<b>Right of Way (Partial)</b>	<b>\$600,000.00</b>
<b>Total</b>	<b>\$1,200,000.00</b>
<b>Funding Source</b>	
Dallas County (Design)	\$600,000.00
City of Wilmer (ROW)	\$600,000.00
<b>Total</b>	<b>\$1,200,000.00</b>

# ATTACHMENT "C"

## COURT ORDER 2014-0457



### Major Capital Improvement Program (MCIP) Transportation Funding Commitments Proposed Revision #18

On a motion made by Commissioner Mike Cantrell, District 2, and seconded by Commissioner Dr. Theresa M. Daniel, District 1, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: 3/25/2014  
FUNDING SOURCE: MCIP Funding

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the MCIP Transportation Funding Commitments for the attached recommended projects and the adjustment in schedule and scope as shown in red italics in the program listings as Revision No.18.

Done in open court April 1, 2014, by the following vote:

IN FAVOR: Honorable Clay Lewis Jenkins, County Judge  
Commissioner Dr. Theresa M. Daniel, District 1  
Commissioner Mike Cantrell, District 2  
Commissioner John Wiley Price, District 3  
Commissioner Dr. Elba Garcia, District 4

OPPOSED: None  
ABSTAINED: None  
ABSENT: None

Recommended by: Alberta Blair  
Originating Department: Public Works

## COMMISSIONERS COURT BRIEFING



**DATE:** 3/25/2014

**SUBMITTING DEPARTMENT:** Public Works

**THROUGH:**

**SUBJECT:** Major Capital Improvement Program (MCIP) Transportation Funding Commitments  
Proposed Revision #18

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### **BACKGROUND:**

Since 1999, the Dallas County Commissioners Court began the process of identifying, evaluating, and selecting transportation improvements to be funded under the Major Capital Improvements Development Fund. Even through redistricting, this collaboration and unified approach has resulted in providing unprecedented project delivery through leveraging partnerships for economic and transportation development throughout Dallas County.

Revision No.17 of the MCIP Transportation Commitment Plan was authorized by Court Order 2012-1843, October 30, 2012. That revision added a number of new projects to reflect the 5th Call for Projects in all four Dallas County Districts and reflected the amount of funds carried forward from the previous years. The program years (the year in which construction is estimated to begin) of various other projects were adjusted with appropriate price adjustments. A number of new Hike/Bike Trail projects were included. Fortunately construction costs have remained level in recent years.

The proposed Revision No.18 of the MCIP Transportation Commitment Plan includes selections from all four Dallas County Districts. A few changes in project scope, cost, and program years are included to accommodate our city partners; each of these changes has been briefed individually to the Commissioner involved and has been approved. In these times of uncertain cost, tight and expanding transportation problems, the flexibility of the MCIP helps Dallas County keep abreast of its changing transportation climate.

In addition, with this proposed Revision No.18, Dallas County continues to participate in the growing trends in Land Use/Transportation Initiative (LUTI) with such elements as context sensitive solutions (CSS), low impact design, bicycle and pedestrian planning, innovative parking strategies, transit-oriented development and sustainable development initiatives that are being used by our partners.

### **OPERATIONAL IMPACT:**

Approval of the new MCIP Transportation Funding Commitment Revision No. 18 will enable Dallas County to plan for future MCIP projects for the period 2017-2020.

<b>RECOMMENDED BY:</b>	Public Works	<b>PREPARED BY:</b>	Lacey Freeman
		<b>APPROVED BY DEPT HEAD:</b>	Alberta Blair

It should be emphasized that this revision is based on several factors:

1. The 6th Call was established as a programmed commitment for four years at \$40Million per year at \$160Million for the years 2017-2020 (\$10Million per district per year at \$40Million total per district). These projects are detailed in Attachments A, B, C, and D for each district.
2. With this established, Dallas County should end the year 2020 with \$57.5Million in funds carried forward. This will be sufficient to continue funding of previously committed projects in 2021, the "catch up" year for the MCIP program, in which no new funds will be made available (for one year only).
3. Using Public Works best estimates and recommended project approval, Dallas County contribution for 6th Call is estimated at approximately \$120Million. This allows for a remaining balance of \$40Million from the proposed committed allocation of \$160Million.
4. Many variable factors determine when the funds will actually be spent; therefore, each year is estimated to end with unspent funds for that year which must be carried forward in the program until expended. Therefore it is important to include all paybacks as well as carryovers in order to maintain the project allocations as committed.
5. Since the allocation of \$10Million per district per year is based on population and needs, it is recommended that all unspent funds be carried forward and appropriated equally for each district.

#### **FINANCIAL IMPACT:**

Dallas County's total previous commitments to projects from 1999 to present is estimated at approximately \$450Million. Regional partner commitments to these projects is estimated at \$850Million for total estimated program value of \$1.3Billion.

With the mix of new and existing projects, projections show that at the end of 2020 Dallas County would have expended approximately \$570Million for \$1.8Billion in project delivery value for the Dallas County Region. Keeping the commitments shows the value of this partnership program.

#### **LEGAL IMPACT:**

There is no legal impact until Dallas County enters into Project Specific Agreement (PSA) agreement with one of the cities that has an active Master Agreement Governing Major Capital Improvement Program. The complete list of Master Agreements including Court Order Numbers is included as an attachment. Dallas County is waiting on executed Master Agreements from Sunnyvale and Highland Park who have proposed projects.

#### **PROJECT SCHEDULE:**

The schedule shown in the attached, Revision No.18, reflects Dallas County's 5-Phase Project Delivery System. The project amounts for Dallas County's portion are shown in the program year column which indicates initiation of a stage of construction for that project and the initial year the bulk of the funds will be encumbered. Prior to the program year (PY), Dallas County will expend funds on Planning, Design, Utilities, and Right of Way (ROW) acquisition for each project.

Dallas County's entire Project Delivery System is designed to assure that Dallas County stays within approved budget amounts for each project.

As previously briefed, The Commissioners Court has the ability to remain flexible and continue to practice fungibility in the categories of projects. Adjustments in schedule and cost estimates were made on some projects as necessary to fit current requirements. These adjustments have been coordinated with our partners as well as discussed with and approved by each Commissioner.

**M/WBE PARTICIPATION:**

N/A

**STRATEGIC PLAN COMPLIANCE:**

The Major Capital Improvement Program (MCIP) – Transportation Funding Commitments is consistent with the following Dallas County visions:

Vision 1: Dallas County is a model interagency partner.

Vision 4: Dallas County proactively addresses critical regional issues.

Vision 5: Dallas County is a destination of choice for both residents and businesses.

**RECOMMENDATION:**

For the Dallas County Commissioners Court to approve the MCIP Transportation Funding Commitments for the attached recommended projects and the adjustment in schedule and scope as shown in red italics in the program listings as Revision No.18.

	A	B	C	D	O	P	Q	R	S	T	U	V	W	X	Y
1	Countywide Summary of Districts 1-4					Attachment to Court Order 2014 - XXXX							Page 1		Public Works
2	Major Capital Improvement Program -						3/25/2014								3/19/2014
3	Transportation Funding Commitments - Revision #18 - Includes 6th Call Project Selections														
4															
5			Project									County	By	Total	County
6	Project	District	Category		2014	2015	2016	2017	2018	2019	2020	Totals	Others	Cost	Share
7															
8	MCIP Funding Authorized														
9															
10	Total Transportation MCIP Funding	1			10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	70,000,000			
11		2			10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	70,000,000			
12		3			10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	70,000,000			
13		4			10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	70,000,000			
14		Total			40,000,000	40,000,000	40,000,000	40,000,000	40,000,000	40,000,000	40,000,000	280,000,000			
15															
16	Total Transportation Funding Available:				40,000,000	40,000,000	40,000,000	40,000,000	40,000,000	40,000,000	40,000,000	280,000,000			
17															
18	Payback in 2013-2015				7,800,000	5,367,940	5,367,941					18,535,881			
19	Carry-over available FY 12 - FY 13				52,261,955							52,261,955			
20															
21	Remaining 1991 Bond Funding					432,000	2,500,000					2,932,000			
22	2011 Transfer from R&B #1 to MCIP Projects 15801, 10222, and 10225					1,500,000	3,500,000					5,000,000			
23	Transfer to General Fund by OB&E														
24	Payback of 2012 Trans to Gen. Fund										8,468,529	8,468,529			
25															
26	Total Carryover, Paybacks, R&B transfers, 1991 Bond											87,198,365	Total of other County funding sources factored into Annual & Cumulative Unprogrammed Balances		
27															
28															
29	Projected Commitment Costs:														
30	TEA - 21 / SAFETEA-LU	1			0	0	0	0	0	0	0	0	0	0	0.0%
31		2	MCIP-T21		0	0	0	0	0	0	0	0	0	0	0.0%
32		3			0	0	2,015,000	0	0	0	0	2,015,000	6,045,000	8,060,000	25.0%
33		4			1,500,000	800,000	5,562,170	0	0	0	0	7,862,170	31,765,630	51,627,800	15.2%
34		Total			1,500,000	800,000	7,577,170	0	0	0	0	9,877,170	37,810,630	59,687,800	16.5%
35															
36															
37	Major Impact Projects	1			0	0	0	0	0	0	0	0	0	0	0.0%
38		2	MCIP-MI		4,000,000	0	0	0	0	0	0	4,000,000	4,000,000	8,000,000	50.0%
39		3			1,000,000	0	0	0	0	0	0	1,000,000	7,280,000	8,280,000	12.1%
40		4			500,000	4,894,000	1,500,000	0	0	0	0	6,894,000	6,894,000	13,788,000	50.0%
41		Total			5,500,000	4,894,000	1,500,000	0	0	0	0	11,894,000	18,174,000	30,068,000	39.6%
42															
43															
44	Thoroughfare Projects	1			3,820,175	5,666,991	4,460,000	0	0	0	4,460,000	18,407,166	30,958,193	48,810,350	37.7%
45		2	MCIP-Thor		6,232,831	2,514,000	7,200,000	11,210,175	2,820,000	6,410,000	6,340,000	42,727,006	112,668,172	155,395,178	27.5%
46		3			3,177,000	7,737,000	11,303,500	15,857,536	4,228,000	7,000,000	6,914,542	56,217,578	77,184,578	133,402,156	42.1%
47		4			0	7,102,000	6,025,000	0	1,250,000	8,120,000	0	22,497,000	61,995,000	84,492,000	26.6%
48		Total			13,230,006	23,019,991	28,988,500	27,067,711	8,298,000	21,530,000	17,714,542	139,848,750	282,805,943	422,099,684	33.1%
49															
50															
51	Land-Use/Transportation Initiatives	1			4,217,500	2,725,000	6,920,000	5,347,000	7,840,000	3,890,000	0	30,939,500	35,832,000	66,771,500	46.3%
52		2	MCIP-LUTI		4,291,000	2,370,000	2,300,000	4,415,000	1,940,000	0	0	15,316,000	25,956,843	41,272,843	37.1%
53		3			10,000	12,970,000	2,990,000	3,025,000	5,910,000	350,000	0	25,255,000	34,860,000	61,405,000	41.1%
54		4			8,915,605	11,903,104	16,270,000	1,525,000	10,370,000	5,500,000	22,125,000	76,608,709	132,336,291	214,460,001	35.7%
55		Total			17,434,105	29,968,104	28,480,000	14,312,000	26,060,000	9,740,000	22,125,000	148,119,209	228,985,134	383,909,344	38.6%
56															
57	Total Committed MCIP Costs Per Year				37,664,111	58,682,095	66,545,670	41,379,711	34,358,000	31,270,000	39,839,542	309,739,129	567,775,707	895,764,828	34.6%
58															
59	Estimated County In-House Project Delivery Costs (See Below)				6,024,947	6,326,195	6,642,504	6,974,630	7,323,361	7,689,529	8,074,006				
60															
61	Annual Unprogrammed Balance				62,397,844	-11,382,155	-15,177,729	-1,379,711	5,642,000	8,730,000	8,628,987				
62	(Total Funding + Special Funding, minus Project Costs, minus County Delivery Costs)														
63															
64	Cumulative Unprogrammed Balance				62,397,844	51,015,689	35,837,960	34,458,249	40,100,249	48,830,249	57,459,236				
65															
66	Estimated Reimbursement From Project Partners (to be based on actual costs)				11,031,794	11,252,430	11,477,479	11,707,028	11,941,169	12,179,992	12,423,592				
67															
68															
69	Estimated County In-House Project Delivery Cost				7,836,508	8,071,603	8,313,751	8,563,164	8,820,059	9,084,661	9,357,200				
70															
71															
72															
73															

	A	B	C	D	E	F	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF			
1	Summary of District 1					Attachment to Court Order 2014 - XXXX									Page 2										
2	Major Capital Improvement Program -					3/25/2014									3/18/2014										
3	Transportation Funding Commitments - Revision #18 - Includes 6th Call Project Selections																								
4																									
5																									
6																									
7	Project	City	Project Number	Project Category	Project Type	Year Selected	2014	2015	2016	2017	2018	2019	2020	County District 1 Totals	Others Participation	Total Combined	County Share								
8																									
9																									
10	Total Transportation Funding Available						10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	70,000,000											
11																									
12	Payback in 2013-2015						1,950,000	1,341,985	1,341,985						4,633,970										
13	Carry-over available FY 12 - FY 13						13,065,489																		
14																									
15	2011 Transfer from R&B #1 to MCIP 15801 (Spring Valley)							500,000						500,000	to MCIP 15801 (Spring Valley Rd)										
16	Transfer to General Fund by OB&E																								
17	Payback of 2012 Trans to Gen. Fund																	2,117,132	2,117,132						
18																		20,316,591	Total of paybacks and other County funding sources contributing towards MCIP projects						
19																									
20	Projected Commitment Costs																								
21																									
22	LaPrada Rd- Millmar Dr to Motley Dr	Dallas	20210B_1	MCIP-Thor	Reconstruct	2002	1,200,000	300,000						1,500,000	1,500,000	3,000,000	50.0%	Construction began in 2014							
23	Northwest Hwy - Centerville to LaPrada	*Garland	22002_1	MCIP-Thor	Widening	2000/2009	2,620,175	2,620,000						5,240,175	5,240,175	10,480,350	50.0%	Revised Estimate							
24	Northwest Drive-IH 30 toLa Prada Dr.(5th call selection)	Mesquite	N/A	MCIP-Thor	Widening	2010							4,460,000	4,460,000	12,950,000	17,410,000	25.6%	Reprogrammed from 2016 for Mesquite's priority project							
25	<sup>1</sup> Spring Valley - Weathered Int.& to Coit Rd	Richardson/Dallas	15801	MCIP-Thor	Int./Reconst	2007		2,746,991						2,746,991	6,808,018	9,000,000	30.5%	\$500k R & B Participation, \$555,009 replaced by RTR							
26	Town East Blvd.- US 80 to UPRR	Mesquite	35	MCIP-Thor	Reconstr. w	2014							4,460,000	4,460,000	4,460,000	8,920,000	50.0%	Mesquite's priority 6th Call project							
27																									
28																									
29	<sup>2</sup> East Dallas Veloway (SoPac) Phase 4 - NW Hwy to Low 5	Dallas	10218	MCIP-LUTI	Bike/Ped	2007	4,187,500	500,000						4,687,500	6,100,000	10,787,500	43.5%	North limit is Low 5 junction with Northaven, Cottonwood, White Rock							
30	<sup>3</sup> Lake Highlands TOD Multimodal Connectivity Project	Dallas	20216_1	MCIP-LUTI	Bike/Ped, In	2010							700,000	700,000	3,120,000	3,820,000	18.3%	COG SD (\$2.8M), CoD/DC (\$0.7M), IHPD (\$0.32M)							
31	LBJ/Skillman Gateway-Coppertowne Ln to Adleta Blvd.	*Dallas	46	MCIP-LUTI	Bridge/Inter	2010/2014		2,000,000	2,770,000	1,440,000					6,210,000	6,210,000	12,420,000	50.0%	Estimated project cost is \$40M						
32	Northaven Trail (Preston Rd to White Rock Creek Trail)	Dallas	10221	MCIP-LUTI	Bike/Ped	2010/2014							2,400,000	1,000,000	1,300,000	4,700,000	4,700,000	9,400,000	50.0%	Adding \$2.3M from 6th Call					
33	Spring Valley @ Coit	Dallas	10226	MCIP-LUTI	Intersection/	2011							750,000	1,792,000	2,542,000	2,542,000	5,084,000	50.0%	Reallocated in 2011 from Alpha Rd						
34	<sup>2</sup> STEP - Safety at Trail/Road Crossings	*Dallas	10224	MCIP-LUTI	Bike/Ped, In	2010	30,000						30,000	200,000	230,000	13.0%	Safety improvements where trails cross roadways								
35	Buckner Blvd. Study (Elam to Lake June)	Dallas	43	MCIP-LUTI	Multimodal	2014							300,000	300,000	300,000	600,000	50.0%	Initial study only. Buckner still on State system.							
36	DART Rail Station Access Planning Study	Dallas	51	MCIP-LUTI	Transit Acc	2014		50,000	50,000	25,000					125,000	125,000	250,000	50.0%	125k MCIP for each district within Dallas						
37	IH 635 and US75 Multimodal Connectivity Planning	Dallas, Garland,	77	MCIP-LUTI		2014							250,000	250,000	500,000	50.0%	Match could leverage TIGER funding								
38	Kleberg Trail (Buckner DART to Crawford Park)	Dallas	45	MCIP-LUTI	Multimodal	2014							590,000	590,000	1,180,000	1,470,000	2,650,000	44.5%	City to get licensing agreement from DART						
39	Park Lane (w/Roundabout option)-DART to Abrams Rd.	Dallas	17A	MCIP-LUTI	Reconstruc	2014							3,890,000	3,890,000	3,890,000	7,780,000	50.0%	Initial study to design. Construct later.							
40	DART Park Lane Station Ped Bridge Study	*Dallas	18	MCIP-LUTI	Ped Bridge	2014							100,000	100,000	200,000	200,000	50.0%	City lead							
41	Shady Brook Ln.- Northwest Hwy to Park Ln.	Dallas	47	MCIP-LUTI	Multimodal	2014							500,000	500,000	500,000	1,000,000	50.0%	Study to include improved xing of NW Hwy.							
42	Southern Wht Rk Crk Trail- Santa Fe Trail to DART Lawnview	Dallas	48	MCIP-LUTI	Bike/Ped	2014		175,000					5,160,000	5,335,000	5,935,000	11,270,000	47.3%	City completed Master Plan but County should lead							
43	Military Pkwy Trail-Galloway @ Davis to Rodeo Ctr @Rodeo L	Mesquite(3 &1)	33	MCIP-LUTI	Bike/Ped	2014							390,000	390,000	390,000	780,000	50.0%	Commitment split w/D3 at District boundary							
44																									
45																									
46					Number of Projects:		19								County District 1										
47															6th Call Totals:										
48	Sub-totals for 6th Call Funding Commitments:						725,000	4,760,000	3,555,000	7,840,000	3,890,000														
49																									
50																									
51																									
52	Total Committed MCIP Costs Per Year						8,037,675	8,391,991	11,380,000	5,347,000	7,840,000	3,890,000	4,460,000	49,346,666	66,790,193	115,581,850									
53																									
54	Estimated Project Delivery Costs (25% of Total)						2,009,419	2,097,998	2,845,000	1,336,750	1,960,000	972,500	1,115,000												
55																									
56	Annual Unprogrammed Balance						16,977,814	3,449,994	-38,015	4,653,000	2,160,000	6,110,000	7,657,132												
57																									
58	Cumulative Unprogrammed Balance						16,977,814	20,427,808	20,389,793	25,042,793	27,202,793	33,312,793	40,969,925												
59																									
60																									
61	Notes:					Legend:																			
62	<sup>1</sup> In 2012 \$555,009 was used to support NCTCOG Emissions Enforcement then credited back by NCTCOG with RTR funding										* - indicates City, TxDOT or Other agency/entity leading project														
63	<sup>2</sup> Project Name changed and combined with Project 20212																								
64	<sup>3</sup> Supplement in Rev 17 provided additional funding for IHPD during construction										Figures in bold italics indicate new funding commitments														
65	<sup>4</sup> STEP = State Transportation Enhancement Program - Fed/TxD																								
66											Figures in italics indicate change in program year														
67																									
68											Figures in bold indicate changes in overall funding amount														
69											(Note: County Totals are all bolded for easier reference)														
70	PROJECTS W/ 1-4 SUFFIX, e.g.( _4), CHANGED DISTRICT IN REDISTRICTING (OCT 2011) TO THE SUFFIX DISTRICT NUMBER.																								
71											Figures in normal text indicate no changes since previous Revision														
72																									



1	A	B	C	D	E	F	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD			
2	Summary of District 2					Attachment to Court Order 2014 - XXXX										Page 3							
3	Major Capital Improvement Program -					3/25/2014										3/19/2014							
4	Transportation Funding Commitments - Revision #18 - Includes 6th Call Project Selections					DRAFT																	
5																							
6											Program Year - County Funding Only					District 2		Others		Total		County	
7	Project	City	Project Number	Project Category	Project Type	Year Selected	2014	2015	2016	2017	2018	2019	2020	Totals	Participation	Combined	Share						
8																							
9	Total Transportation Funding Available															70,000,000							
10																							
11	Payback in 2013-2015															4,633,970							
12	Carry-over available FY 12 - FY 13															13,065,489							
13																0							
14	2011 Transfer from R&B #1 to MCIP 10225_2 (Northaven Ph 2)															3,500,000		to MCIP 10225 Northaven Trail Phase 2					
15	Transfer to General Fund by OB&E															0							
16	Payback of 2012 Trans to Gen. Fund															2,117,132							
17																23,316,591		Total of other County funding sources factored into Annual and Cumulative Unprogrammed Balances					
18	Projected Commitment Costs																						
19																							
20	Beltline - Jackson to IH 35E	*Carrollton	10403_2	MCIP-MI	Grade Sep.	2004	4,000,000							4,000,000	4,000,000	8,000,000	50.0%	Revised Schedule by PM					
21																							
22	Belt Line @ Dallas Parkway	*Addison	10303_2	MCIP-Thor	Intersection	2002				838,175				838,175	3,352,700	4,190,875	20.0%	Revised Schedule by PM					
23	Keller Springs Intersection Improvements	Addison	10306_2	MCIP-Thor	Intersection	2007	250,000	250,000						500,000	500,000	1,000,000	50.0%	Revised Estimate					
24	Sandy Lake Rd - North Coppell Rd to West of Denton Tap Rd.	*Coppell	40601_2	MCIP-Thor	Widening	2011	700,000							700,000	8,000,000	8,700,000	8.0%	200,000 from R&B					
25	Alpha Rd - Noel to Preston	Dallas	10211_2	MCIP-Thor	Widening	2004				2,542,000				2,542,000	7,626,000	10,168,000	25.0%	Revised Schedule by City					
26	Keller Springs @ Westgrove	Dallas	10223_2	MCIP-Thor	Intersection	2011	150,000	175,000						325,000	325,000	650,000	50.0%	Study confirmed roundabout. County survey \$25k.					
27	4 Mercer Pkwy - Luna to IH 35E	Farmers Branch	10503_2	MCIP-Thor	New Road	2010		400,000	1,500,000				1,500,000	3,400,000	13,630,000	17,030,000	20.0%						
28																							
29	2 Pleasant Valley - Richfield Dr. to Miles Rd.	*Garland	22010	MCIP-Thor	Widening	2004	2,685,000							2,685,000	24,165,000	26,850,000	10.0%	COG RTR 80%; DC 10%; Gar 10%					
30	1 Miller Road - Garland E. C.L. to Rowlett W. C.L.	Garland/Rowlett/Dallas	27501	MCIP-Thor	Widening	2008	1,244,000							1,244,000	11,196,000	12,440,000	10.0%	COG RTR 80%; DC 10%; Row 5%; Gar 5%					
31	Merritt Rd. - PGBT - East to C.L.	Rowlett	22704	MCIP-Thor	Widening	2010	1,403,831							1,403,831	12,834,472	14,238,303	9.9%	COG RTR 80%; DC 10%+; Row 10%					
32	Miller Rd - Dalrock to Chiesa	Rowlett	22701	MCIP-Thor	Widening	2002		989,000	1,000,000	1,000,000				2,989,000	2,989,000	5,978,000	50.0%						
33	6 Sachse Rd - SH 78 to Sachse C.L.	Sachse	22804	MCIP-Thor	Feas/Design	2010	750,000							750,000	750,000	1,500,000	50.0%	Scope reduced to Prelim design. 750k for SH 78 to Miles					
34	Old Denton Rd.-PGBT(SH190) to County Line	Carrollton	1	MCIP-Thor	Reconstruction	2014				1,300,000				1,300,000	1,330,000	2,630,000	49.4%	City to fund constr. In 2015 then request reimb. In FY 17					
35	Marsh Lane Bridge	Farmers Branch	10502_2	MCIP-Thor	Brg Repl.	2010			800,000	250,000				1,050,000	1,050,000	2,100,000	50.0%	800 is from 5 Call.					
36	Brand Rd.-Beltline Rd. to Bellaire Dr.	Garland	23	MCIP-Thor	Widen w/ Bk Lns	2014			500,000					500,000	500,000	1,000,000	50.0%	Corridor Study					
37	Brand Rd.-Bellaire Dr. toNaaman Forest Rd.	Garland	24	MCIP-Thor	New w/ Bk Lns	2014			500,000					500,000	500,000	1,000,000	50.0%	Corridor Study					
38	Brand Rd.-SH 180 toCampbell Rd.	Garland	26	MCIP-Thor	Widening	2014					2,820,000	2,820,000		5,640,000	5,660,000	11,300,000	49.9%						
39	Brand Rd.-Campbell Rd. to County Line	Garland	27	MCIP-Thor	Widening	2014							1,440,000	1,440,000	1,440,000	2,880,000	50.0%						
40	Naaman School Rd -Naaman Forest to KCSRR ROW	Garland	25	MCIP-Thor	Widening	2014		1,000,000					3,400,000	4,400,000	4,520,000	8,920,000	49.3%	Conceptual Design Feasability Study					
41	Preston Rd.-Armstrong Pkwy to Mockingbird Ln.	Highland Park	59	MCIP-Thor	Reconstruction	2014		400,000	510,000					910,000	2,690,000	3,600,000	25.3%	400k to R&B Ph.1 work to Beverly. 510k on Ph.2 in FY17					
42	IH 635- U-turn WB Frontage to EB Frontage Rd.	Irving	31	MCIP-Thor	Freeway	2014				1,170,000				1,170,000	1,170,000	2,340,000	50.0%	TxDOT to build					
43	Dalrock Rd. @SH 66	Rowlett	55	MCIP-Thor	Intersection	2014						590,000		590,000	590,000	1,180,000	50.0%	TxDOT to build					
44	Sachse Rd/5th St- SH 78 to Merritt Rd.	Sachse	39	MCIP-Thor	Widening	2014		750,000	2,600,000					3,350,000	3,350,000	6,700,000	50.0%	Phase 1 (SH 78 is 6.7mil. Using remaina 5 call 0.75M )					
45	Pleasant Valley Rd-Merritt Rd to County Line	Sachse/Wylie	38	MCIP-Thor	Widening	2014				1,000,000				1,000,000	1,000,000	2,000,000	50.0%	Initial Concept dsn. Match to be shared:Wylie & Sachse					
46	Muddy Creek Bridge (Sachse/Ballard)- 1000' N & S	Wylie/Sachse	40	MCIP-Thor	Wideningw/ Brg	2014		500,000				3,000,000		3,500,000	3,500,000	7,000,000	50.0%	for Wylie portion of bridge & approaches Only					
47																							
48	Arapaho Rd to Le Lacs Trail Ext	*Addison	10304_2	MCIP-LUTI	Bike/Ped	2007	237,000							237,000	237,200	474,200	50.0%						
49	8 East Dallas Veloway (SoPac) - Phase 3 & YMCA Ext.	Dallas	20211	MCIP-LUTI	Bike/Ped	2007	2,130,000							2,130,000	2,130,000	4,260,000	50.0%	YMCA \$700K					
50	5 STEP - Safety at Trail/Road Crossings	*Dallas	20217	MCIP-LUTI	Trail Crossings	2010	70,000							70,000	490,000	560,000	12.5%	23,273 moved to PY12 Oct 2011					
51	Katy Trail (Federal) Glenco Park to Worcola St	*Dallas	10220_2	MCIP-LUTI	Multimodal	2010		1,000,000						1,000,000	7,500,000	8,500,000	11.8%	Fed-\$6.5M, DC \$1M, City \$1M					
52	10 North Central On-Street Bike Route	Dallas	10221B_2	MCIP-LUTI	Bike/Ped	2010		100,000						100,000	100,000	200,000	50.0%						
53	Northaven Phase 2-Walnut Hill Rd/Denton DART to Preston Rd	Dallas	10225_2	MCIP-LUTI	Multimodal	2011			1,750,000	1,750,000				3,500,000	3,500,000	7,000,000	50.0%	County participation of \$3.5M from R&B 1					
54	7 Winters Park/Spring Creek Greenbelt	*Garland	22007	MCIP-LUTI	Bike/Ped	1999	364,000							364,000	364,643	728,643	50.0%						
55	Duck Creek Trail	Richardson	12110_2	MCIP-LUTI	Bike/Ped	2010				1,220,000				1,220,000	1,820,000	3,040,000	40.1%						
56	Hutton Branch Trail - Downtown DART Sta. to Josey Ln	Carrollton	10405_2	MCIP-LUTI	Multimodal	2014	1,240,000							1,240,000	1,740,000	2,980,000	41.6%	Preprogram \$0.25 mil of est.saving from4 call into FY 16 for HB constr.					
57	Hutton Br. Conn.-HB Trail to DART Trinity Mills Station	Carrollton	74	MCIP-LUTI	Multimodal	2014	250,000							250,000	2,250,000	2,500,000	10.0%	Saving from HB Trail to extendpast Ph.1.Dsn in progress					
58	Midway Trail-Redding Trail@Spring Valley to Cnty. Line	Addison	41	MCIP-LUTI	Bike/Ped	2014				640,000	640,000			1,280,000	1,900,000	3,180,000	40.3%						
59	DART Rail Station Access, Planning Study	Dallas	52	MCIP-LUTI	Transit Access	2014		50,000	50,000	25,000				125,000	125,000	250,000	50.0%	125,000. MCIP for each district within Dallas					
60	Northaven Trail-Preston Rd to White Rock Creek Trail	Dallas	42	MCIP-LUTI	Bike/Ped	2014				1,000,000	1,300,000			2,300,000	2,300,000	4,600,000	50.0%	Addl. \$s needed for util.& constr. Of this section					
61	West Side Trail-Campion Trail to FB DART Station	Farmers Branch	71	MCIP-LUTI	Multimodal	2014		500,000	1,000,000					1,500,000	1,500,000	3,000,000	50.0%	Study options for brg. UP. 1 Ph.Use VV to X Trinity					
62																							
63						Number of Projects:					38					County District 2							
64																6th Call Totals:							
65						Sub-totals for 6th Call Projects:					0 50,000 3,450,000 9,495,000 4,760,000 6,410,000 4,840,000					29,005,000							
66																							
67																County District 2							
68																MCIP Totals:		Others Total:		Combined Total:			
69																62,043,006		142,625,015		204,668,021			
70	Total Committed Costs Per Year																						
71																							
72	Estimated Project Delivery Costs (25% of Total)																						
73																							
74	Annual Unprogrammed Balance																						
75																							
76	Cumulative Unprogrammed Balance																						
77																							
78																							
79																							
80																							
81																							
82																							
83	Notes:																						
84	1 RTR = Regional Toll Revenue - COG RTR 80%; DC 10%; Row 5%; Gar 5%																						
85	2 COG RTR 80%; DC 10%; Gar 10%																						
86	6 \$200k added to DC share for Garland strip. Cost sharing: South of PGBT (90% City/10% DC) \$1,305,000 -200,000 City/\$145,000 + \$200,000 DC - North of PGBT (50% City/50%DC) \$1,275,000 City/\$1,275,000 DC																						
87	7 Feasibility Study/Design - Construction to be determined																						
88	8 Phase 3 & YMCA ext. Combined - YMCA costs DC \$350K, City \$350K																						
89	10 \$100k from Distr 1 MCIP funding since route is now within Dist 2 sfter 2011 redistricting																						
90																							
91																							
92																							
93																							
94																							
95																							
96	PROJECTS W/ 1-4 SUFFIX, e.g.( _4), CHANGED DISTRICT IN REDISTRICTING (OCT 2011) TO THE SUFFIX DISTRICT NUMBER.																						

1	Summary of District 3						Attachment to Court Order 2014 - XXXX										Page 4									
2	Major Capital Improvement Program -						3/25/2014										3/12/2014									
3	Transportation Funding Commitments - Revision #18 - Includes 6th Call Project Selections																									
4																										
5																										
6																										
7	Project		City	Project Number	Project Category	Project Type	Year Selected	2014	2015	2016	2017	2018	2019	2020	County Totals	Others Participation	Total Combined	County Share								
8																										
9																										
10	Total Transportation Funding Available							10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	70,000,000											
11																										
12	Payback in 2013-2015							1,950,000	1,341,985	1,341,985					4,633,970											
13	Carry-over available FY 12 - FY 13							13,065,489							13,065,489											
14																										
15	Transfer to General Fund by OB&E																									
16	Payback of 2012 Trans to Gen. Fund																									
17																										
18																										
19	Projected Commitment Costs																									
20																										
21	SH 352 - US 80 to Town Limit		Sunnyvale	22605_3	MCIP-T21	Widening	2010			2,015,000					2,015,000	6,045,000	8,060,000	25.0%	TxDOT 50%, DC 25%, City 25%							
22																										
23																										
24	IH 20 Ramps at Haymarket/Kleberg		Dallas/B.Springs	37801	MCIP-MI	Design/ROW	2011	500,000							500,000	5,200,000	5,700,000	8.8%	TxDOT Participation Project							
25	Pleasant Run Overpass@UPRR		Wilmer	31401	MCIP-MI	Overpass	2013	500,000							500,000	2,080,000	2,580,000	19.4%	ROW/Utilities-only,TxDOT-build							
26																										
27																										
28	Mansfield Rd. - Belt Line Rd W to W. City Limits		*Cedar Hill	40903_3	MCIP-Thor	Widening	2008		3,000,000	3,000,000					6,000,000	6,000,000	12,000,000	50.0%								
29	Mountain Creek Pkwy 2400' SE of Eagle Ford to Clark Rd		Dallas	40209_3	MCIP-Thor	Widening	2008	3,177,000	3,177,000						6,354,000	6,354,000	12,708,000	50.0%	To be in future COD Bond Issue							
30	BSW Cities Wintergreen Rd - Main St. to E. of Stewart Branch (Phase 1)		DeSoto/D'ville/Cedar	47302_3	MCIP-Thor	Realign/Widening	2007			1,270,000	1,500,000	228,000			2,998,000	3,475,000	6,473,000	46.3%	Reprogram from 2014, 2013 Comm Price agreed to add Duncanvilles participation.							
31	BSW Cities Wintergreen Rd - E. of Stewart Branch to Cockrell Hill Rd (Ph 2)		DeSoto	37901	MCIP-Thor	New Rd/Widening	2007/2010			1,337,500					1,337,500	1,337,500	2,675,000	50.0%								
32	Main Street - Camp Wisdom Rd. to IH 20		Duncanville	31001	MCIP-Thor	Reconstruction	2011		260,000					1,000,000	1,260,000	1,260,000	2,520,000	50.0%								
33	Wintergreen - IH 35E to Houston School		Lancaster	31302	MCIP-Thor	Widening	2002				4,702,536				4,702,536	4,702,536	9,405,072	50.0%	Revised schedule by City							
34	Bear Creek (IH35E to SH 342)		Lancaster	31305	MCIP-Thor	Feasibility Only	2010		500,000						500,000	500,000	1,000,000	50.0%	Substituted for Wintergreen(HS Rd to Tel Rd)							
35	Danieldale Rd - IH 35E to Houston School Rd.		Lancaster	31306	MCIP-Thor	Widening	2012		800,000						800,000	800,000	1,600,000	50.0%								
36	F.P. Lucas - West of McKenzie to Cartwright		Mesquite	21904_3	MCIP-Thor	Widening	2004/2007			2,825,000	2,825,000				5,650,000	5,650,000	11,300,000	50.0%	Revised schedule by City							
37	Lawson Rd - Milam to Clay Mathis		Mesquite	21903_3	MCIP-Thor	Widening	2002							5,914,542	5,914,542	5,914,542	11,829,084	50.0%								
38	Collins Rd - Tripp to US 80		Sunnyvale	22602_3	MCIP-Thor	Widening	2000/2010			2,871,000					2,871,000	2,871,000	5,742,000	50.0%	Added \$831,000 in 5th call							
39	Road A- US 67 to Belt Line		Cedar Hill	1	MCIP-Thor	New Rd w/ Multi-Path.	2014				1,000,000				1,000,000	1,000,000	2,000,000	50.0%	Study Only							
40	Joe Wilson Rd- Parkerville to Bear Creek Rd.		Cedar Hill	3	MCIP-Thor	Widen w/ Multi Path.	2014						1,000,000		1,000,000	9,000,000	10,000,000	10.0%	City may pursue in bond election							
41	Hampton Rd-So. City Limit to Parkerville Rd.		DeSoto	20	MCIP-Thor	Widening	2014				3,420,000				3,420,000	3,420,000	6,840,000	50.0%								
42	Westmoreland Rd-Parkerville to Belt Line Rd.		DeSoto	22	MCIP-Thor	Widening	2014					1,500,000	1,500,000		3,000,000	5,790,000	8,790,000	34.1%								
43	Bear Creek Rd. - Hampton Rd. to 35E		Glenn Heights	28	MCIP-Thor	Widening	2014				500,000		2,000,000		2,500,000	12,180,000	14,680,000	17.0%								
44	Hampton Rd - Bear Creek Rd to N. City Limit		Glenn Heights	30	MCIP-Thor	Widening	2014				1,910,000				1,910,000	1,930,000	3,840,000	49.7%								
45	N. Galloway Ave - US 80 to Beltline		Mesquite	34	MCIP-Thor	Reconstr. Multi.Corr.	2014				2,500,000	2,500,000			5,000,000	5,000,000	10,000,000	50.0%	Study to determine Phasing							
46																										
47																										
48	Hickory Tree Rd Extension - Wildhorse to Seagoville Rd		Balch Springs	31803	MCIP-LUTI	Road Ext.	2010		1,920,000						1,920,000	1,920,000	3,840,000	50.0%								
49	FM 1382 - CedarMountain Preserve to New Clark Rd.		*Cedar Hill	30902	MCIP-LUTI	Bike/Ped	2011		500,000						500,000	2,000,000	2,500,000	20.0%								
50	STEP - Safety at Trail/Road Crossings		*Dallas	30238	MCIP-LUTI	Trail Crossings	2010	10,000							10,000	20,000	30,000	33.3%								
51	IH 345 Southbound Ramp to Live Oak		* Dallas	30234	MCIP-LUTI	Recondition	2010					2,070,000			2,070,000	2,070,000	4,140,000	50.0%	Reprogrammed from 2014 since project not currently active							
52	IH 345 Ramp to Ross Ave		* Dallas	30235	MCIP-LUTI	Recondition	2010						2,940,000		2,940,000	2,940,000	5,880,000	50.0%	Reprogrammed from 2014 since project not currently active							
53	Straus Rd. Trail-FM 1382 to Belt Line Rd.		Cedar Hill	2	MCIP-LUTI	Multi. Pathway	2014				240,000				240,000	1,000,000	2,530,000	39.5%	Study Only							
54	DART Rail Station Access Study-Sta's within COD & D3		Dallas	53	MCIP-LUTI	Transit Access	2014		50,000	50,000	25,000				125,000	125,000	250,000	50.0%	125k MCIP for each County District within Dallas							
55	Lancaster LRT Corridor-Ledbetter Dr to Kiest Blvd.		Dallas	15	MCIP-LUTI	Rehab. Multi.Corridor	2014						250,000		250,000	250,000	500,000	50.0%	City to build seg. To RR Xing & detention Pond							
56	Langdon Rd-W of UPRR to Dilas City Limit		Dallas	16	MCIP-LUTI	Widening	2014				2,760,000				2,760,000	2,760,000	5,520,000	50.0%								
57	UNT Area Trans Projs-Camp Wisdom & Kirnwood		Dallas	6,8 & 14	MCIP-LUTI	Various	2014					500,000			500,000	500,000	1,000,000									

	A	B	C	D	E	F	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG
1	Summary of District 4					Attachment to Court Order 2014 - XXXX									Page 5		Public Works						
2	Major Capital Improvement Program -					3/25/2014									3/19/2014								
3	Transportation Funding Commitments - Revision #18 - Includes 6th Call Project Selections																						
4																							
5																							
6																							
7	Project	City	Project Number	Project Category	Project Type	Year Selected	2014	2015	2016	2017	2018	2019	2020	County Totals	Others Participation	Total Combined	County Share						
8																							
9																							
10	Total Transportation Funding Available						10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	70,000,000									
11																							
12	Payback in 2013-2015						1,950,000	1,341,985	1,341,985					4,633,970									
13	Carry-over available FY 12 - FY 13						13,065,489							13,065,489									
14														0									
15	2011 Transfer from R&B #1 to MCIP 10222_4 (IH 35E-Manana to Royal)							1,000,000						1,000,000									
16	1991 Bond Funds (Cockrell Hill/Jefferson, Denton Drive)							432,000	2,500,000					2,932,000									
17	Transfer to General Fund by OB&E																						
18	Payback of 2012 Trans to Gen. Fund												2,117,132	2,117,132									
19														23,748,591	Total of other County funding sources factored into Annual and Cumulative Unprogrammed Balances								
20																							
21	Projected Commitment Costs																						
22																							
23	MacArthur - Bear Creek to IH 30	*Grand Prairie	40804	MCIP-T21	Thoroughfare	2004	1,500,000							1,500,000	1,500,000	15,000,000	10.0%	80% Federal funding					
24	Medical District Drive - IH 35 to Southwestern Medical Ave.	Dallas	30228_4	MCIP-T21	Widening	2004			4,562,170					4,562,170	18,865,630	23,427,800	19.5%	Fed - \$14.27M					
25	<sup>15</sup> Luna Rd - Northwest Highway to Royal Lane	*Dallas	10219	MCIP-T21	Widening	2008		800,000	1,000,000					1,800,000	11,400,000	13,200,000	13.6%	Pending NCTCOG Funding					
27																							
28	IH 35 E Service Rd Design (Manana to Royal)	Dallas/TxDOT	10222_4	MCIP-MI	Frontage Roads	2010	500,000	1,000,000						1,500,000	1,500,000	3,000,000	50.0%	\$500k MCIP for Design, \$1M from R&B#1 for Const					
29	SH 183 - IH 35E to Elm Fork of Trinity River	*Dallas	40206	MCIP-MI	ROW	2004			750,000					750,000	750,000	1,500,000	50.0%	Revised By PM					
30	Loop12- IH 35E to spur 408 (Dist 4 88%)(Dist 1 12%)	*Dallas	40207	MCIP-MI	ROW	2004			750,000					750,000	750,000	1,500,000	50.0%	Revised By PM					
31	Loop 12 and SH 183	*Irving	40706	MCIP-MI	ROW	2008		3,894,000						3,894,000	3,894,000	7,788,000	50.0%						
33																							
34	<sup>7</sup> Cockrell Hill Rd @ Jefferson Blvd. Intersection	Cockrell Hill	42301	MCIP-Thor	Rec./Mnt.	2008		652,000	400,000					1,052,000	1,150,000	2,202,000	47.8%	Funding by others = DART LAP (\$120k) & RTR (\$1.03M)					
35	<i>Cockrell Hill Rd &amp; Jefferson: N of Moler St to Davis St.</i>	<i>Cockrell Hill &amp;</i>	<i>42301</i>	<i>MCIP Thor</i>	<i>Reconstruction/Rndbt</i>	<i>2014</i>		<i>3,500,000</i>						<i>3,500,000</i>	<i>3,500,000</i>	<i>7,000,000</i>	<i>50.0%</i>	<i>Others = \$3.5M RTR funding (from \$4.53M total)</i>					
36	Cockrell Hill Rd. (Davis to CL)	Dallas	40208	MCIP-Thor	Rec.	2008		450,000						450,000	450,000	900,000	50.0%	<i>City of Dallas 2006 bond funding</i>					
37	Ledbetter/Grady Niblo - Merrifield to Mt. Creek	Dallas	40203	MCIP-Thor	New Road	2002			1,875,000					1,875,000	1,875,000	3,750,000	50.0%	Revised Schedule					
38	Merrifield Rd. - E. of Mountain Creek to Grady Niblo Extension	Dallas	40210	MCIP-Thor	New Road	2008						2,500,000		2,500,000	5,000,000	7,500,000	33.3%						
39	Story Rd @ Irving Blvd	Irving	40707	MCIP-Thor	Intersection	2011						2,620,000		2,620,000	2,620,000	5,240,000	50.0%						
40	Wildlife Parkway - SH 161 to Belt Line Rd.	Grand Prairie	40810	MCIP-Thor	New Location	2011		1,250,000			1,250,000			2,500,000	22,500,000	25000000	10.0%	RTR Funding 80%, City 10%, County 10%					
41	Camp Wisdom Rd. - Carrier Pkwy to FM 1382	Grand Prairie	40811	MCIP-Thor	Widening	2011		1,250,000	1,750,000					3,000,000	10,200,000	13,200,000	22.7%	+ 7.5 mil RTR funding. Total is 13.5 mil.					
42	<i>Camp Wisdom - City Limit to FM 1382</i>	<i>Dallas</i>	<i>70</i>	<i>MCIP Thor</i>	<i>Widening</i>	<i>2014</i>			2,000,000					2,000,000	11,700,000	13,700,000	14.6%	<i>Reallocating from MCIP 40203</i>					
43	<i>Rock Island Rd.- Bridge over Dry Creek</i>	<i>Grand Prairie</i>	<i>61</i>	<i>MCIP Thor</i>	<i>Bridge Recostruction</i>	<i>2014</i>							3,000,000	3,000,000	3,000,000	6,000,000	50.0%	<i>Moving \$\$ into FY 2015 might delay Camp W. or WLF.</i>					
45																							
46	Cockrell Hill Rd - La Reunion Pkwy to Singleton	Dallas	30226_4	MCIP-LUTI	Widening	2004			5,635,000					5,635,000	5,635,000	11,270,000	50.0%						
47	<sup>6</sup> Davis St - Hamp. to Westmoreland	Dallas	40205	MCIP-LUTI	Thoroughfare	2004						4,940,000		4,940,000	4,940,000	9,880,000	50.0%	To be removed from State Hwy. System					
48	<i>Davis St. (Seg. 3):Westmoreland Rd. to Hampton Rd.</i>	<i>Dallas</i>	<i>57</i>	<i>MCIP-LUTI</i>	<i>Reconstruct/Multi.Corr</i>	<i>2014</i>						1,810,000		1,810,000	1,810,000	3,620,000	50.0%	<i>Add \$\$ for 3rd call. City may add 350k from 2006 Bonds.</i>					
49	<i>Davis St. (Seg. 2): Hampton Rd to Mary Cliff Rd.</i>	<i>Dallas</i>	<i>56</i>	<i>MCIP-LUTI</i>	<i>Reconstruct/Multi.Corr</i>	<i>2014</i>						2,490,000		2,490,000	2,490,000	4,980,000	50.0%						
50	<i>Davis St (Seg 1):Mary Cliff Rd to East 7th St.</i>	<i>Dallas</i>	<i>44</i>	<i>MCIP-LUTI</i>	<i>Reconstruct/Multi.Corr</i>	<i>2014</i>			840,000					840,000	840,000	1,680,000	50.0%	<i>City has 1 mil TIF &amp; 1 mil 2012 Bonds. City leading.</i>					
51	<i>Davis St. (Seg. 4): Cockrell Hill Rd to Westmoreland Rd.</i>	<i>Dallas</i>	<i>58</i>	<i>MCIP-LUTI</i>	<i>Reconstruct/Multi.Corr</i>	<i>2014</i>		600,000						600,000	600,000	1,200,000	50.0%	<i>Corridor Study (CHR- 7th)Co.led.City match on seg.1&amp;3</i>					
52	<sup>11</sup> Denton Dr/Harry Hines - Webb Chapel to Webb Chapel Conn.No. CL	Dallas	10217A_4	MCIP-LUTI	Multimodal roadway	2007			7,500,000				12,500,000	20,000,000	20,000,000	40,000,000	50.0%	<i>Phase I (Walnut Hill to Royal) in 2016. Phase II for other segmen</i>					
53	<sup>12</sup> Denton Dr/Harry Hines - ("Umbrella", Manana to N of Royal Ln)	Dallas	10217_4	MCIP-Thor	Sidewalks, Ped Bridge	2007	500,000							500,000	500,000	1,000,000	50.0%	<i>Design funding for Harry Hines sidewalks and bridge by Walnut H</i>					
54	<i>Streetcar/Houston Street Viaduct - Beckley Ave. to Union Station</i>	*Dallas	40214	MCIP-LUTI	<i>Alternate trans</i>	2010/2011		1,040,000						1,040,000	1,040,000	2,080,000	50.0%	<i>Houston St Viaduct funding merged with Streetcar funding</i>					
55	IH 30 (Horseshoe Project)	Dallas	40215	MCIP-LUTI	Bike/Ped	2012	2,000,000							2,000,000	2,000,000	4,000,000	50.0%						
56	<sup>13</sup> Riverfront Blvd - Cadiz - Continental	Dallas	30221_4	MCIP-LUTI	Widening	2006	2,878,105	2,878,104						5,756,209	34,243,791	40,000,000	14.4%	RTR \$29.1M Defederalized					
57	Sylvan Ave - Ft. Worth Ave to Singleton Blvd.	*Dallas	40213	MCIP-LUTI	Widening	2011																	



ORDER NO. 2011 861

DATE: May 10, 2011

STATE OF TEXAS

COUNTY OF DALLAS

Original

26

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Dallas County, Texas, held on the 10th day of May, 2011, on motion made by John Wiley Price, Commissioner of District No. 3, and seconded by Mike Cantrell, Commissioner of District No. 2, the following order was adopted:

WHEREAS, the matter set forth below was briefed before Commissioners Court on May 10, 2011; and

WHEREAS, Dallas County and the Cities of Lancaster and Wilmer desire to enter into a **MASTER AGREEMENT governing the MAJOR CAPITAL IMPROVEMENT PROGRAM** which authorizes improvements, and

WHEREAS, the attached agreement is consistent with the Dallas County Strategic Plan in that the project will result in street improvements which can be credited to **Vision 1-Dallas County is a model interagency Partner, Vision 3-Dallas County is safe, secure and prepared, Vision 4-Dallas County proactively addresses critical regional issues, and Vision 5-Dallas County is the destination of choice for residents and businesses, and**

WHEREAS, the Cities have agreed to fulfill the responsibilities as defined in the **MASTER AGREEMENT** and participate with the **COUNTY** on at least a fifty/fifty basis for funding of the improvements submitted to the current and future "Call For Projects", and

WHEREAS, the Director of Public Works recommends execution of the attached **MASTER AGREEMENT governing the MAJOR CAPITAL IMPROVEMENT PROGRAM** as described above.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Dallas County Commissioners Court that the Dallas County Judge is hereby authorized and directed to execute attached **MASTER AGREEMENT governing the MAJOR CAPITAL IMPROVEMENT PROGRAM** with the Cities of Lancaster-District 3 and Wilmer-District 3.

DONE IN OPEN COURT, this the 10th day of May, 2011.

Clay Lewis Jenkins, County Judge

Maurine Dickey, District #1

Mike Cantrell, District #2

John Wiley Price, District #3

Dr. Elba Garcia, District #4

Recommended  
For Approval:

Alberta Blair, P.E.,  
Director of Public Works

**RESOLUTION NO. 2011-04-32**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A TEN-YEAR INTERLOCAL MASTER AGREEMENT WITH THE COUNTY OF DALLAS FOR PARTICIPATION IN THE MAJOR CAPITAL IMPROVEMENT PROGRAM (MCIP) FOR THE PURPOSE OF TRANSPORTATION IMPROVEMENTS ON ROADS WITHIN THE CITY OF LANCASTER THAT ARE INSIDE DALLAS COUNTY AND THAT ARE ON THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENT'S (NCTCOG) REGIONAL THOROUGHFARE PLAN; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the City of Lancaster and County of Dallas desire to enter into an a ten-year Interlocal Agreement for mutually agreed upon maintenance and improvement of City streets by the County; and

**WHEREAS,** Chapter 791 of the Texas Government Code, as amended, provides authorization for local government to enter into interlocal contracts; and

**WHEREAS,** certain conditions exist in the City of Lancaster that warrant the need to improve City streets; and

**WHEREAS,** it is necessary and in the best interest of the City of Lancaster to enter into a ten-year Interlocal Agreement with the County of Dallas.

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

**Section 1.** That the City Manager is hereby authorized to execute the ten-year Interlocal Agreement with the County of Dallas on behalf of the City of Lancaster for maintenance and improvement of City Streets.

**Section 2.** Any prior Resolution of the City Council in conflict with those contained in this Resolution are hereby repealed and revoked.

**Section 3.** Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

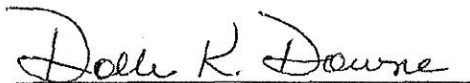
**Section 4.** This Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

**PASSED AND APPROVED** by the Lancaster City Council on this the 11<sup>th</sup> day April 2011.


**APPROVED:**

  
\_\_\_\_\_  
Marcus E. Knight, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Dolle K. Downe, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Robert E. Hager, City Attorney

**MASTER AGREEMENT GOVERNING  
MAJOR CAPITAL IMPROVEMENT PROGRAM**

**THIS MASTER AGREEMENT** is made by and between the City/Town of Lancaster, Texas, hereinafter called "City" or "Town", and Dallas County, hereinafter called "County", acting by and through its duly authorized officials, which desire to enter into an Interlocal Agreement, hereinafter called Master Agreement, for the purpose of Transportation Improvements on roads inside Dallas County that are on the North Central Texas Council of Government's Regional Thoroughfare Plan.

**WITNESSETH**

**WHEREAS**, pursuant to Court Order 2001-814, dated April 24, 2001, County Commissioners Court approved participation in Transportation Major Capital Improvement Program within the cities inside Dallas County; and

**WHEREAS**, the approved project lists may be modified, updated or approved by the Commissioners Court on a periodic, as-needed basis; and

**WHEREAS**, Chapter 791 of the Texas Government Code, as amended, provides authorization for local governments to enter into interlocal agreements; and

**NOW THEREFORE, THIS AGREEMENT** is hereby made and entered into by City/Town and County for the mutual consideration stated herein:

**ARTICLE I. DEFINITIONS**

The following definitions are incorporated into this agreement for all purposes.

- A. **AMENDMENT** shall mean a written document executed by all parties detailing changes, additions or deletions in the Master Agreement.
- B. **AMENITY** shall mean Project features not included in the Standard Basic Project Design including but not limited to street pavers, colored concrete, planters, irrigation, decorative lighting, special signage, or any other feature above and beyond the Standard Basic Project Design or any increase in capacity in excess of County determined requirements based on anticipated future traffic flow.
- C. **CITY/TOWN** shall mean the City/Town of Lancaster, Dallas County, Texas.
- D. **CONTEXT SENSITIVE SOLUTIONS (CSS)** is a collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility. CSS is an approach that considers the total context within which a transportation improvement project will exist. CSS principles include the employment of early,



continuous and meaningful involvement of the public and all stakeholders throughout the project development process. It is the intent of Dallas County Public Works Department to use the essential elements of CSS in all approaches to deliver the project. Some projects will dictate very intense use of CSS, while others will only use a few of the elements, but the County will always consider CSS.

- E. **COUNTY** shall mean County of Dallas, State of Texas.
- F. **DIRECT PROJECT and PROGRAM COSTS** shall mean those costs that can be identified specifically with a particular project or program cost objective. These costs generally include compensation of employees for the time devoted and identified specifically to the performance of the project or program, cost of materials acquired, consumed or expended specifically for the purpose of the project or program; equipment changes; damage claims and other approved capital expenditures; change orders; travel expenses incurred specifically to carry out the project including, but not limited to, design, right-of-way, road or street drainage, utility relocation and adjustment and construction. Direct Cost does not include either City/Town or County general overhead.
- G. **EFFECTIVE DATE** shall mean the date of the signature of the last person necessary for this **Master Agreement** to become effective.
- H. **EXTRA TERRITORIAL JURISDICTION- (ETJ)** shall mean the unincorporated area outside the incorporated boundaries of the municipality as determined in Chapter 42 of the Texas Government Code, as amended.
- I. **FIVE PHASE PROJECT DELIVERY SYSTEM** shall mean the process for delivering a project from conception to completion as detailed in Exhibit A, attached hereto and as well as any additions or supplements thereto. The five phases of the project delivery system are planning, design, right of way, utility clearance, and construction.
- J. **FUNDING AGREEMENT** shall mean the agreement between the County and a City/Town to establish a preliminary proposed budget for a project. As design is completed and the engineering estimate is refined, the funding agreement shall be incorporated into the Project Specific Agreement.
- K. **INDIRECT COSTS** shall mean those costs that benefit more than one project and cannot be readily identified with a particular final project or program cost objective. Their precise benefits to a specific project are often difficult or impossible to trace.
- L. **IN-HOUSE PROJECT DELIVERY COSTS** shall mean all costs associated with the development of the Major Capital Improvement Program (MCIP) "Call for Projects", selection of projects, scoping of projects, project design, property acquisition and construction of projects. Cost Accounting shall include but is not limited to employee time reimbursement, materials, equipment and other expenditures necessary for the management and continuation of the MCIP.
- M. **INTERLOCAL AGREEMENTS** shall mean contracts or agreements entered into between City/Town and County in accordance with Texas Government Code Chapter 791.
- N. **LEAD AGENCY** shall mean that entity responsible for project management, including, but not limited to planning, design, right-of-way acquisition, approved utility relocation or adjustment and construction unless otherwise designated.
- O. **MASTER AGREEMENT** shall mean this document including all incorporated documents, attachments, and exhibits.

- P. **MEMORANDUM OF AGREEMENT (MOA)** shall mean a written document which incorporates the results of the Preliminary Design Charrette.
- Q. **MULTI-MODAL CONNECTIVITY IMPROVEMENTS** shall mean projects which comply with the concepts in the 2005 SAFETEA-LU Act, any amendments, or any future federal transportation acts which increase safety, accessibility, flexibility, efficiency, and enhance the integration and connectivity of the transportation system, across and between modes throughout the County for motorized and non-motorized users.
- R. **ORPHAN ROADS** shall mean all or part of a street or road right of way which are outside the incorporated limits of a municipality (or municipalities) and the incorporated area of the municipality (or municipalities) abuts or extends into the right of way. These roadway segments have, in effect, been “orphaned” by the abutting City/Town (or cities) that they serve in that they have been left unincorporated. Thus the County has primary responsibility for maintenance, operation, enforcement, police and/or emergency services within these unincorporated rights of way.
- S. **PARCEL OR PARCELS** shall mean those portions or part of land and improvements located either wholly or partially thereon, identified by County, City/Town or other Stakeholder as required for right-of-way requirements of the Project. Such right-of-way shall include the existing street, road, drainage or other City/Town or County real property ownership and all additional real property to be utilized for the Project.
- T. **PRELIMINARY CONCEPT CHARRETTE (PCC)** shall have the same meanings and purposes as the Preliminary Design Charrette, but be conducted very early in the design start, before substantial design is underway. The conditions for which a PCC is appropriate will be determined by the lead agency, but will usually be a greater uncertainty of what the road improvement will involve, the purposes, varying contexts (e.g. Transit Oriented Development, Recreational Oriented Development, Industrial Oriented Development, etc.). Use of CSS will usually mean that a PCC will be conducted, since its use fits perfectly into CSS concepts. Other conditions encountered may dictate the use of a PCC, such as poor soils, presence of unconsolidated solid waste dumps, innovative integration of master planning with project delivery, unusual ROW challenges, budgetary constraints (thus calling for significant Value Engineering efforts), etc. The results of properly using a PCC will be that early consensus will be achieved on a basic approach to the project design and construction, thus avoiding wasted design funding and loss of momentum for project delivery.
- U. **PRELIMINARY DESIGN CHARRETTE (PDC)** shall mean a meeting of decision making stakeholders and other members of the project team for the purpose of discussing feasible design alternatives, forging strong consensus among all stakeholders for the selected alternative, and entering into a MOA for the overall estimate, alignment and scope of the project. The PDC will be scheduled when the preliminary design is complete or near completion. This means horizontal and vertical alignment alternatives have been designed, ROW requirements are at least approximately known for each alternative, and the design is 40% to 60% complete. The result of a PDC that is conducted with all the stakeholders present is that the strong consensus achieved will help assure the project is able to overcome any challenges with design completion, ROW acquisition, utility design and relocation, and finally, road construction.
- V. **PROJECT MANAGER** shall mean the person appointed by the Lead Agency who is assigned the primary duty for assuring Project Team coordination and timely project delivery. There will be only one Project Manager assigned to a Project.

- W. **PROJECT TEAM** shall mean representatives from County, City/Town, and other Stakeholders as may be mutually agreed upon by County, City/Town and Stakeholders or otherwise with responsibility for delivering the completed Project.
- X. **PROJECT(S)** shall mean the proposed thoroughfare and multi-modal connectivity improvements approved by the Commissioners Court for inclusion in the Transportation MCIP and approved by the City/Town.
- Y. **PROJECT DURATION** shall mean the active life of the project. Project shall commence with the application for a project by the City/Town and acceptance by the Dallas County Commissioners Court. Project shall be considered complete when construction has been fully completed and the one year maintenance period has expired or the project has been terminated in accordance with Article IV of this Agreement.
- Z. **PROJECT SPECIFIC AGREEMENT or PROJECT SUPPLEMENTAL AGREEMENT (PSA)** shall mean an agreement subsequent to this document which is entered into to establish the contractual rights and responsibilities of the City/Town and County as it relates to a particular Project. A PSA supersedes the MOA or Funding Agreements.
- AA. **RIGHT OF WAY (ROW)** is a strip of land that is granted, through a ROW deed, an easement or other mechanism, for the Project. ROW shall mean that real property or property interest identified by County or City/Town, as necessary for the construction of the Project which shall include the existing street, road, drainage or other City/Town or County real property ownership and all additional real property to be utilized for the Project.
- BB. **SCOPING SHEETS** shall be attached to each PSA. These sheets will set forth the design criteria to be used for the project, including the alignment, appropriate specifications, typical section and other parameters of the project. As project goals and needs are more clearly defined the Scoping Sheets shall be updated and revised by the project manager to reflect current construction goals.
- CC. **STANDARD BASIC PROJECT DESIGN** shall mean the standard County-approved City/Town criteria for paving, bridges, drainage and appurtenances, traffic control items including pavement marking, warranted uniform signals, street light foundations, pull boxes, conduit, sidewalks, medians, storage/turn lanes, access, required structural retaining walls and standard driveways excluding road or street amenities, or such design criteria as may be mutually agreed upon in a project Scoping Sheets.
- DD. **TxDOT** shall mean the Texas Department of Transportation.
- EE. **UTILITIES** shall mean each City/Town utility, public utility, common carrier, governmental or quasi-governmental facility, fiber optic facility, or other facility located within the limits of the Project by virtue of Texas or Federal Law or agreement between the entity and the City/Town, County, or State of Texas.
- FF. **CITY/TOWN UTILITY** shall mean those owned or operated by City/Town which requires relocation or adjustment for the purpose of the construction of the Project as identified by Project plans.
- GG. **UTILITY IN PUBLIC RIGHT-OF-WAY** shall mean all UTILITIES located within the limits of any governmental entity.
- HH. **UTILITY IN PRIVATELY OWNED RIGHT-OF-WAY** shall mean all Utilities, excluding City/Town Utilities, whose facilities are located within a private easement.

- II. **UTILITY BETTERMENT** shall mean any increase in the capacity of any Utility's Facility adjusted or relocated as a part of the PROJECT as compared to the existing Facility, or any upgrading of the Utility's Facility above the standard practices, devices or materials, specified by the Utility and customarily used by City/Town or Utility on projects solely financed by City/Town or Utility. Provided, however, that any adjustments necessary to successfully accomplish the Project shall not be considered a Betterment, and further, that any increase in the capacity of the Utility Facility resulting solely from the replacement of devices or materials no longer regularly manufactured, processed or installed shall not be considered a Betterment, provided that such replacement shall be only to the standard devices or materials currently used on other projects financed solely by City/Town or Utility. This meaning shall apply to utilities that are part of the project as well as the standard basic street components (See "STANDARD BASIC PROJECT DESIGN").

## **ARTICLE II. PERIOD OF THE AGREEMENT**

This Master Agreement becomes effective when signed by the last party whose signing makes the respective agreement fully executed (The "Effective Date"). This Master Agreement shall expire ten years from the Effective Date unless terminated in accordance with Article IV.

## **ARTICLE III. AMENDMENTS**

This Master Agreement may be amended with the mutual consent of the City/Town and County. Any amendment must be in writing and approved by the parties' respective governing bodies through either a Court Order from Commissioners Court or a City/Town Council Resolution.

## **ARTICLE IV. TERMINATION, DEFAULT, TIME OF THE ESSENCE AND FORCE MAJEURE**

### **A. TERMINATION**

- a. This Master Agreement may be terminated by any of the following conditions:
  1. By expiration of term of the agreement.
  2. By either party, by notice in writing establishing the effective date of termination to the other party as consequence of the party being in default of the provisions of this Agreement or any supplemental agreement or failure to timely provide funding, with proper allowances being made for circumstances beyond the control of the defaulting party.
  3. By either party with ninety days written notice to the other party.
- b. Should either party terminate this Master Agreement as herein provided, all existing, fully executed supplemental agreements made under this Master Agreement shall not be terminated and shall automatically incorporate all the provisions of this Master Agreement.
- c. In the event that any supplemental agreement is terminated prior to completion of the Project, no additional Costs shall be incurred other than Costs due and payable at the time of termination for services actually performed or that shall become due and payable due to such termination. The Lead Agency, to the extent permitted, may terminate all project contracts,



unless written notice is given by either party to the other of its intent to complete the Project, and prepare a final accounting for the Project.

- d. If the Project is terminated by the City/Town prior to the award of any construction contract and the Project is located within the City/Town limits, City/Town shall pay to County the full amount expended by County on the project and County shall transfer to City/Town its rights and all deliverables that it may be entitled to receive under the existing professional services or other project contracts or agreements. Such amount shall be included in the final accounting for the Project. Such amount shall be due and payable in full ninety (90) days subsequent to the termination, or thirty days subsequent to delivery of final accounting.
- e. Once the construction contract has been awarded by the governing body of the Lead Agency, the PSA for that Project cannot be terminated until completion of the construction.
- f. In the event that a Project is terminated prior to the award of the construction contract, either party may, upon written notice, take over the project and prosecute the work to completion by contract or otherwise at its sole cost and expense. In the event that the party completing the work is not the Lead Agency, it is agreed that the Project Manager will furnish to the Completing Party a listing of current records pertaining to any outstanding obligations or other records or information required by any project contract, including any Work Order, or requested in writing by Completing Party in either printed or electronic format or both. The Lead Agency agrees to cooperate with the Completing Party. The Lead Agency will use its best efforts to transfer to the Completing Party all contracts. Obligations under such contracts shall become the sole obligation of the Completing Party upon transfer. Completing party agrees to timely pay all future obligations under such contract as they become due and payable. Completing Party hereby releases the Lead Agency from any and all liability under such assigned contracts subsequent to date of transfer, effective upon the transfer date. Lead Agency shall exercise its best efforts to insure a transition of services without interruption.

Either party shall have the right to retain copies of all data, information, engineering, studies, or other items produced to the date of termination.

- g. Provisions b through g of this section shall survive the termination of this Master Agreement and any PSA and shall be a continuing obligation until the transition of services, all payments made and the Projects are complete. All items listed or required in this provision shall be furnished by Lead Agency to Completing Party without additional cost or expense to completing party.

#### B. FORCE MAJEURE:

Neither County nor City/Town shall be deemed in violation of this Contract if it is prevented from performing any of its obligations hereunder by reason of, for or through strikes, stoppage of labor, riot, fire, flood, invasion, insurrection, accident, order of court, judge or civil authority, an act of God, or any cause reasonably beyond the party's control and not attributable to its neglect. In the event of such an occurrence the time for performance of such obligations or duty shall be suspended until such time that such inability to perform, shall be removed. The party claiming the suspension shall give notice of such impediment or delay in performance to the other party within ten (10) days of the knowledge of such occurrence. Each party shall make all reasonable efforts to mitigate the effects of any suspension. The provisions of this Article IV section B shall survive the termination of this Master Agreement.

## **ARTICLE V. LIABILITY FOR ACT AND OMISSIONS**

County and City/Town agree that both County and City/Town shall each be responsible for their own negligent acts or omissions or other tortuous conduct in the course of performance of this Master Agreement without waiving any sovereign or governmental immunity available to either County or City/Town under Texas law and without waiving any available defenses under Texas law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. The provisions of this Article V shall survive the termination of this Master Agreement.

## **ARTICLE VI. LEAD AGENCY**

- A. Lead Agency shall be that entity which is responsible for the project from conception through to completion of construction. City/Town and County may choose for County to manage project through design and construction and for City/Town to acquire ROW.
- B. In the event that the City/Town is Lead Agency the City/Town shall:
  - a. Provide project management and leadership from project selection to construction completion following the 5 Phase Project Delivery System as detailed in Exhibit A, attached hereto and as well as any additions or supplements thereto;
  - b. Lead Agency shall be responsible for hosting the Preliminary Concept Charrettes and or Preliminary Design Charrettes and Neighborhood Public Workshops;
  - c. Acquire ROW necessary for project;
  - d. Enter into or obtain whatever agreements or permits necessary for project completion;
  - e. Provide County with opportunity for significant input in plan development and periodic progress reviews; and
  - f. Provide records for periodic auditing for either financial accounting or engineering accounting or both.
- C. For City/Town-led projects in which the City/Town is considering to specify transportation infrastructure elements exceeding the Standard Basic Project Design criteria, County funding will only be eligible to the Standard Basic Project Design criteria unless the City/Town and County have arrived at mutual agreement through involvement of County during the initial design phases including the Design Partnering Kick-off Meeting and as necessary the Preliminary Concept Charrette and Preliminary Design Charrette meetings.

## **ARTICLE VII. CITY/TOWN COVENANTS AND AGREES AS FOLLOWS:**

- A. To execute with reasonable promptness the necessary agreements for the implementation of design and construction of the Projects mutually agreed upon and incorporated herein by PSA.
- B. To provide City/Town Council Resolution adopting approved preferred alignment, proposed estimated budget, and commitment to meet Project funding for each milestone as specified herein or in the Funding Agreement and/or PSA.
- C. To provide City/Town Council Resolution adopting the subdivision regulation in the ETJ as defined in Article XVII below.



- D. City/Town agrees to share the funding of each Project with County on an equal share basis of 50%/50% or as otherwise agreed cost sharing arrangement as specified in a Funding Agreement and/or PSA with the following exclusions:
- a. City/Town shall bear the entire cost of:
    1. City/Town owned utilities relocation or adjustment such as water and sanitary sewer facilities, except utility adjustments directly attributable to storm sewer improvement conflicts;
    2. Amenities including but not limited to street pavers, colored concrete, planters, decorative lighting, special signage, or any other feature over the Standard Basic Project Design;
    3. Utility Betterments
    4. Direct costs of City/Town which is fulfilling the role of Lead Agency, shall be totally funded by City/Town unless supported by a detailed hourly accounting system equal to County's accounting system.
    5. City/Town Indirect Costs.
- E. When mutual written agreement has been reached as to Projects' concepts, design elements and limits by County and City/Town at the PDC, City/Town agrees to acquire ROW required for designated projects by voluntary dedication, the subdivision platting process and/or other legal means, to the maximum extent possible, and to ensure through the building permitting process that setback requirements are imposed to limit encroachment upon the required ROW. City/Town agrees to fund ROW not acquired, but reasonably expected to be acquired. City/Town also agrees to fund the removal of improvements that are encroachments within existing or proposed ROW areas.
- F. In the event of any proposed use of the Project ROW that will conflict with the proposed Project and City/Town is unable to obtain such ROW as described above, City/Town shall notify County of such conflict. County and City/Town shall determine if the acquisition of the conflicting parcel would be in the best interest of the Project. In the event that agreement is reached and the parcel is acquired such cost shall be included in the pro rated cost of the project in the agreed upon proportions.
- G. City/Town hereby grants the County authority to enter into eminent domain proceedings within the City/Town limits on each specific ROW alignment and/or project as approved by the City/Town and County.
- H. To require all Utilities located within or using the present public ROW on all designated transportation projects within City's/Town's municipal limits to adjust and/or relocate said Utilities as required by the proposed improvement of the designated transportation Project. City/Town Utilities shall be relocated or adjusted at no cost to County except as may be specifically set forth in this Master Agreement.
- I. City/Town agrees to be cooperative on issues relating to billboards, advertising signs, non-conforming uses, zoning and similar restrictions and to exercise its best efforts to provide variances when possible to minimize cost and delay of Project. Additional Project cost caused or contributed to by City/Town ordinance, zoning, non-conforming use determination or other requirement shall be paid in full by City/Town.
- J. City/Town shall require the adjustment and/or relocation of Utilities to be accomplished and finalized, as expeditiously as possible after approval of final plans to prevent Project schedule

delays. Notwithstanding anything contained herein to the contrary, all Utilities shall be adjusted or relocated and the ROW clear for construction not later than thirty (30) days prior to the award of the construction contract. City/Town will notify the County and other Stakeholders when utility conflicts would impact progress of the project completion. County and City/Town agree to work in partnership and with all Stakeholders to solve the problem; to include engaging elected officials in the problem resolution with the goal to prevent delays in the commencement or prosecution of construction on the Project.

- K. Where planned roadway improvements (including, but not limited to storm drainage,) are in conflict with City/Town owned water and sanitary sewer systems, that could otherwise remain in place, the actual costs of the necessary adjustment of City/Town water and sewer utilities shall be pro rated at the overall percentage agreed to by City/Town and County for cost sharing. City/Town shall be responsible for funding one hundred percent (100%) of any Betterment; as well as 100% of any relocation that is caused by City/Town installation during the Project Duration. Except as provided herein, all costs for adjustment and/or relocation of utilities in the public ROW shall be the responsibility of the Utility Owner or of the City/Town Utility. Any Project delay or other damages caused by City/Town Utility failure to timely relocate or adjust the facility shall be at the entire cost of City/Town.
- L. To provide for continuing surveillance and control of ROW to prevent the construction, placement, storage or encroachment of any signs, personal property or other appurtenances in the existing or proposed ROW. In the event that the aforementioned features are allowed by City/Town to encroach on necessary ROW during the duration of the project, City/Town shall bear the entire cost of removal or relocation of said encroachment.
- M. To provide to County for County's or County's designee's use, at no cost, adequate copies of all construction standards, codes, (specifically including zoning and development codes), plats, specifications, guidelines, standards or any other pertinent information as determined by County to be required for the completion of the Project. Additionally, City/Town shall furnish County, at no cost, such documents as necessary to keep all items previously furnished to County current.
- N. Actively participate and provide authorized representation with decision making power at PCC and/or PDC, preconstruction meeting, partnering meetings and project team meetings which are necessary to project development/completion and fiduciary relationships.
- O. City/Town agrees to provide timely review of interim submittals. "Timely review" will be agreed upon during the PCC and/or PDC as a part of the Project schedule. City/Town further agrees that if no review notes are submitted by City/Town in writing to County on a timely basis, plans are approved as submitted.
- P. When City/Town is Lead Agency City/Town agrees to allow forty-five days for County review of submittals and any comments shall be incorporated into final document.
- Q. City/Town agrees that it will pay all additional project cost for any City/Town requested discretionary change, including, but not limited to Amenities and Utility Betterments, in or addition to the design or construction of the project subsequent to the City/Town opportunity to review the sixty five percent (65%) design plans.
- R. Provide at City's/Town's cost for the continuing maintenance of all the Project ROW, such as mowing, drainage, trash removal, etc., during the period between acquisition and construction.
- S. During the construction of the Project and after completion of the Project, City/Town will be responsible for the control, operation, police enforcement and/or emergency services, without cost or contribution from the County.

- T. After the completion of a Project and the one year maintenance period, the City/Town will be responsible for all future maintenance without cost or contribution from the County.
- U. Bear the entire cost of design, construction and administration for landscaping, streetscaping, streetlighting, as such items are not included in the Standard Basic Project Design and other amenities specified or requested by City in excess of Standard Basic Project Design.
- V. It is the intent of this Master Agreement that the County will be the Lead Agency. In the event that the City/Town and County agree in writing that City/Town will manage and administer one or more Projects, City/Town and County will enter into a PSA as to that project(s). In such instance, City/Town agrees to assume all Lead Agency responsibilities except as may be set forth in the PSA as determined by mutual consent.

#### **ARTICLE VIII. UTILITY IMPACTS.**

- A. In cases where a Utility is located in a Privately Owned ROW, and it is necessary to relocate the facility or make adjustments by reason of the widening or improvement of the designated project, the County (or City/Town if acting as the Lead Agency) will, after submission by utility company of ROW documentation and cost estimates acceptable to the City/Town, County and other Stakeholders, assign the actual costs for the relocation and/or adjustment of said utility to the Project.
- B. In cases where a Utility in Public ROW, excluding City/Town Utilities, occupies any portion of the Project ROW by Texas or Federal Law or by agreement with the City/Town that allows or permits the City/Town to cause the relocation of the utility for the construction of the project, the City/Town shall timely require and enforce the relocation or adjustment requirement at no cost to the project. In the event that the City/Town has no legal or contractual right to cause the relocation, the relocation or adjustment shall be relocated or adjusted and all cost shall be a Project Cost. City/Town shall take all steps necessary to insure that such relocation or adjustment shall not conflict with or delay the Project schedule.

#### **ARTICLE IX. COUNTY COVENANTS AND AGREES AS FOLLOWS:**

- A. To provide as a Project Cost preliminary engineering which will define project details, e.g., location, scope of work and specific right of way alignment for each improvement. Such preliminary engineering shall be submitted to the City for approval, prior to proceeding with the final design and any right of way acquisition.
- B. To provide as a Project Cost for the construction of transportation improvements based upon design criteria conforming to Standard Basic Project Design in conformity with applicable City ordinances and standards, to the extent of Commissioners Court approved program funding. Scope of work shall include the agreed upon design standards as the basis for improvement criteria. Deviations from mutually agreed upon application of City/Town standards and/or design criteria shall require prior approval of City/Town. Where City/Town standards do not exist, TxDOT standards as of the Effective Date of this Master Agreement shall be utilized unless otherwise mutually agreed by PSA.
- C. To actively participate and provide authorized representation at Predesign Charrette, preconstruction meeting, partnering meetings and project team meetings which are necessary to project development and completion and fiduciary relationships.

- D. To provide project management of each Project where County is Lead Agency from commencement to completion of construction. City and County may further agree by mutual consent to redefine project management roles as beneficial to the Project as defined in the MOA and supplemental agreements.
- E. Upon receipt of written request detailing the information requested, to provide information related to the Project to City/Town or City's/Town's designee at no cost to the City.
- F. County agrees to provide review of interim submittals within forty-five days and hereby agrees that if no review notes are submitted by County (if City/Town is filling the role as Project Manager) in writing to City/Town, plans are approved as submitted.
- G. To submit final engineering plans for review and written approval by City/Town at least thirty (30) days prior to advertising for construction.
- H. To provide for the acquisition, including acquisition by Eminent Domain, of the necessary additional ROW, on designated projects, in accordance with minimum standard requirements and utilizing existing public ROW to the maximum extent possible as a Project cost.
- I. To require all contractors to secure all necessary permits required by City/Town on said construction projects.
- J. To furnish record drawings of construction plans for the permanent records of City/Town within twelve (12) months upon completion and acceptance of the transportation improvement Project.
- K. To transfer the real property or property interest acquired by County and used for the Project to City/Town.
- L. In the event County and City agree in writing that City will be the Lead Agency for the agreed upon Project, County will reimburse City for agreed costs as detailed in Article XIII. (Funding) in an amount not to exceed the Project cost as approved by Dallas County Commissioners Court and incorporated in the PSA. All County payments shall be in accordance with County Policies and Procedures or as may be mutually agreed between the parties and incorporated in a PSA.

#### **ARTICLE X. PRELIMINARY DESIGN CHARRETTE (PDC), PRELIMINARY CONCEPT CHARRETTE (PCC)**

- A. City/Town and County, as specified in Articles VII and X, respectively, will designate officials or representatives to participate in a PCC and/or PDC to be conducted on a mutually agreeable date and location. At least part of this meeting will be conducted on the Project site.
- B. Results from PCC will identify the general project scope, the basic approach and concepts to be taken with the project, the elements of CSS that will be included, and some ideas for alignments alternatives. Lead agency will already have been determined, and as well as project administration and management roles, to include the Project Manager. Key project team participants shall be introduced to stakeholders at the PCC and or PDC. Results from the PDC will identify the preferred alignment of the project which all stakeholders can support and build momentum behind, and provide all stakeholders a commitment for project delivery schedules and project budgets.

#### **ARTICLE XI. FISCAL FUNDING**

Notwithstanding anything to the contrary herein, this Master Agreement is expressly contingent upon the availability of County funding for each item and obligation contained herein. City/Town shall have



no right of action against the County as regards this Master Agreement, specifically including any funding by County of the Project in the event that the County is unable to fulfill its obligations under this Master Agreement as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this Master Agreement or failure of any funding party to budget or authorize funding for this Master Agreement during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the County, at its sole discretion, may provide funds from a separate source or terminate this Master Agreement. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Notwithstanding anything to the contrary herein, this Master Agreement is expressly contingent upon the availability of City/Town funding for each item and obligation contained herein. County shall have no right of action against the City/Town as regards this Master Agreement, specifically including any funding by City/Town of the Project in the event that the City/Town is unable to fulfill its obligations under this Master Agreement as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this Master Agreement or failure of any funding party to budget or authorize funding for this Master Agreement during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the City/Town, at its sole discretion, may provide funds from a separate source or terminate this Master Agreement. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

#### **A. ARTICLE XII. FUNDING**

A. City/Town and County mutually agree to proportionately fund the Direct Project and Program costs as agreed by the parties in a PSA. Unless otherwise specified in the PSA, County shall bear fifty percent (50%) of the total Direct Project and Program costs excluding the Amenities, relocation or adjustment of City/Town Utilities, Utility Betterment, Indirect Cost, Direct Cost not supported by detailed hourly accounting system and other items as specified in this Master Agreement, Funding Agreement or any PSA. County shall not be responsible for any amount of funding in excess of the Project not-to-exceed amount as shown in the PSA. Unless otherwise specified in the PSA, City/Town shall bear fifty percentage (50%) of all Direct Project and Program costs. In addition, City/Town agrees to fund all other City cost as provided herein, including, but not limited to, Amenities, relocation or adjustment of City/Town Utilities, Utility Betterment, Indirect Cost, Direct Cost not supported by detailed hourly accounting system and other items as specified in this Master Agreement, Funding Agreement or any PSA.

B. Unless otherwise stated in a PSA, the milestones for each project shall be (1) preliminary and primary design (2) ROW acquisition and utility relocation or adjustment and (3) construction. The Lead Agency shall prepare an estimated cost for each milestone. Upon approval of the cost by the other party, each party shall fund its share of the respective milestones by placing that amount of money in an escrow account or otherwise encumber the funds to insure that the Lead Agency will have sufficient funding available from current revenue for the timely payment of Project milestone costs. The Lead Agency may bill the other party for periodic payments for the actual amount of work completed toward the completion of the milestone. Upon completion of the milestone, the non-management party will be furnished a notice that such work has been completed and the amount of funding that may be utilized to pay subsequent milestone Project cost. Notwithstanding any other term or condition contained herein or in any PSA, neither party will be required to award any contract until

written certification has been received that funding has been placed in escrow or encumbered for the payment of the non-awarding party's portion of the Project cost.

C. In the event that the cost of the Project shall exceed the not-to-exceed amount, City/Town and County agree to either reduce the scope of construction or seek additional funding to complete the Project at the agreed upon cost share percentages. At the termination of the Project, the Lead Agency will do a final cost accounting of the Project. In the event that the amount paid by either party exceeds its portion of the actual cost, the difference will be remitted to such party. In the event that additional funds are due, the Lead Agency will bill the other party who agrees to pay such funds within thirty (30) days of receipt of such billing.

D. If City/Town elects to manage Project, County will reimburse City/Town based on invoices for actual costs expended as supported by documentation approved by County Auditor. Any and all supporting documentation required by County Auditor shall be included with invoice from City/Town.

E. Upon execution of a PSA, City/Town shall escrow an amount adequate for initial project costs which County may use to pay for initial professional services required for scoping, preliminary, and primary design.

F. City/Town and County shall enter into Funding Agreement and/or PSA to establish commitments as required for each project. Suggested timeframes for Funding Agreements, PSAs and/or any amendments are:

- a. As soon as project accepted by Commissioners Court and as a result of the kick off partnering meeting, a Funding Agreement to establish Lead Agency for preliminary engineering and general funding responsibilities and procedures for reimbursement by Participating Agency; or
- b. When the preliminary engineering plans are at 60% complete; or
- c. After construction bids are opened amend the PSA as needed.

### **ARTICLE XIII. NO THIRD-PARTY BENEFICIARY ENFORCEMENT.**

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all right of action relating to such enforcement shall be strictly reserved to City/Town and County and nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other person on this Agreement. It is the express intention of City/Town and the County that any entity other than City/Town or the County receiving services or benefits under this agreement shall be deemed an incidental beneficiary only. This Agreement is intended only to set forth the contractual right and responsibilities of the agreement parties.

### **ARTICLE XIV. RIGHT OF ENTRY**

The City/Town agrees that County shall have the right to enter upon the Project area for the time period necessary for the completion of the Project. City/Town agrees to furnish such police or other City/Town personnel as requested by County for traffic control or other public safety matters at no cost to the Project or County.



## **ARTICLE XV. LIST OF PROJECTS**

City/Town agrees that it has been furnished with a list of the potential Projects as approved by the Dallas County Commissioners Courts, subject to the agreement between the parties of a PSA. City/Town stipulates and agrees that the Commissioners Court Order approving the projects identifies the potential Project location and describes the type of project in sufficient detail that the City/Town is fully aware of the location and type of projects being considered.

## **ARTICLE XVI. ORPHAN ROAD POLICY;**

The County encourages all cities adjacent to orphan roads in the county to develop, commit to and submit a plan to the County for completing the annexation of the orphan road segments and assuming full responsibility for these roadways. In instances where two cities abut the same orphan road segment, the County encourages the two cities to jointly develop a plan of the annexation of that segment. The County offers its assistance to the cities in developing such plans.

- A. The County, at the discretion of the Commissioners' Court, may give additional selection value to projects in cities that have submitted a specific plan for the annexation of orphan roads when the County selects, approves and schedules projects for funding in the County's major MCIP. Such preference may also be given in approving projects for road and bridge district participation (Type "B" work).
  - B. The County, at the discretion of the Commissioners Court, may also refuse to participate in discretionary projects, such as road and bridge district projects or MCIP projects, in a City/Town that elects not to pursue the annexation of orphan road segments that abut its boundaries. Failure to notify the County of the City's/Town's intent to annex and/or failure to submit a plan for annexation in a timely manner shall be construed by the County as the City's/Town's election not to pursue annexation.
  - C. The County, at the discretion of the Commissioners Court, may select specific orphan road segments for improvement when a City commits to annexation of the segment upon completion of the project. However, the specific plan for annexation of orphan roads submitted by the City/Town will not be limited to annexation upon completion of improvements by the County. The County improvements may be made as road and bridge projects or as MCIP projects (subject to other MCIP criteria including regional thoroughfare plan designation and City/Town cost participation.)
  - D. This policy application is prospective and projects selected by the County and approved by the Commissioners Court prior to the date of the adoption of this policy shall not be impacted by this policy.
  - E. The County shall provide written notification of the adoption of, and future revisions of, this policy to the cities abutting orphan road segments.
  - F. The provisions of this Article XVI shall survive the termination of this Master Agreement.
- (Ord. No. 2002-637; Ord. No 2006-1171)

**ARTICLE XVII. SUBDIVISION REGULATIONS IN THE  
EXTRA TERRITORIAL JURISDICTION**

County and City/Town agree that City is the office that is authorized to: (1) accept plat applications for tracts of land located in the extraterritorial jurisdiction; (2) collect all applicable plat application fees; (3) provide applicants one response indicating approval or denial of the plat application; and (4) establishes a single set of consolidated and consistent regulations related to plats, subdivision construction plans, and subdivisions of land. The provisions of this Article XVII shall survive the termination of this Master Agreement.

**ARTICLE XVIII. MISCELLANEOUS GENERAL PROVISIONS**

**A. Applicable Law.** This Agreement and all matters pertinent thereto shall be construed and enforced in accordance with the laws of the State of Texas and exclusive venue shall be in Dallas County, Texas. Notwithstanding anything herein to the contrary, this Agreement is expressly made subject to County's and City/Town's Sovereign Immunity, Title 5 of Texas Civil Practice and Remedies Code, and all applicable State of Texas and Federal laws.

**B. Entire Agreement.** This Agreement, constitutes the entire agreement between the parties hereto and may not be modified except by an instrument in writing executed by the parties hereto as herein provided.

**C. Severability.** If any provision of this Agreement shall be held invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

**D. Default/Waiver/Mitigation.** It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies in this Agreement or provided by law.

**E. Federal or State of Texas Funding.** In the event that any work or part thereof is funded by State of Texas or U. S. Government funding and any statute, rule, regulation, grant, contract provision or other State of Texas or U. S. Government law, rule, regulation or other provision imposes additional or greater requirement(s) than stated herein, City/Town agrees to timely comply therewith without additional cost or expense to County.

**F. Headings.** The titles which are used following the number of each paragraph are only for convenience in locating various provisions of this Agreement and shall not be deemed to affect the interpretation or construction of such provision.

**G. Number and Gender.** Words of any gender used in this Agreement shall be held and construed to include any other gender; and words in the singular shall include the plural and vice versa, unless the text clearly requires otherwise.

**H. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**I. Notice.** Any notice provided for in this Agreement to be given by either party to the other, shall be required to be in writing and shall be deemed given when personally delivered, or three (3) business days after being deposited in the United States Mail, postage prepaid, certified, returned receipt requested, or registered addressed as follows:

To County: County of Dallas  
Director of Public Works  
Dallas County  
Administration Building  
411 Elm Street, Fourth Floor  
Dallas, Texas 75202-3389

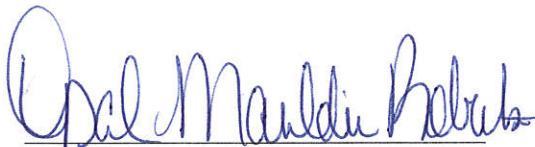
To City/Town: City of Lancaster, Texas  
Director of Public Works  
1425 N Dallas Ave., Ste 101  
Lancaster, Texas 75134

Either party may change its address for notice by giving the other party notice thereof.

The City/Town of Lancaster, State of Texas, has executed the Agreement pursuant to duly authorized City/Town Council Resolution 2011-04-32 Minutes \_\_\_\_\_ Dated the 11<sup>th</sup> day of April, 2011.

The County of Dallas, State of Texas, has executed this agreement pursuant to Commissioners Court Order Number 2011-861 and passed on the 10<sup>th</sup> day of May, 2011.

**CITY/TOWN OF LANCASTER**

BY   
TITLE City Manager

DATE 4-12-11

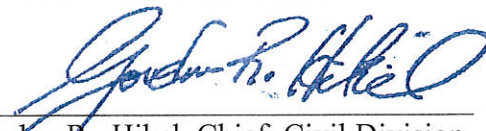
ATTEST   
CITY SECRETARY \ ~~ATTORNEY~~

**COUNTY OF DALLAS**

BY   
Clay Lewis Jenkins, County Judge

DATE May 10, 2011

APPROVED AS TO FORM:

  
\*Gordon R. Hikel, Chief, Civil Division  
Dallas County District Attorney

\*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

# EXHIBIT

## A



**DEPARTMENT OF PUBLIC WORKS**

411 ELM ST., 4TH FLOOR  
DALLAS, TEXAS 75202

**PROJECT MANAGEMENT PRACTICES  
MANUAL**

**5 PHASE  
PROJECT DELIVERY SYSTEM**

**JULY 2009**

# INTRODUCTION

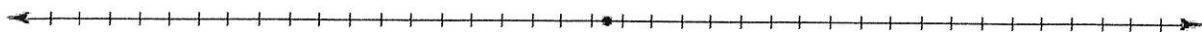
The purpose of this manual is to provide a standard practice guide on project management practices within the Dallas County Public Works Department. It is meant to assure that a standard approach is used by all Project Managers (PMs) and other project team members in the delivery of County-led transportation projects. The guidelines are meant to meet the requirements and intent of the American Public Works Association's (APWA) publication entitled "The Public Works Management Practices Manual" (The Manual). The Manual contains 529 recommended practice statements that describe the critical elements necessary for a full-service public works agency to accomplish its mission. We estimate that about 300 statements apply to the missions of Dallas County Public Works Department. The practice statements "call for the development and implementation of a policy or procedure in the form of a rule, regulation, written directive, or for the execution of an activity, report, procedure or other action." This PMP manual is intended to fulfill that requirement and covers a number of practice statements. It begins with Practice Statement 10.8 "Project Management" in the Chapter 10, "Planning and Development." It also includes practices elements in a general sense from Chapters 11 "Engineering Design," Chapter 12 "Bid Process," Chapter 13 "Project Management," Chapter 14 "Right-of-Way Management," and Chapter 15 "Utility Coordination." Our basic methodology is a strong matrix approach, so that our PMs are assigned from the time a planning initiative become a true approved project, to completion of the total project. We use the terminology found in the Project Management Institute's "A Guide to the Project Management Body of Knowledge" (PMBOK). This includes the definition of a "Matrix Organization" which we aspire to be. This definition is: "Any organization structure in which the project manager shares responsibility with the functional managers for assigning priorities and for directing the work of individuals assigned to the project." When we speak of a project matrix team, we are referring to a team led by an appointed PM who has team members from throughout the 4 functional divisions of Dallas County Public Works. These four divisions are Transportation and Planning, Property, Engineering & Construction, and Program & Engineering Management. The PMs are assigned to the Engineering and Construction division, but manage projects from cradle to completion. There is no hand-off between functional divisions.

This Practice Manual is purposely short. We desire to provide a guide to project delivery practices, not an exhaustive "how to" manual. Other Public Works Practices (all indexed to the APWA Practices Chapters and numbers) do provide more detailed instructions on the specific elements of project delivery. Our experience is that very thick manuals are not used as much as shorter guidelines that provide the boundaries of good practice and a standard approach on the essentials. We then empower our individual PMs to work within the guidelines, leveraging their own strengths (their "hedgehog" talents) to work the details in delivering their individual projects.

## PHASE 1 -- PLANNING & PRELIMINARY DESIGN



### STEP ONE, PROJECT DEFINITION



1. Transportation Planning distributes a "Call for Projects" to all Dallas County cities. This is a process initiated every 2 to 3 years and involves partnering with all the cites and stakeholders. The nomination period is open for 4-6 months before projects are submitted, usually in August of odd numbered years. Public Works will host a partnering workshop and

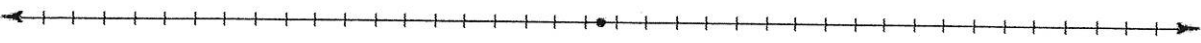


include a luncheon in the middle of a meeting about 4 hours long. Various aspects of this Call for Projects Workshop and process will be adjusted based on input from city partners.

2. Planning Division will adjust the project selection criteria based on input from the cities, criteria that NCTCOG is using, and guidance from the County Commissioners. The final criteria and Call process will be briefed and approved by the Commissioners Court and a 5-signature letter will be used to transmit the Call to the cities. The amount of time for the nomination process will be adjusted based on feedback from the cities. This is to assure they have enough time to brief their elected officials, plan for inclusion of projects in city bond elections, and prioritize city capital spending. After the Planning Division assures all the information is submitted correctly (and assists some of the smaller city staffs in submissions), a matrix team of Public Works (PW) employees begins with an executeability analysis that precedes selection of projects for inclusion in the County's MCIP. The team, with Engineering & Construction, Planning, & Property people involved, provides assistance with risk assessments from various perspectives --feasibility, cost estimates, scope definition, political aspects, funding, technical issues, utilities, safety, environmental, and traffic factors, etc. Property Division team members examine Right-of-Way (ROW) & utilities, looking at feasibility, types of property involved, other significant factors, such as at-grade railroad crossings, relocations, etc.
3. The Director and AD's meet with each Commissioner separately to go over the slate of nominated and analyzed projects in his/her District. Google Earth or other technology is used to give the Commissioner a comprehensive look at the nominated project and its environs. The pros and cons of each project are discussed with each Commissioner taking their own approach to project selection. The technical grading scores act as a common denominator to assure only effective projects are in the ballpark for selection. Public Works provides data on previous funding commitments, and percent of thoroughfare roads & population of each city, to help Commissioners decide on the projects to be selected. Every project is placed into a Program Year (PY) (year slated for construction start), based on District and overall County MCIP cash flow projections. After briefing each Commissioner and the Judge, the updated spreadsheet called the "MCIP Transportation Funding Commitments" is presented in Briefing format in public forum to the Commissioners Court. The following week, a Court Order is submitted and the MCIP is then formally approved by the Court, with a 5 Signature Court Order.
4. The MCIP has been formulated on the premise that legal agreements should reflect the nature and character of the program. Equal funding partnerships, matrix Project Management, Context Sensitive Solutions methods of project delivery, and partnering principles applied in every phase of project delivery are the essential elements of the MCIP. The time it takes for getting inter-local agreements approved should never be on the critical path of project delivery. Therefore much effort has been expended between the Civil DA legal staff and Public Works staff to formulate a "Master Agreement Governing Transportation Major Capital Improvement Projects." This MCIP Master Agreement has been signed by 26 Dallas County cities with approved projects and serves as the legal basis for partnerships between the various cities and Dallas County. It will be renewed every 10 years. Later during project design, enough information will be known to forge a Project Supplemental Agreement (PSA) that details the specifics of that particular project. None of the basic elements of a city-county legal agreement have to be repeated in the PSA, thus simplifying the process and time involved.

5. A kickoff meeting is next held with each of the City Partners who have projects selected. This key meeting sets the basic parameters for each of the projects, such as cash flow requirements for each partner, who the lead agency for project delivery will be, agreed upon technical criteria, known risks, roles for each stakeholder, etc., all focused on assuring timely project delivery and moving the project into construction during the selected PY. If there is a great deal of uncertainty associated with the project (e.g. part of some economic development such as transit oriented development, or part of brown field development, or other significant environmental challenges, or a very significant change in planned use of an area in the future, e.g. industrial changing to mixed use, etc), then the lead agency may conduct a **Planning Charrette**. The purpose of this meeting with all significant stakeholders is to determine the beginning scope and the realm of possible approaches. Serious design cannot begin until there is stakeholder agreement on a relatively reasonable set of alternatives, which bear some relationship to the scope of funding currently available. Partnering relationships will also be established at this Charrette which should be sustained throughout the life of the project.
6. Public Works commits to using Partnering Principles of Trust, Commitment, and Shared Vision in addition to Best Practices of Project Management Principles throughout the life of the project. Each City is invited to use the same principle-centered teamwork as we work together to deliver the selected projects. This partnering approach is also an integral part of Context Sensitive Solutions (CSS), a design methodology that involves early and continuous involvement of all stakeholders.
7. For every project that the city and county stakeholders agree to assign Dallas County as the Lead Agent, a Project Manager (PM) will be assigned by the Assistant Director of Engineering and Construction. In addition the Assistant Director in consultation with the PM and other Assistant Directors and PW Business Unit leaders, will identify matrix team members for the project.
8. An initial Project Funding & Execution Status (PFES) and Program Management and Planning Status (PMAPS) form will be developed by the PM for each project in coordination with the PEMD & the AD, Engineering & Construction. Each business unit leader will review PFES and PMAP in order to provide an adequate workforce for each project, and assure team members assignments are balanced.
9. Decision on use of Subsurface Utility Engineering (SUE) will be made before initiating design. In the analysis of candidate projects, utility relocation risks will have been identified. When these risks are high (the usual situation), then funding will be planned in the design for SUE efforts. PW now has in place an IDIQ contract for quick implementation of SUE consultant efforts. Utility partnering efforts include initiatives for joint efforts wherever feasible. This information will be critical for designers to use as they launch the design. Total integration of the SUE methodology will help assure that ALL utility impacts are considered in every phase of project delivery.

## STEP TWO, PRELIMINARY DESIGN

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1. A systematic decision process as part of the Public Works Business Operating Plans (PWBOP) updating is done to determine which design efforts will be completed with in-house designers and which will be done by consultants. For consultant selection, a rigorous and systematic process will be used to select the best qualified consultants for each project. An initial contract will be signed with a best qualified consultant to perform the entire preliminary design, or participate as a Preliminary Design liaison, trainer, or expert to advise

an in-house design force for the project. As much as possible, an Indefinite Delivery, Indefinite Quantity (IDIQ) methodology will be used to help assure inordinate amounts of time are not used in the best qualified selection process required by state law. City partners will be given the opportunity to provide input to the County in the consultant selection process.

2. County, city, or joint team of in-house designers or selected consultant firm begins initial design efforts under the leadership of the PM. This design effort will be initiated formally with a ***Design Partnering Workshop***. The PM will assure all significant stakeholders are invited and commit to attend & participate. The meeting will be designed to assure all stakeholders are committed to a smooth and strong start to design, that all the vital stakeholders are involved early, and that progress meetings are scheduled on a regular basis. This will involve commitments by the design team (consultant or in-house) and by the city and county people involved in design approval. Goals include committing to resolve alignment issues early in the design process. In some circumstances, a feasibility study may be required to compare & contrast different alternatives before real design can begin. Estimated ROW takes, utility impacts, and environmental affects for each alternative may need to be reported before stakeholders decide on a preferred alternative for preliminary design. The design partnering meeting will be held over a lunch hour and include a 50%-50% cost shared, modest lunch.
3. CSS methodology will continue to be used, stressing total stakeholder involvement, throughout the project delivery process. Task Force and Matrix Team meetings will be scheduled in order to assure effective teamwork. The Institute of Transportation Engineers (ITE) manual "Context Sensitive Solutions in Designing Major Urban Thoroughfares for Walkable Communities" will be used as an overall design guide.
4. When a consultant is used as the design agent, a contract will be negotiated for the preliminary design only, unless the project is relatively simple and the final solutions are not in question. The idea is to avoid protracted negotiations on the total scope and fee, when many of the factors influencing final design consideration are not yet known. An amendment to the contract for completion of the Primary Design can be negotiated after Preliminary Design is nearing completion. At this time, the unknowns should be relatively few and the scope negotiation much easier to navigate. The decision to amend the contract for completion of the Primary Design will be made after an interim evaluation is completed using the County's consultant evaluation system. Every effort will be made to assure a seamless design process, without interruptions by prolonged negotiations in signing the Primary Design amendment to the contract.
5. A ***Preliminary Design Charrette*** (PDC) will be planned by the Project Manager who will lead the execution with all stakeholders (Cities, utilities, County, any private parties or other decision-makers). The scope of invitees to the PDC will be dependent upon project complexity and number of unknowns. The goal of the PDC is to build consensus and support behind the project and alignment alternative that is finally selected by the stakeholders. Many projects have been derailed by lack of support when opposition arises. A great effort will be made to assure attendance of all the key players. This consensus building effort is an integral part of any CSS approach to design. The Director and Assistant Directors will be personally involved and the PM will make special efforts to assure political leaders have the meeting on their calendars and plan to attend, or at least have a clear invitation. In addition, by name individual contacts will have to be made to assure utility company representatives attend, since key alignment decisions will be made that can affect,

or be affected by, probable utility locations. If applicable, the PDC will include an orientation walk-thru of the project site, which includes right of way assessment. The PM will highlight specific City zoning and other ROW requirements, or ask the city partner to highlight these.

6. As part of the CSS approach, a Public Involvement (PI) strategy will be forged under the leadership of the PM, and the advisement of the PW Transportation & Planning Division (T&P). T&P will attain and maintain a PI center of expertise and advise PMs on various techniques and methods to use to best involve the public and other stakeholders. Public Works will use innovative methods in coordination with our cities, such as workshop/small group formats, inviting outside consultants, etc. City methods & approaches will always be respected and adhered to in this area.
7. Phase 1 ends with approval of the Preliminary Design Report, Preliminary Alignment/Profile and Preliminary Sizing of bridges and drainage structures along with S.U.E. determination, Preliminary Survey Report, and Preliminary Utility Investigation Report.
8. The design firm or in-house design team will have begun necessary permitting and environmental assessments. Basically the level of effort will approximate that required of the Preliminary Schematic and Environmental Assessment Phase that currently is required on the TxDOT STP/MM projects.
9. Roadway plans are estimated to be 60-65% complete at the end of Preliminary Design Phase.

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## PHASE 2 -- PRIMARY DESIGN

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1. The initial task is negotiation of an amendment to the preliminary design contract with consultant for Primary Design, or if that is not successful, assignment of the work to an in-house design team.
2. The Scope of Work should now be well defined by all Phase 1 efforts and includes geotechnical investigations, utility analyses (including application of all the S.U.E. data derived in Phase 1), constructability review, environmental analysis, neighborhood public workshops, traffic information approval, estimated ROW parcels, & integration of context sensitive solution elements.
3. Part of negotiations both with in-house design teams and consultants includes definitive delivery dates for various deliverables, phases, and reviews. All commitments made during the Design Partnering meeting and follow-on Task Force meetings will be honored, by all stakeholders. In paying submitted invoices for progress during the design period, earned value analysis concepts will be used to track cost and schedule progress. We DO NOT make 'cost plus' assumptions about consultant's work efforts. Since our 2-phase negotiation system allows for better scope definition, the instances of misunderstanding on true project scope are reduced.
4. Consultant or In-house Design Team works closely with all stakeholders -- under the guidance and direction of the County PM, in a partnering mode. The lead designer is the Technical Manager at this point in the process, and is always under the matrix leadership of the PM. Any available internet or intranet based Project Management tools, including extranets, will be



used to optimal effect during the life of the project. When one of our IDIQ consultants is hired (survey, miscellaneous design, SUE or materials testing) we will work with them using partnering concepts and treat them as members of the Public Works team. Also, the design firm for water and/or wastewater services will be integrated, and wherever possible, we will attempt to assure the design consultant for the transportation project is also selected by our city partner to design the municipal utility improvements. We will expect any of our consultant partners to become familiar with the elements of our 5-Phase project delivery system and to commit to the precepts of design partnering..

5. Traffic and utilities data will be considered in design, with data from partner city, County, NCTCOG, TxDOT, or consultant. Agreed upon level of S.U.E. will be key input into design details, and utilities partnering imperatives will be used throughout the design and construction phases.
6. Any required environmental impact analysis will be completed during phase 2. Common sense will be used to address significant issues without wasting time on clearly unimportant areas. The goal is to execute environmentally sustainable transportation infrastructure that improves the overall quality of life of our joint customers, the transportation users and citizens of Dallas County and our cities.
7. Right of Way (ROW) documents will be finalized, with quality controlled by the consultant or in-house design team. The Quality Assurance (QA) function will be completed by both the PM and the Property Division in a smoothly coordinated manner, using pre-coordinated checklists. At the appropriate time, the documents will be delivered to Property Division, but the PM still retains overall responsibility for timely project delivery. Early involvement on ROW issues, including utility relocation aspects (such as getting possible Rights of Entry for utility relocation) is critical for success. Early provision of final and accurate ROW documents will be a critical milestone of the design contract.
8. Design Consultant or In-house Design Team completes work on provided schedule, keeping all the commitments made during the Design Partnering Meeting and the Preliminary Design Charrette. Consultants and/or In-house Design Team are expected to assure that they accomplish "muddy boots" design with true "eyes-on" the total project site. The project should have been walked several times by the time the design is complete. Most underground utilities have above ground markings, which are often overlooked until construction. In design review, we will avoid lengthy rounds of passing designs back and forth, in favor of "over-the-shoulder" reviews, as required to meet design completion timelines. These will include city and other interested stakeholders under the orchestration of the PM.
9. The PM completes an interim evaluation of the design consultant. Special note will be taken of the consultant's system for assuring QC of all design effort including ROW documents. After construction is complete, the PM performs a final consultant evaluation, using our standard evaluation system contained in the contract. The consultant is given an opportunity to evaluate the County's project management process as well.

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## **PHASE 3 – DESIGN COMPLETION & RIGHT-OF-WAY INITIATION**

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1. Begins with the delivery of the initial, unsealed ROW documents to the County by the consultant. Consultants will first bring a few ROW documents for review by the PM and Property Division team members, to assure they fully understand the details and level of Quality Control we expect in their submittals. Standards and scheduling will be clearly spelled out in writing within Consultant's contract. Deliverables will include ROW maps and deed records.
2. Consultant is required by contract to submit property owner deeds along with right of way maps which have received an internal quality control process. The PM assures utility representatives are informed of the project and all know utilities are shown on the plans. Diligent efforts will be made to assure that all private or public utility easements are identified on the maps and plans as required in Consultant Contract. All the SUE efforts should be included in the design documents.
3. The PM, still leading project delivery, assures the County or City ROW Functional Manager works to assure efficient execution of ROW planning and acquisition services, as part of the Project Matrix Team. The Property Division will manage the ROW Services IDIQ contract, if this delivery tool is used. Before writing a work order for the ROW services IDIQ, the Property Division Chief will meet with the Chief of Engineering & Construction and the PM, to assure adequate project budget is available for the added cost of procuring ROW services.
4. The PM monitors and tracks progress, helping to resolve issues as they develop. He/she, keeps all stakeholders informed, using e-tools and networking. Any available internet-based Project Management tools, including extranets, as well as intranets will be used to optimal effect during the life of the project.
5. Consultants or In-house Design Team are to avoid taking ROW that is not absolutely necessary to the construction of the project by performing a Preliminary Design/Right of Way Review Board. The PM uses his/her Matrix Team to minimize the ROW takings and assures appropriate leadership to assure project delivery dates are met.
6. Consultant will make minor changes resulting from property owner requests or other changes that arise naturally in ROW negotiations.
7. As required, the Project Manager will be prepared for expert testimony at any Eminent Domain hearings.
8. The PM decides, in consultation with other stakeholders and early enough to preclude re-work by consultant, the packaging of the Plans, Specs & Estimates (PS&E) package for the construction bidding purposes. The PM will use the Standard Practices of the Public Works Department as the guide, with the precise formats being customized to the type of project involved. Each city partner may have specific requirements, or if the project is a local-let of a federalized project, federal provisions will be included, as per TxDOT guidance.



## PHASE 4 – ROW Completion & Utility Adjustment

1. ROW acquisition is carried to completion, again under the active project management and leadership of the PM, with proactive activity of the ROW acquisition team. If the city or another partner such as TxDOT is the ROW acquisition agency, the PM will still track carefully the progress and proactively lead efforts to remove obstacles, etc. to keep progress on schedule.
2. The PM will use partnering principles as well as results of S.U.E. to assure utility adjustments are accomplished in time to keep scheduled project advertisement and contract award dates. The elements of Public Works Practice (PWP) 15.1, "Utilities Coordination" will be used as the guide. These principles are based on successful partnering efforts for over 10 years with major utility providers (including the UPRR). The PM will assure the attached *Essential Elements of Utility Partnering* and GUIDELINES FOR ASSURING SMOOTH RELATIONSHIPS BETWEEN LOCAL GOVERNMENTS AND UPRR is proactively used by all matrix team members.
3. The Project Manager tracks and resolves issues and work schedules, using the Matrix Team to proactively lead efforts to remove obstacles of acquisition and utilities relocation to ensure project schedule. As a matter of standard procedure, the use of utilities Rights of Entry (ROE) will be explored on every project. When conditions are there, we will use the ROE as a way to take the utility adjustment time off the project critical path. R&B forces may be needed to clear trees from the new ROW or to move fencing, and will be procured through requests to the Commissioner involved.
4. The City works as part of Matrix Team to expedite utility relocations. Many times, franchise utilities have relationships based on franchise utility agreements with cities that can be used beneficially to secure cooperation. Monthly Task Force meetings are initiated during this phase to assure early and frequent communication with all stakeholders. All team members are to proactively partner with the utilities and facilitate their relocation. Departmental policy is 0 R R (Zero Relocation of Relocations). The practices of PWP 15.1 "Utilities Coordination" will be used by all PMs. This includes use of the Utilities Special Work Assistance Team (U-SWAT) to help resolve tough utility challenges in a timely manner. The U-SWAT team is a resource for the PM and does not relieve him/her of the necessity for close team work, involvement & leadership during the utilities phase of the project. We regard the project as "in construction" during the time our utilities partners are operating in our ROW, relocating their utilities. We work hard to assure that all franchise utilities are relocated in a manner that is safe and will not impact our road construction (e.g. from improper backfill of their trenches, conflict with storm sewers, conflicts with water or sanitary sewer lines, bridge abutments, inlets, etc).
5. An Advertising Risk Assessment (ARA) is completed prior to engaging the Purchasing Department in advertising the project for construction bids. Advertising is not issued until all utilities are within a reasonable and confirmable clearance date. A deliberate decision will be made on how many days from bid opening until contract award, and how many days from contract award until the Work Order (notice to proceed) is given. Work Order dates will not be projected to occur BEFORE high assurance that all known utilities will have been relocated. A second important function of the ARA is to ascertain all the funding commitments, to update

the PFES to include all funds already expended, and to calculate an up-to-date construction estimate, called a Current Working Estimate (CWE). All of the above actions will be coordinated and finalized at a meeting scheduled and run by the PM with the Director, Assistant Director and a city partner representatives in attendance. This meeting will be scheduled as one of the critical milestones for the project.

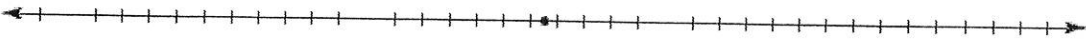
6. The PM will assure designers (in-house or consultant) will be kept on-call for projects if required to complete requested Engineering During Construction (EDC) services, such as shop drawing submittal review and consultation on design intent, assumptions, etc. The intent is to retain the best part of the tremendous energy, effort and focus that the consultant or in-house design team has just expended in designing the project.

## **PHASE 5 -- CONSTRUCTION**

### **STEP ONE CONSTRUCTION**

1. The PM does all the work to advertise the project and works with the County Purchasing Department for bid opening. A 100% design completion CWE will be completed by the PM and will be used as the fair-cost government estimate for construction bidding purposes.
2. The PM leads the execution of the Project Supplemental Agreement (PSA) with each Partner giving approval of final funding on a timely basis. An updated PFES will be needed at this time. Project Manager prepares Court Briefing Memo and Court Order to award the construction contract as well as the PSA. (Note: on some projects with complicated design phases, the PSA may be signed earlier, during Phase 2).
3. The PM completes all the work for construction contract award. PM works with all partners to assure a logical and timely notice to proceed is given. This order to begin work and the contract time period will be based on status of utility relocations, any city requirements, etc.
4. The PM will plan, schedule and execute the Construction Partnering and Pre-Construction Meeting with key stakeholders in attendance. The PM will schedule for attendance and participation the Director and Assistant Director for E&C. Careful pre-planning ensures the attendance of the right stakeholders and staff. In Dallas County PW, we will normally facilitate our own Partnering meetings since we have the expertise and experience to accomplish this without hiring specialized consultants. Costs for a modest lunch will be shared 50%-50% between the county and the contractor.
5. The PM leads throughout the construction phase. The PM assures partnering principles and spirit of Partnering (**Trust, Commitment, and Shared Vision**) are maintained throughout the project construction phase. The PM establishes a regular day and time each week for the weekly construction meeting in the field. The PM assures constant communication with customers and other project stakeholders, including especially the people and businesses who are located along the road being improved or built. . This may include a construction oriented Public Information Neighborhood Meeting, as well as periodic project newsletters, notices of key construction events or phasing, progress postings on city web-sites, meeting with neighborhood interests (property owners, schools, churches, businesses, etc). We are interested in not only achieving a high quality end-product, but also in delivering the project in a user-friendly manner. This is all part of total Context Sensitive Solutions project delivery.

## **STEP TWO- PROJECT CLOSE OUT**

- 
1. The PM assures final estimate is paid to Contractor on a timely basis. The Contractor may have to be persuaded to close out the project, or the County may take unilateral action to close out, if it is in our best interests
  2. The PM completes the final Evaluation on the Contractor, using interim evaluation results (if one was done), and performance during the entire contract period. The Contractor evaluates Dallas County Public Works (on a voluntary basis).
  3. The PM assures that as-built plans are provided for the ultimate owner from marked-up construction plans.
  4. PM works with the Public Works Program & Engineering Management Division (PEMD) to assure total project costs are finalized, a final PEFS is completed and Program Management is able to disencumber any remaining funds to be put back into the MCIP fund.
  5. The PM assures city is invoiced for their remaining portion of the total project costs.
  6. The PM formally turns the project over to the City by letter citing the date of return to City for maintenance.
  7. PM plans an ARR to capture lessons learned and celebrate project completion with all involved in project delivery from design to construction completion.
  8. PM conducts one year Maintenance Bond Inspection in conjunction with all applicable stakeholders, assuring all corrections, repairs, etc are completed.
  9. The PM completes closes out the project including conduction an After Action Review to assure lessons learned are shared within the Dept and city.

## *Essential Elements of Utility Partnering*

1. Know the utilities' customers and **remember that we have the same customers.**
2. Make utilities move **only if absolutely necessary to achieve the project purpose.**
3. Move only once if the move is, in fact, **essential.**
4. Get involved with actual field reconnaissance early. Include and engage Project Representatives or Constructibility personnel very early.
5. Get the acquiring agency's Right of Way personnel involved early.
6. Schedule initial Utility Partnering Conference early. Make partnering the theme and the first topic. Do it on the jobsite to increase the effectiveness.
7. Involve and Invite Utility representatives to Neighborhood or Public Meetings.
8. Distribute roadway plans early to get started with the utility planning.
9. Coordinate with all utilities to ensure that one has no negative impact on another. Coordination should ensure that enough right of way is acquired to accommodate all of the facilities.
10. When plans are changed, get them to utility companies promptly. Provide a list of changes for our partners.
11. Communicate with utilities frequently to ensure knowledge of changing personnel and appropriate contact person.
12. Review utility company's plans, comment on plans and implement the coordination long before fieldwork needs to begin.
13. Do not begin implementing a project schedule without total feedback from all companies.
14. Identify the precise sequence of relocations that need to occur. Many companies are predecessors of other companies' relocations. Communicate this sequence to all utilities and other stakeholders. Ensure that the sequence is streamlined as much as possible.
15. One way of ensuring the streamlining of the sequence is web-based notification when each company is complete or is scheduled to be complete. Scheduling is as important as the sequence.
16. Consider that seasonal shutdown restrictions will have significant and adverse schedule impacts, sometimes up to one year. Also consider that certain times of day are restricted from utility relocation. In addition, develop procedures for emergency situations and learn the appropriate "windows of opportunity" for change-overs, etc.
17. Share accurate information with all companies & see that they share information with each other.
18. Communicate the need to follow City Ordinances, particularly those relating to traffic control, backfill and pavement restoration. Traffic control plan must be filed and approved.
19. Insure that the companies have measures for handling complaints about their work and that they do not inconvenience our mutual customers more than is absolutely essential. **Remember, O R R !!**



# GUIDELINES FOR ASSURING SMOOTH RELATIONSHIPS BETWEEN LOCAL GOVERNMENTS AND UPRR

- **Start Early Coordination** – Set up a meeting with UPRR local representative Steve Marchenke to share project selection lists, to ascertain projects with UPRR impacts. Then on impacted projects, share preliminary designs, invite UPRR to early meetings, such as stakeholder preliminary design charrettes, public workshops, etc.
- **Work out precisely the location of railroad project impacts**, before contacting UPRR. This speeds the coordination process greatly. Use MAPSCO location, subdivision, and RR Mile Post where ever possible
- **Use the UPRR.com website for a wealth of information, maps, etc.** This can save time in answering questions and can provide much information about UPRR, including points of contact, e-mail and telephone information, instructions, applications, specifications, DOT crossing information, permit requirements, ROW agreements, etc. **Very, very valuable.** Our in-house or consultant designers need to explore this web-site before launching road design whenever there is going to be a RR crossing. Procedures and responsibilities are clearly laid out, as are design guidelines and specifications. Avoid nasty surprises that can impact project costs if not budgeted.
- **Expect the UPRR owned ROW to contain many other utilities (telecommunications, power, pipelines, etc), that you will have to pay to relocate.** These are private easements the utilities have paid for and the project will have to bear the costs of relocation. UPRR is a good source of information on the potential conflicts that you will encounter. Budgeting accurately for these costs will avoid nasty surprises later.
- **Do not even think about changing Exhibit B of the standard agreement.** UPRR has agreements to work out in 23 states, and their lawyers are very vigilant to watch for precedents that might bind UP elsewhere. Work on win-wins in the body of the agreement.
- **Avoid adversarial actions and relationships, instead try the partnering approach.** UPRR will respond in-kind. They desire to maintain integrity in relations with all their communities. Do not presume upon them (e.g., impossible responses on coordination that you failed to start timely, making demands they cannot meet, presuming the worst).
- **Look for ways to forge win-wins, for UPRR and the local community.** Understand that USDOT has a policy since 1992 to reduce at-grade RR crossings by 25%. This puts tremendous pressure on RR's to accomplish this goal. Does your community have a number of little-used crossings? Explore ways to eliminate them and UPRR can do much to meet the needs of your current project.
- **When appropriate, have our attorneys communicate directly with UPRR attorneys.** The key is to have worked out all the coordination we can before that, using the information, contacts and principles described in these guidelines. Then, the Project Manager should stay involved to assure that going down "legal rabbit trails" is avoided whenever possible. If we follow the spirit of win-win, then both sides will have better results, even if our attorneys are involved, as they have to be.
- **When you're in doubt and have searched all the readily available information, call Steve Marchenke, Ken Rouse, or UPRR Real Estate division in Omaha.** Even though they have large territories to cover, they are never too busy to help you proactively solve a problem and forge a win-win. If you have a "folder number," this will save them much time in looking up the project file information.



**RESOLUTION NO. 2011-04-32**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A TEN-YEAR INTERLOCAL MASTER AGREEMENT WITH THE COUNTY OF DALLAS FOR PARTICIPATION IN THE MAJOR CAPITAL IMPROVEMENT PROGRAM (MCIP) FOR THE PURPOSE OF TRANSPORTATION IMPROVEMENTS ON ROADS WITHIN THE CITY OF LANCASTER THAT ARE INSIDE DALLAS COUNTY AND THAT ARE ON THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENT'S (NCTCOG) REGIONAL THOROUGHFARE PLAN; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the City of Lancaster and County of Dallas desire to enter into an a ten-year Interlocal Agreement for mutually agreed upon maintenance and improvement of City streets by the County; and

**WHEREAS,** Chapter 791 of the Texas Government Code, as amended, provides authorization for local government to enter into interlocal contracts; and

**WHEREAS,** certain conditions exist in the City of Lancaster that warrant the need to improve City streets; and

**WHEREAS,** it is necessary and in the best interest of the City of Lancaster to enter into a ten-year Interlocal Agreement with the County of Dallas.

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

**Section 1.** That the City Manager is hereby authorized to execute the ten-year Interlocal Agreement with the County of Dallas on behalf of the City of Lancaster for maintenance and improvement of City Streets.

**Section 2.** Any prior Resolution of the City Council in conflict with those contained in this Resolution are hereby repealed and revoked.

**Section 3.** Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

**Section 4.** This Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

**PASSED AND APPROVED** by the Lancaster City Council on this the 11<sup>th</sup> day April 2011.

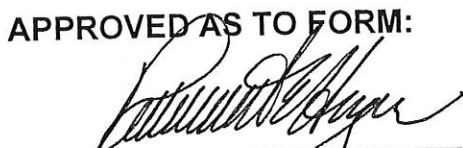
**APPROVED:**

  
Marcus E. Knight, Mayor

**ATTEST:**

  
Dolle K. Downe, City Secretary

**APPROVED AS TO FORM:**

  
Robert E. Hager, City Attorney

## LANCASTER CITY COUNCIL

### City Council Special Meeting

7.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda

**Goal(s):** Professional & Committed City Workforce

**Submitted by:** Dori Lee, Director of Human Resources

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### **Agenda Caption:**

Consider confirmation of Civil Service Commission appointment as designated by the City Manager.

### **Background:**

City of Lancaster Police Officers and Firefighters serve under the State Civil Service provisions. State law requires the City to have a three-member Civil Service Commission. It also requires that the City Manager make the appointments to the Commission with confirmation by City Council.

There are currently no vacancies on the Civil Service Commission. Commission member Lafayette Miles has a term that expires in 2017. He has submitted his application seeking to be re-appointed to the Civil Service Commission. There are no other terms that expire in 2017.

The City Manager respectfully submits the following name for appointment to the Civil Service Commission:

Re-appointment of Lafayette Miles, current term expires 2017

Current members include:

Keith Whitley, term expires 2018  
Audley Logan, term expires 2019

### **Operational Considerations:**

State law requires that the City maintain a Civil Service Commission. With only three members on the Commission, it is important that all three positions be filled in order for the Commission to conduct its required business.

### **Public Information Considerations:**

This item is being considered at a Regular Meeting of the City Council noticed in accordance with the Texas Open Meetings Act.

### **Options/Alternatives:**

1. Confirm the City Manager's recommendation.
2. Deny the City Manager's recommendation and request Manager to solicit additional applications.

**Recommendation:**

The City Manager is asking for favorable consideration from City Council by confirming the appointment.

## LANCASTER CITY COUNCIL

### City Council Special Meeting

8.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda.

**Goal(s):** Civic Engagement

**Submitted by:** Sorangel O. Arenas, City Secretary

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#### **Agenda Caption:**

Discuss and consider annual appointments to City of Lancaster Boards and Commissions.

#### **Background:**

For boards and commissions appointments, recruiting efforts for applications were made through various sources including:

- Lancaster Connection
- Lancaster Live
- Lancaster Today
- Invitation to the participants of the 2017 Civic Leadership Academy and 2017 Citizens Public Safety Academy
- City of Lancaster's website
- Cable Channel 16
- Social media: Facebook, Twitter, Instagram and Next Door
- Marquee signs
- Town Hall Meetings
- Trash-Off
- Recreation Center
- Lancaster Veterans Memorial Library
- LISD's Public Relations and Multimedia Marketing
- Utility Billing and monthly statement

An appointment worksheet is attached to facilitate nominations to fill vacancies. The worksheet outlines all vacancies. Appointments may be made for:

Airport Advisory Board  
Animal Shelter Advisory Committee  
Library Advisory Board  
Parks and Recreation Advisory Board / Lancaster Recreation Dev. Corp.



### **Operational Considerations:**

Vacancies may be filled through any combination of reappointment of existing members or appointment of new applicants and alternates.

### **Animal Shelter Advisory Board**

Please note that there are state requirements for appointment to the Animal Shelter Advisory Board. Under Section 823.005 of the Texas Health and Safety Code, a municipality in which an animal shelter is located is required to appoint an advisory committee to assist in complying with state requirements.

Under the state code, the advisory committee must be composed of at least:

- one (1) licensed veterinarian
- one (1) municipal officer
- one (1) person whose duties include the daily operation of animal shelter
- one (1) representative from an animal welfare organization

In addition, a resolution adopted by Council in October 2009 provides for a councilmember and a resident to be on the advisory committee for a total of five regular members and one alternate. A resident and councilmember are not required by the state code. Currently a councilmember is not seated on the advisory committee. Council may choose to seat a councilmember if desired. The Animal Shelter Advisory Committee consists of the following five members and an alternate:

<b>Member</b>	<b>Role/Capacity</b>	<b>Term Expires</b>
Dr. Jean Eye	veterinarian*	2018
Katherine Hail	involved in operations of shelter*	2018
Vacant	municipal officer*	2017
Stacey Jaglowski	regular position	2017**
Vacant	animal welfare*	2017
Ivory Williams	alternate	2017**
	*state requirement	**desires reappointment

Staff recommends appointing Fabrice Kabona to fulfill the state requirement for municipal officer and Carol DeLaRosa Green to fulfill the state requirement for animal welfare organization.

It is necessary that Council make appointments such that state requirements are met.

### **Other Appointment Notes**

Zoning Board of Adjustment members are appointed by the Mayor and confirmed by City Council; however, there is a companion item for Zoning Board of Adjustment appointments. The Planning & Zoning Commission makes recommendations for appointments to the Historic Landmark Preservation Committee, which are confirmed by City Council. Civil Service Commission appointments are recommended by the City Manager and confirmed by City Council. Appointments to the Youth Advisory Committee are made by the City Manager or her designee.

**Options/Alternatives:**

The Council may choose to:

1. Make appointments from new applications on hand.
2. Reappoint members whose terms are expiring.
3. Appoint an alternate to fill a regular position and then appoint a new alternate.
4. Delay some appointments until a future Council meeting.
5. Leave any regular position or alternate position unfilled at this time.

**Recommendation:**

Boards and Commissions appointments are solely at Council's pleasure

**Attachments**

2017 Appointment Worksheet

Alphabetical list of all applicants (indicates board preferences)

2017 Expiring Terms and Vacancies Recap (indicates those desiring reappointment)

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**Worksheet  
Board & Commission Appointments  
January 8, 2018**

**Desiring Reappt. / Notes**

**Animal Shelter Advisory Committee – 3 regular positions, 1 alternate**

- |                      |                             |
|----------------------|-----------------------------|
| 1. _____             | Vacant* (Municipal Officer) |
| 2. _____             | Stacey Jaglowski            |
| 3. _____             | Vacant* (Animal Welfare)    |
| 4. _____ (alternate) | Ivory Williams              |

\*fills state requirement

**Airport Advisory Board – 3 regular positions; 1 alternate**

- |                      |              |
|----------------------|--------------|
| 1. _____             | Dean Byers   |
| 2. _____             | John Stewart |
| 3. _____             | Tim Fagan    |
| 4. _____ (alternate) | Vacant       |

**Historic Landmark Preservation Committee – 3 regular positions, 1 alternate**

- |                      |                 |
|----------------------|-----------------|
| 1. _____             | Mindy Truly     |
| 2. _____             | Gilles Delaisse |
| 3. _____             | Glenn Hooper    |
| 4. _____ (alternate) | Mary Guinn      |

**Economic Development Corp. – 3 regular positions (3 year terms)**

- |          |                  |
|----------|------------------|
| 1. _____ | Ellen Clark      |
| 2. _____ | Ted Burk         |
| 3. _____ | Octavia Giadolor |

**Library Advisory Board – 3 regular positions, 1 alternate**

**Desiring Reappt. / Notes**

- |                      |                          |
|----------------------|--------------------------|
| 1. _____             | Quinnest Banks           |
| 2. _____             | Vacant                   |
| 3. _____             | Vacant                   |
| 4. _____ (alternate) | Cecelia J. Smith-Whitson |

**Museum Advisory Board –1 alternate**

- |                      |               |
|----------------------|---------------|
| 1. _____ (alternate) | Joann Harrell |
|----------------------|---------------|

**Parks & Recreation Advisory/  
Recreational Development Board – 4 regular positions, 1 alternate**

- |                      |                 |
|----------------------|-----------------|
| 1. _____             | Abe Cooper      |
| 2. _____             | Darwin Isham    |
| 3. _____             | Mary Sykes      |
| 4. _____             | Petra Covington |
| 5. _____ (alternate) | Vacant          |

**Planning and Zoning Commission – 3 regular positions**

**Desiring Reappt. / Notes**

- |          |                 |
|----------|-----------------|
| 1. _____ | Karen Collins   |
| 2. _____ | Jeremy Reed     |
| 3. _____ | Cynthia Johnson |

**Property Standards & Appeals Board – 2 regular positions; 1 alternate**

- |                      |                   |
|----------------------|-------------------|
| 1. _____             | Cassondra Andrews |
| 2. _____             | Donna Lee         |
| 3. _____ (alternate) | Charlene Cade     |

**Zoning Board of Adjustment (Mayor appoints; Council confirms)**

- |                      |                 |
|----------------------|-----------------|
| 1. _____             | Deborah Taylor  |
| 2. _____             | Sherri Williams |
| 3. _____             | Margaret Brooks |
| 4. _____ (alternate) | Lawrence Smith  |

*Notes:*

1. Historic Landmark Preservation Committee – P & Z appoints; Council confirms
2. Civil service Commission- City Manager appoint; Council confirms
3. Youth Advisory Committee appointments by City Manager or her designee



# Boards and Commissions Applicants

2017



Applicants	Airport	PSAB	HLPC	Library	ZBA	LEDC	P&Z	Parks/4B	Animal SAB	Museum	Comments
Adams, Cheryl		1				2	3				
Allen, Frances						2	3	1			Willing to serve on any board
Anthony, Jr., Ronald G						1	3	2			
Ayers, Dan						1	2				Civil Service Commission - 3
Cocanower, Allen								2			Civil Service Commission - 1
Day, Lolecia						1	2				
De La Rosa Green, Carol									1		Animal Welfare - State Requirement
Gibbons, Kyshia				3		1		2			
Hill, Charlene						3		1		2	
Hudson, Robert						2	1			3	
Kabona, Fabrice									1		Municipal Officer - State Requirement
Marish, Becky						1					
Mathews, Antionette								1			Youth Advisory Committee - 2
McMorris, Kerris	3						2	1			
Mixon, Sean						1					
Mixon, Zaychiana		3				1	2				
Monroe, Meriem						1					
Odie, James								1			Youth Advisory Committee - 2
Osegueda, Judith "Jo"								3			Civil Service Commission - 1 Youth Advisory Committee - 2
Richardson, Elizabeth				2		1				3	
Samples, Kurtis K	1										
Stiggers-LaGrange, Alleta						3	1				Youth Advisory Committee - 2 Civil Service Commission - 4
Teklegeorge, Kamila						2		1			Willing to serve on any board
Thomas, Barbara J.	3					2	1				
Turner, Antoinette				1							Application received after interviews.
Weaver, Gretchen			1	2			3				
Woods, Tedrick					3	1	2				Application received after interviews.
Wright, Cheryl			1								
Yancy, Darryl				1							Youth Advisory Committee - 3 Civil Service - 3 (Application received after interviews)
Yeargin, Pamela						1					





**BOARDS COMMISSIONS  
EXPIRING TERMS AND VACANCIES  
RECAP - 2017**

Boards/Commissions	Term Expires	Member Name	Desires Reappointment		Notes
			YES	NO	
Airport Advisory Board	2017	Dean Byers	✓		
	2017	John Stewart	✓		
	2017	Tim Fagan	✓		
ALTERNATE	2017	Vacant			
Animal Shelter Advisory Committee	2017	Vacant			Municipal Officer - State Requirement
	2017	Stacey Jaglowski	✓		
	2017	Rosanna Ross		✓	Animal Welfare - State Requirement
ALTERNATE	2017	Ivory Williams	✓		
Historic Landmark Preservation Committee	2017	Mindy Truly	✓		
(P & Z appoints, Council confirms)	2017	Gilles Delaisse	✓		
	2017	Glenn Hooper	✓		
ALTERNATE	2017	Mary Guinn	✓		
Lancaster Economic Development Corp.	2017	Ellen Clark	✓		
	2017	Ted Burk	✓		
	2017	Octavia Giadolor	✓		
Library Advisory Board	2017	Quinnest Banks	✓		
	2017	Vacant			
	2017	Candace Gardner		✓	
ALTERNATE	2017	Cecelia J. Smith Whitson	✓		
Museum Advisory Board					
ALTERNATE	2017	Joann Harrell	✓		



**BOARDS COMMISSIONS  
EXPIRING TERMS AND VACANCIES  
RECAP - 2017**

Boards/Commissions	Term Expires	Member Name	Desires Reappointment		Notes
			YES	NO	
Lancaster Recreational Development Corp.	2017	Abe Cooper	✓		
and Parks & Recreation Advisory Board	2017	Darwin Isham	✓		
	2017	Mary Sykes	✓		
ALTERNATE	2017	Aderiance Ragland		✓	
Planning and Zoning Commission	2017	Karen Collins	✓		
	2017	Jeremy Reed	✓		
	2017	Cynthia Johnson	✓		
Property Standards and Appeals Board	2017	Cossondra Andrews	✓		
	2017	Donna Lee	✓		
Alternate	2017	Charlene Cade	✓		
Zoning Board of Adjustment	2017	Deborah Taylor	✓		
(Mayor appoints, Council confirms)	2017	Sherri Williams	✓		
	2017	Margaret Brooks	✓		
Alternate	2017	Lawrence Smith	✓		
Civil Service Commission	2017	Lafayette Miles	✓		
(City Manager appoints, City Council Confirms)					

## LANCASTER CITY COUNCIL

### City Council Special Meeting

9.

**Meeting Date:** 01/29/2018

**Policy Statement:** This request supports the City Council 2017-2018 Policy Agenda

**Goal(s):** Civic Engagement

**Submitted by:** Sorangel O. Arenas, City Secretary

---

#### **Agenda Caption:**

Consider confirmation of nominations made by the Mayor for appointments to the City of Lancaster Zoning Board of Adjustment.

#### **Background:**

As set by ordinance, the Zoning Board of Adjustment members are appointed by the Mayor and confirmed by the City Council

The Zoning Board of Adjustment consists of five regular members and an alternate. Currently, serving on the Zoning Board of Adjustment are:

	<u>Term Expires</u>
Deborah Taylor	2017
Sherri Williams	2017
Margaret Brooks	2017
Syrinithia Mann	2018
John G. Thomas	2018
Alternate member:	
Lawrence Smith	2017

#### **Operational Considerations:**

Mayor Knight will make nominations for appointments following other City board and commission appointments.

A motion, with a second, and an affirmative vote is required to confirm the appointments.

#### **Recommendation:**

Boards and Commissions appointments are solely at Council's pleasure.