Members of the City Council and public may participate in the Regular Meeting by telephone conference or videoconference call. Sign-in via telephone or online will be from 6:00 p.m. to 7:00 p.m. on June 25, 2020. Citizens that would like to provide a presentation to Council must submit their presentation(s) to Information Technology no later than 2:00 p.m. on the Tuesday prior to the work session or council meeting at councilpubpres@cityofirving.org. All participants by telephone conference or videoconference will be able to speak when called upon, however video images of the citizen participants will not be available. The phone numbers to sign-in and participate are 1-888-475-4499 (Toll Free) or 1-877-853-5257 (Toll Free) or online at https://zoom.us/j/92448095175 Meeting ID: 924 4809 5175

Organizational Service Announcements

Invocation

Pastor Jonathan Tony, Hackberry Creek Church

Pledge of Allegiance

Proclamations and Special Recognitions

Citizens’ Forum

Citizens are invited to speak for three (3) minutes on matters relating to City government and on items not listed on the regular agenda.

Public Hearing: Items 1 through 46

CITY COUNCIL AGENDA

1 City Operations Update

This meeting can be adjourned and reconvened, if necessary, the following regular business day.

Any item on this posted agenda could be discussed in executive session as long as it is within one of the permitted categories under sections 551.071 through 551.076 and section 551.087 of the Texas Government Code.

A member of the public may address the City Council regarding an item on the agenda either before or during the Council’s consideration of the item, upon being recognized by the presiding officer or the consent of the Council.

This facility is physically accessible and parking spaces for the disabled are available. Accommodations for people with disabilities are available upon request. Requests for accommodations must be made 48 hours prior to the meeting. Contact the City Secretary’s Office at 972-721-2493 or Relay Texas at 7-1-1 or 1-800-735-2988.
2 Public Hearing - Public Hearing #2 on the 2020-21 City of Irving Fiscal Year Budget

Administrative Comments
1. This item is recommended by the Financial Services Department.
2. In accordance with the Fiscal Year 2020-21 Budget Calendar, public hearings have been scheduled for June 4, 2020 and June 25, 2020 City Council meetings.
3. Notice of the public hearings have been published in the City Spectrum and on the City’s website.
4. Public comments can also be submitted through the city website.

Recommendation
Input be taken under advisement.

CONSENT AGENDA

3 Approving Work Session Minutes for Thursday, June 04, 2020

4 Approving Regular Meeting Minutes for Thursday, June 04, 2020

5 Resolution - Take Appropriate Action Concerning Declaration of Local Disaster for Public Health Emergency to Address COVID-19

Administrative Comments
1. This item is recommended by the City Manager’s Office and the Office of Emergency Management.
2. Impact: The proposed resolution would ratify the local state of disaster declared by the Mayor on March 12, 2020, and extend it to July 16, 2020, which is the date of the next City Council meeting.
3. On March 12, 2020, Mayor Richard H. Stopfer issued a proclamation declaring a local state of disaster resulting from a public health emergency caused by the 2019 Coronavirus Disease (COVID-19). This order was effective through 11:00 a.m. on March 20, 2020.

**Recommendation**

The resolution be approved.

---

6. **Resolution - Approve Allocating Use of Debt Service Sub-Fund Revenues and Fund Balance as an Internal Fund Loan to Provide Payment Relief to a Portion of the Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017 (Convention Center Bonds), and the Terms of Repayment of the Internal Fund Loan**

**Administrative Comments**

1. This item is recommended by Financial Services. It supports Strategic Objective 1.1 – Contain costs and increase operational efficiency.

2. **Impact:** This resolution documents the Council’s direction to use Debt Service Sub-Fund Revenues and Fund Balance to cover the debt service associated with the Convention Center Bonds and provides a method for repayment from the two-sevenths Hotel Occupancy tax when that revenue exceeds debt service needs.

3. The City Council adopted an ordinance on December 9, 1999, which levied a tax upon the cost of occupancy of any room furnished by any hotel equal to 7% of the consideration paid by the occupant of the room.

4. The ordinance also provided that the revenue derived from two-sevenths of the hotel occupancy tax be used for the purpose of planning, constructing and equipping a convention center project.

5. The City Council adopted an ordinance on January 8, 2009 authorizing the issuance and sale of Combination Tax and Hotel Occupancy Tax Revenue Certificates of Obligation, Series 2009 in an amount not to exceed $130,000,000 for the purpose of constructing and equipping the Convention Center and the City Council adopted an ordinance on August 10, 2017 authorizing the issuance and sale of Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds to refunding the Series 2009 bonds.

6. During certain periods of the HOT revenue cycle, the two-sevenths of the HOT revenue may not be adequate to cover debt service due on the Convention Center Bonds.

7. This resolution intends to create a mechanism for an internal fund loan from the General Debt Service Sub-Fund to the Hotel Occupancy Tax Sub-Fund in any year as is necessary to pay the Convention Center Bonds and the repayment of the internal fund loan when the two-sevenths of the HOT revenue is in excess of the
amount required to cover the debt service due in any year on the Convention Center Bonds.

8. Resolution 2010-330 created an interfund loan related to the Combination Tax and Hotel Occupancy Tax Revenue Certificates of Obligation, Series 2009. As of September 30, 2019, the balance on that interfund loan was $5,810,015. The amount of the internal fund loan created by this Resolution will be in addition to the $5,810,015 already approved through resolution 2010-330.

**Recommendation**
The resolution be approved.

---

7 Resolution - Authorizing Publication of Notice of Intention to Issue Combination Tax and Revenue Certificates of Obligation; Authorizing the Preparation of a Preliminary Official Statement and Notice of Sale; and Providing for Other Matters Incidental Thereto

**Administrative Comments**

1. This item is recommended by the Financial Services Department.

2. **Impact:** The impact of the 2020 Certificates will allow the City to provide cost efficient funding for improvements to support the Drainage Solutions for Tomorrow program.

3. The resolution provides notice that the City, on or about August 20, 2020 intends to issue up to $15,000,000 principal amount of Combination Tax and Revenue Certificates of Obligation, Series 2020.

4. The attached notice reads that the estimated interest rate on the certificates is 4%.

5. The rate on the certificates will be fixed. Variable rates are not a part of this financing structure.

6. The certificates will be used to provide funding for public infrastructure projects to improve drainage capacity.

7. The City is required to place two consecutive notices in the newspaper. The notice will be published once a week for two consecutive weeks. The date of the first publication being not less than the 45th day prior to the date of passage of the ordinance authorizing the certificates.

**Recommendation**
The resolution be approved.
8 Resolution - Authorizing Additional Expenditures in the Total Estimated Amount of $843,000 to Fund the Automatic Renewal of the Clinical Services Agreement with CareATC, Inc., to Continue Providing an Employee Health Clinic and Medical Services for a One-Year Term

Administrative Comments

1. This item is recommended by the Human Resources Department. It supports Strategic Goal No. 1.1 Contain cost and increase operational efficiency and Strategic Goal No. 6.2 Recruit, retain, and develop a diverse municipal workforce.

2. **Impact:** This renewal will continue to provide an employee health clinic for employees, spouses, dependents and pre-65 retirees that are on the city’s health plan. The clinic is staffed with a full-time physician, clinic staff, and nurse practitioners. Services offered by the clinic include, but are not limited to primary care, prescriptions, laboratory tests, and health assessments.

3. Employees on our PPO plans will continue to have access to the clinic at no cost, while employees on our High Deductible plan will continue to be charged a Fair Market Value rate of $40, which is mandated by the IRS.

4. Funding for Fiscal Year 2020-2021 in the amount of $843,000.00 is being requested to allocate into the Health Self-Insurance Fund for the continued operations of the clinic. Funding for the remainder of the current fiscal year was secured from council resolution (RES-2018-237).

**Recommendation**

The resolution be approved.

9 Resolution - Approving an Interlocal Agreement for School Resource Officers Between the City of Irving and the Carrollton-Farmers Branch Independent School District (CFB ISD) to Maintain the School Resource Officer Program at CFB ISD Campuses Located in the City of Irving

Administrative Comments

1. This item is recommended by the Police Department. It supports Strategic Objective No. 4.1: Safeguard public safety, security and health.

2. **Impact:** This agreement will provide security and peace officer services to protect Carrollton - Farmers Branch ISD (CFB ISD) property and the safety and welfare of CFB ISD students and personnel.

3. This is an annual agreement which takes effect August 1, 2020, and expires July 31, 2021, subject to additional renewal by the parties.

4. The Carrollton – Farmers Branch Independent School District shall pay the City
50% of the costs for two School Resource Officers’ salaries, retirement, health insurance, workers compensation insurance, and unemployment insurance. The City’s portion is estimated at $120,303.00, not including overtime. The funds are available in the Police Department budget.

5. Payments will be in three equal payments as compensation due on December 1, April 1, and August 1, in each year which this agreement is effective.

**Recommendation**

The resolution be approved.

---

**Resolution - Approving a Memorandum of Agreement Between the City of Irving and the City of North Richland Hills for the Purpose of Reimbursement of Overtime Salary Costs Directly Related to Work Performed by Officer(S) in Providing Resources to Assist the North Texas Anti-Gang Center Task Force.**

**Administrative Comments**

1. This item is recommended by the Police Department. It supports Strategic Goal No. 4.1: Safeguard public safety, security and health.

2. **Impact:** This Memorandum of Agreement (MOA) is entered between the City of Irving Police Department and the City of North Richland Hills to participate in the North Texas Anti-Gang Center Task Force.

3. Participation in this MOA allows the Irving Police Department to provide resources to assist the North Texas Anti-Gang Center Task Force (TAG). TAG offers a centralized point of coordination for law enforcement agencies to focus on the activities of organized gangs, and engage in investigative and preventative efforts in the region and community of Irving.

4. This item requires no funding.

**Recommendation**

The resolution be approved.
11 Resolution - Approving an Agreement Between the City of Irving and University of Texas at Dallas for the EMS School Students to Complete Their Supervised Field Instruction with the Irving Fire Department

Administrative Comments

1. This item is recommended by the Fire Department.
2. **Impact:** This agreement allows the University of Texas at Dallas EMS, EMT, and Paramedic Students to complete their supervised field instruction experiences with the Fire Department’s EMS personnel.
3. This Agreement shall become effective on July 1, 2020, for a term of one (1) year, and shall automatically renew for five additional one (1) year terms unless terminated by either party.

Recommendation

The resolution be approved.

---

12 Resolution - Renewing the Contract with Greener Pastures Landscaping, LLC, in the Total Estimated Amount of $495,203.80 for Mowing & Litter Control on TxDOT Rights of Way

Administrative Comments

1. This item is recommended by the Parks & Recreation Department.
2. **Impact:** Landscape maintenance services help to enhance the visual impression of the city by providing mowing and litter control on TxDOT Rights of Way I-635, Loop 12 and Hwy 114.
3. This renewal establishes the continuation of a contract to provide mowing and litter control on city rights of way and public properties. This is the first of two, two-year renewal options. The current contract expires on June 30, 2020.
4. Funding for Fiscal Year 2019-20 is available in the Parks & Recreation Department budget within the General Fund, while funding for Fiscal Years 2020-21 and 2021-22 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Estimated Expenditure</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greener Pastures Landscaping, LLC</td>
<td>7/1/20 – 6/30/22</td>
<td>$ 71,106.10</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$ 247,601.90</td>
<td>2020-21</td>
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<tr>
<td></td>
<td></td>
<td>$ 176,495.80</td>
<td>2021-22</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$ 495,203.80</strong></td>
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</tbody>
</table>

Recommendation
The resolution be approved.

13 **Resolution - Approving Amendment #1 to the Municipal Maintenance Agreement Between the City of Irving and the Texas Department of Transportation (TxDOT) for Partial Reimbursement for Mowing and Litter Control Along the Loop 12 and Interstate Highway 635 Corridor Areas**

**Administrative Comments**

1. This item is recommended by the Parks and Recreation Department.

2. **Impact**: The proposed Amendment #1 to agreement will improve the appearance of the Loop 12 and Interstate Highway 635 rights of way areas.

3. The Texas Department of Transportation (TxDOT) proposes to reimburse the City for mowing and litter control services along Loop 12 and Interstate Highway 635, performed by the City’s mowing maintenance contractor.

4. The City has an existing Municipal Maintenance Agreement in effect with the Texas Department of Transportation, which permits such maintenance on state rights of way within the City of Irving.

5. The agreement will provide partial funding by TxDOT for three annual mowing cycles and up to 12 litter control cycles.

6. Funding in the amount of $21,627.00 for the period of July 1, 2020, through June 30, 2023, is available in the Maintenance Agreement Fund budget within the General Fund, the balance of the contracted amount will be funded in the Maintenance Agreement Fund budget within the General Fund, subject to budget approval Fiscal Year 2020-21, Fiscal Year 2021-22, and Fiscal Year 2022-23, as shown in the chart below.

<table>
<thead>
<tr>
<th>Reimbursing Entity</th>
<th>Contract Term</th>
<th>Estimated Reimbursement</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Department of Transportation</td>
<td>7/1/20 - 6/30/23</td>
<td>$21,627.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$75,627.00</td>
<td>2020-21</td>
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<td>$78,893.00</td>
<td>2021-22</td>
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<td>$57,265.00</td>
<td>2022-23</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$233,412.00</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.
14 Resolution - Awarding a Contract to McMahon Contracting LP, in the Amount of $375,407.30 for the Kinwest Debris Interceptors Project

Administrative Comments

1. This item is recommended by the Capital Improvement Program Department. It supports Strategic Objective: 2.4 - Maintain and extend water, wastewater and storm water systems.

2. Impact: This project will address trash and litter washing under and across SH 635 and into Hackberry Creek. The project will improve water quality in Irving’s drainage system.

3. This project will place eleven trash baskets on a concrete drainage apron before the channel drains under Kinwest Parkway.

4. Bids were received from four (4) bidders. McMahon Contracting LP submitted the lowest responsive responsible bid of $375,407.30. This is (8.98%) above the project estimate.

5. Minority and/or Women-owned Business (M/WBE) participation in this award is 30%.

6. Funding in the amount of $375,407.30 is available within the Municipal Drainage Utility Non-Bond CIP Fund.

Recommendation

The resolution be approved.

15 Resolution - Awarding a Contract to SYB Construction Company, Inc. in the Amount of $1,433,949.00 for the Parkside Avenue Water & Wastewater Improvements Project

Administrative Comments

1. This item is recommended by the Capital Improvement Program Department. It supports Strategic Objective 2.4 – Maintain and extend water, wastewater and storm water systems.

2. Impact: This work is part of the priority replacements for the Water Utilities Department and will replace a portion of the transmission water main and wastewater mains along Parkside Avenue from Brown Drive to Irby Lane.

3. This project impacts approximately 16 residential properties and 21 commercial properties and will improve water and wastewater systems.
4. Bids were received from two (2) bidders and an additional two (2) bidders were declared non-responsive for not properly submitting their project experience records as clearly stated in the solicitation. SYB Construction Company, Inc. submitted the lowest responsive responsible bid of $1,433,949.00. This is $491,427.00 (25.52%) below the funding allocated for this project.

5. Minority and/or Women-owned Business (M/WBE) participation in this award is 100%.

6. Funding in the amount of $1,433,949.00 is available within the Water and Sewer System Non-Bond CIP Fund.

**Recommendation**

The resolution be approved.

---

16 Resolution - Approving the Acquisition of a Public Right of Way Easement Located at 1316 E. Irving Blvd in the Amount of $19,177.36

**Administrative Comments**

1. This item is recommended by the Capital Improvement Program Department and Traffic and Transportation Department. It supports Strategic Objective 2.4 - Maintain and extend water, wastewater and storm water systems.

2. **Impact: This project is part of the Road to the Future Program.** The requested acquisition will allow paving, drainage, water and wastewater installation along Glenmore Street, Shepherd Street, and Irving Blvd (SH 356). The work to be performed under this contract is to rebuild both of the existing barrow ditch roads being approximately 1,675 square feet, near 1316 E. Irving Blvd, owned by JWH Real Estate Investments LLC. The negotiated amount for this acquisition is the appraised value of $19,177.36.

3. Funding in the amount of $19,177.36 is available within the General Fund Non-Bond CIP.

**Recommendation**

The resolution be approved.
17 Resolution - Approving the Acquisition of a Public Right of Way Easement and Real Property in Fee Simple for the Cedar Drive Roadway Expansion Project in the Amount of $8,850.00, and Acknowledging Receipt of the Trust Agreement Identifying the True Owner of the Property to be Purchased by the City of Irving in Accordance with Section 2252.092, Texas Government Code - Located at 512 Cedar Drive - Williamjon Bleeker Patton - Trustee, Property Owner

**Administrative Comments**

1. This item is recommended by the Capital Improvement Program Department and Traffic and Transportation Department. It supports Strategic Objective 2.4 - Maintain and extend water, wastewater and storm water systems.

2. **Impact:** This project is part of the Road to the Future Program. The requested acquisition will support construction for paving and utility improvement projects along Cedar Drive. This easement will allow for relocation of power poles at 512 Cedar Drive, owned in Trust by Williamjon Bleeker Patton as Trustee. The negotiated amount for this acquisition is the appraised value of $8,850.00.

3. This acquisition includes a right-of-way and 625 square feet of land and fee.

4. Funding in the amount of $8,850.00 is available within the General Fund Non-Bond CIP.

**Recommendation**

The resolution be approved.

18 Resolution - Approving Addendum No. 2 to the Engineering Design Services Agreement with Civil Associates, Inc. for Design of the Conflans Road Extension Project in an Amount Not to Exceed $222,874.22

**Administrative Comments**

1. This item is recommended by the Traffic and Transportation Department.

2. **Impact:** The purpose of this addendum is to adjust the budget for the Conflans Project thereby allowing additional U.S. Army Corp. of Engineers 404 permitting under the Nationwide Permit, additional surveying, Quality Level “A” Subsurface Utility Engineering, and additional engineering work for bridge design, roadway design (retaining walls), and drainage design from schematics modified from the original scope of work.

3. This project was approved for Surface Transportation Block Grant (STBG) Funding. The federal government, through the Texas Department of Transportation (TxDOT), will provide 80% of the funding, with the City of Irving being responsible for the remaining 20% of the total cost.

4. This Resolution does not include construction phase services and right-of-way and
4. The Parking Facility is operated by the Irving Convention and Visitors Bureau (ICVB).

5. The proposed Amended and Restated Parking Agreement includes the following amendments that address issues raised by the Hotel operator and the City. It also better reflects the day-to-day operations of the Parking Facility using the capabilities of an access system.
   
a. The definition of Hotel Guests has been changed to Hotel Invitees and includes all guests of the hotel, including daytime guests of the hotel facilities and hotel employees.

b. The 300 spaces reserved for Hotel Invitees will be monitored by the Access System and may be anywhere within the parking structure. Parking fees paid by Hotel Invitees will be retained by the Hotel.
c. In the event Hotel Invitees occupy spaces in excess of the 300 reserved for the Hotel, Provident will pay the City the then current hourly rate charged by the City for each parking spot in use for each hour that the parking spot is used.

d. The Hotel may from time to time due to demand from an event in the general area, authorize the general public to occupy a portion of the 300 parking spaces reserved for the Hotel. When this occurs, the Hotel will retain 90% of the Hourly Payment parking fee for any of the 300 reserved spaces occupied by the general public.

e. The period during which Provident is required to make monthly payments to the City for use of the parking garage is agreed to have commenced on August 1, 2019. Revenue from these payments is deposited in the ICVB account, and is used by the ICVB to pay for the Parking Facility maintenance and operations.

f. The Damages to Automobiles provision has been amended in a manner agreeable to both parties, to reflect that Hotel invitees are not signing releases when entering the parking facility.

Recommendation
The resolution be approved.

Bids & Purchasing Items
Items 20-31

Resolution - Approving a Professional Services Agreement between the City of Irving and Weaver and Tidwell, L.L.P., in the Estimated Annual Amount of $199,500.00 for Professional Auditing Services Relating to Fiscal Years 2019-20, 2020-21, and 2021-22 and in the Estimated Annual Amount of $45,000.00 for As-Needed Compliance Audit Project Assistance

Administrative Comments
1. This item is recommended by the Financial Services Department.

2. Impact: Providing audited financial statements is required by City Charter and is necessary to meet bond covenants and provide financial information to the public. The additional as-needed services included as part of this contract will allow agreed-upon procedures for services related to the Entertainment Center and internal contract compliance projects.

3. Weaver & Tidwell, LLP ("Weaver") is a Texas-based firm which has been serving Texas clients for over 65 years. The team assigned to the City of Irving has extensive specific governmental audit experience and has performed well.

4. This item establishes a contract for the continuation of providing professional
auditing services. The city’s previous agreement with Weaver, which expires on June 30, 2020, was awarded to the firm scoring the highest points through a request for proposal process. Due to the city’s implementation of the financial portion of the Tyler Munis enterprise resource planning platform on October 1, 2019 and the planned implementation of the human resources/payroll portion in January 2021, it is to the city’s advantage to remain with the same audit firm for the next three years. Weaver has agreed to hold pricing as established for the Fiscal Year 2019 audit for the three year term, as well as for two, one-year renewal options should the city decide to exercise them.

5. In addition, this agreement includes additional professional services for:

- Testing compliance with contracts and assisting with other compliance audit projects for which a specific scope of work will be developed as needed in the estimated annual amount of $20,000.00

- Testing compliance of contracts related to the Entertainment Center, upon receiving specific direction from the city with regard to the particular compliance to be tested in the estimated annual amount of $25,000.00

6. Funding for Fiscal Year 2019-20 is available in the Non-Departmental Budget within the General Fund, while funding for Fiscal Years 2020-21 through 2022-23 is subject to budget appropriation.

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<tr>
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</thead>
<tbody>
<tr>
<td>Weaver &amp; Tidwell, L.L.P.</td>
<td>Professional Auditing Services</td>
<td>7/1/20 – 6/30/23</td>
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<td>$199,500.00</td>
<td>$199,500.00</td>
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<td>Compliance Audit Services</td>
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<td>$25,000.00</td>
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<td>$244,500.00</td>
<td>$219,500.00</td>
<td>$733,500.00</td>
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</tbody>
</table>

**Recommendation**

The resolution be approved.
Resolution - Approving a Contract with Metro Fire Apparatus Specialist, Inc., in an Annual Amount Not to Exceed $50,000 for the Purchase of Fire Hose

Administrative Comments

1. This item is recommended by the Fire Department.
2. **Impact**: By purchasing this fire hose, the Fire Department will be able to replace aging hose while maintaining an essential component of firefighting.
3. This award establishes an annual contract for the purchase of fire hose. This award is for two years with two one-year renewal options.
4. Funding for Fiscal Year 2019-20 is available in the Fire Department budget within the General Fund and in the Infrastructure Fund, while funding for Fiscal Years 2020-21 and 2021-22 is subject to budget appropriation.
5. Because this annual contract runs from June 2020 through June 2022, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year's additional purchases and the total contract award amount is not exceeded.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Est. Amt.</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metro Fire Apparatus Specialist</td>
<td>6/26/20 – 6/25/22</td>
<td>$50,000.00</td>
<td>2019-20</td>
</tr>
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<td>$50,000.00</td>
<td>2020-21</td>
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<tr>
<td></td>
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<td></td>
<td>2021-22</td>
</tr>
<tr>
<td><strong>TOTAL AMOUNT NOT EXCEED</strong></td>
<td></td>
<td>$100,000.00</td>
<td></td>
</tr>
</tbody>
</table>

Recommendation

The resolution be approved.

Resolution - Approving and Accepting the Bid of Texas Fiberglass Pools, Inc., in the Total Estimated Amount of $136,300.00 for North Lake Natatorium Pool Fiberglass Surface Replacement for City of Irving

Administrative Comments

1. This item is recommended by the Parks & Recreation Department.
2. **Impact**: North Lake Natatorium pool interior shell surface replacement, refurbishment of bulkhead surface, replacement of lane line and turn target tiles, and initial period chemical balancing, maintenance, and start up will ensure that
Parks & Recreation aquatic facilities are maintained to the highest safety, functional, and aesthetic standards for our customers.

3. Proposals were received from two bidders. Texas Fiberglass Pools, Inc., scored the highest points based on established best value bid criteria and is recommended for award of the base bid in the amount of $131,800.00. Alternate 2.5 is also recommended for award in the amount of $4,500.00 in order to provide all chemicals and maintenance required to rebalance the pool chemicals after the pool is refilled. No other alternate items are being awarded.

4. Funding in the total estimated amount of $136,300.00 is available in the Park Improvement Bond Fund and in the Parks & Recreation Department budget within the General Fund.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Project Description</th>
<th>Total Est. Amt.</th>
<th>Fund(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Fiberglass Pools, Inc.</td>
<td>North Lake Natatorium Pool Fiberglass Surface Replacement</td>
<td>$132,388.00</td>
<td>Park Improvement Bond</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$ 3,912.00</td>
<td>General</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$136,300.00</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.

23 **Resolution - Approving a Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and McMillan James Equipment Company, LLC in the Total Estimated Amount of $290,000.00 for Service and Repairs of Pumping Systems and Equipment through The Interlocal Purchasing System (TIPS) Program Administered by the Region VIII Education Service Center**

**Administrative Comments**

1. This item is recommended by the Parks & Recreation and Capital Improvement Program departments.

2. **Impact:** Establishment of a Vendor/Member Contract between the City of Irving and McMillan James Equipment Company, LLC, for utilization of TIPS Contract No. 200201 for service and repair of pumping systems and equipment which expires on April 30, 2022, will allow the city to procure these goods and services under the best possible terms and conditions for the city.

3. Approval of this contract supports service and repairs of various park facility
pumping systems and the Dectron units located at Heritage Senior Center. Utilization of this contract will enable both departments to respond in a timely and efficient manner when repairs or service is required.

4. Funding for Fiscal Year 2019-20 is available in the Parks & Recreation and Capital Improvement Program department budgets within the General Fund, while funding for Fiscal Years 2020-21 and 2021-22 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Estimated Amount</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>McMillan James Equipment Company, LLC</td>
<td>6/26/20 – 4/30/22</td>
<td>$45,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$160,000.00</td>
<td>2020-21</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$85,000.00</td>
<td>2021-22</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$290,000.00</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.

24 Resolution - Approving and Accepting the Proposal of Hoffman Southwest Corporation dba Professional Pipe Services (Pro-Pipe) in an Amount Not to Exceed $750,000.00 for Annual Storm & Wastewater Systems Cleaning, Inspection & Reporting

**Administrative Comments**

1. This item is recommended by the Capital Improvement Program (CIP) Department.

2. **Impact: This contract supports the Road to the Future initiative.** Cleaning, inspecting and reporting of existing storm and wastewater mains provides condition assessments which will help the CIP and Water Utilities departments determine if existing storm and/or wastewater systems are: in good working order; can be rehabilitated; or should be replaced. Utilization of these services will help to determine if newly installed mains are installed without exception or have deficiencies such as joint separation or pipeline sags, as well as helping to ensure longevity of the City’s storm sewer and wastewater infrastructure.

3. A Request for Proposals was issued on April 17, 2020 and closed on May 8, 2020 seeking proposals from qualified companies to perform this work. Five firms submitted proposals which were received by the stated due date. The proposal from Pro-Pipe received the highest scores based on staff’s evaluation of the criteria as published in the Request for Proposals.
4. Minority- and/or Women-owned Business (M/WBE) participation in this award is anticipated to be 4%.

5. Funding for Fiscal Year 2019-20 is available in various project budgets within various funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

6. Because this contract runs from July 2020 through June 2021, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year's additional purchases and the total contract award amount is not exceeded.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Estimated Expenditure</th>
<th>Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hoffman Southwest Corporation dba Professional Pipe Services (Pro-Pipe)</td>
<td>7/1/20 – 6/30/21</td>
<td>$180,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$570,000.00</td>
<td>2020-21</td>
</tr>
</tbody>
</table>

**TOTAL AMOUNT NOT TO EXCEED** $750,000.00

**Recommendation**

The resolution be approved.

25 Resolution - Approving a Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and Mart, Inc., and Authorizing Expenditures in the Total Estimated Amount of $385,000.00 for Minor Construction, Repair, and Renovation Services through The Interlocal Purchasing System (TIPS) Program Administered by the Region VIII Education Service Center

**Administrative Comments**

1. This item is recommended by the Capital Improvement Program and Parks & Recreation departments, and the Financial Services Department – Purchasing Division.

2. **Impact**: Establishment of a Vendor/Member Contract between the City of Irving and Mart, Inc., for utilization of TIPS Contract No. 200201 which expires on April 30, 2022, will allow the city to obtain trades, labor and materials services for the purpose of construction, renovation and facility repairs under the best possible terms and conditions for the city.

3. Approval of this contract supports as-needed small construction projects, minor remodeling, and emergency response situations. This allows these projects to be
handled in a timely and cost effective manner during heavy work load periods for Building Services, keeping service levels high. In addition, this contract will ensure that Parks & Recreation facilities are repaired in a timely, efficient, and cost effective manner for our residents.

5. Funding for Fiscal Year 2019-20 is available in various departmental budgets within various funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Spending Term</th>
<th>Estimated Amount</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mart, Inc.</td>
<td>6/26/20-4/30/21</td>
<td>$ 96,250.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$288,750.00</td>
<td>2020-21</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$385,000.00</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.

**Resolution - Approving a Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement Between the City of Irving and Air Conditioning Innovative Solutions, Inc. (ACIS), and Authorizing Expenditures in the Total Estimated Amount of $400,000.00 for As-Needed HVAC Equipment Purchases, Installation, Repair, and Parts through the Interlocal Purchasing System (TIPS) Program Administered by the Region VIII Education Service Center**

**Administrative Comments**

1. This item is recommended by the Capital Improvements Program Department – Facilities Maintenance Division and the Financial Services Department – Purchasing Division.

2. **Impact**: Establishment of a Vendor/Member Contract between the City of Irving and ACIS for utilization of TIPS Contract No. 200201 for Trades, Labor & Materials (JOC) which expires on April 30, 2022 will allow the city to procure these goods and services under the best possible terms and conditions for the city.

3. Approval of this contract supports as-needed purchases of HVAC equipment, installation, and repairs which will allow the Facilities Division to respond to the HVAC needs of the more than 60 city facilities that may require the services of this agreement in a timely and efficient manner.

4. Funding for Fiscal Year 2019-20 is available in various departmental budgets within various funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.
<table>
<thead>
<tr>
<th>Vendor</th>
<th>Spending Term</th>
<th>Total Estimated Amount</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACIS</td>
<td>6/26/20 – 4/30/21</td>
<td>$133,333.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$266,667.00</td>
<td>2020-21</td>
</tr>
<tr>
<td>TOTAL ESTIMATED AMOUNT</td>
<td></td>
<td>$400,000.00</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.

27  Resolution - Approving and Accepting the Bid from Wildcat Electric Supply, Inc., in an Amount Not to Exceed $350,000.00 to Provide Valmont Traffic Signal Poles, Roadway Lighting Steel Pole with Dual and Single Arm Assemblies

**Administrative Comments**

1. This item is recommended by the Traffic & Transportation Department.

2. **Impact:** These purchases will provide matching interchangeability with existing infrastructure equipment and foundations necessary for the safety of the motorists and the sustaining transportation system.

3. This award establishes an annual contract for providing traffic signal and roadway lighting steel poles with dual and single arm assemblies. The contract is for one-year with two, one-year renewal options

4. Funding for Fiscal Year 2019-20 is available in the Street Improvement Bond Fund, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

5. Because this annual contract runs from July 2020 through June 2021, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year’s additional purchases and the total contract award amount is not exceeded.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Estimated Amount</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wildcat Electric Supply, Inc.</td>
<td>7/1/20-6/30/21</td>
<td>$100,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$250,000.00</td>
<td>2020-21</td>
</tr>
<tr>
<td>TOTAL AMOUNT NOT TO EXCEED</td>
<td></td>
<td>$350,000.00</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**


The resolution be approved.

28  Resolution - Approving and Accepting the Bids of Core & Main, LP and ACT Pipe & Supply, Inc., in the Total Estimated Amount of $158,406.52 for Fire Hydrant Parts

Administrative Comments
1. This item is recommended by the Water Utilities Department.

2. Impact: This annual contract provides fire hydrant parts in order to repair and perform preventive maintenance on approximately 8,000 fire hydrants in the city.

3. This award establishes an annual contract for the continuation of supplying fire hydrant parts. This contract is for one year with two, one-year renewal options.

4. Funding for Fiscal Year 2019-20 is available in the Water and Sewer System Fund while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Groups</th>
<th>FY19-20 Est. Exp.</th>
<th>FY20-21 Est. Exp.</th>
<th>Total Estimated Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core &amp; Main, LP</td>
<td>I-V, VII, VIII</td>
<td>$46,360.00</td>
<td>$ 92,719.17</td>
<td>$139,079.17</td>
</tr>
<tr>
<td>ACT Pipe &amp; Supply, Inc.</td>
<td>VI</td>
<td>$ 6,442.40</td>
<td>$ 12,884.95</td>
<td>$ 19,327.35</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$52,802.40</strong></td>
<td><strong>$105,604.12</strong></td>
<td><strong>$158,406.52</strong></td>
</tr>
</tbody>
</table>

Recommendation

The resolution be approved.
29 Resolution - Approving a Vendor Member Contract Pursuant to a Cooperative Purchase Agreement between City of Irving and Wesco Distribution, Inc., for the Purchase of Uninterrupted Power Supply (UPS) Equipment in The Total Estimated Amount of $58,945.00 through the National Intergovernmental Purchasing Alliance Company dba Omnia Partners, Public Sector (Omnia Partners)

Administrative Comments

1. This item is recommended by the Water Utilities Department.

2. Impact: Establishment of the Vendor/Member Contract between the City of Irving and Wesco Distribution, Inc., for utilization of Omnia Partners Contract No. R192008 which expires on March 31, 2023 for Maintenance, Repair & Operations (MRO) Supplies & Related Services will allow the city to procure these items on an as-needed basis under the best possible terms and conditions for the city.

3. The attached quote for the represent the first purchase to be made under this contract. This purchase allows the department to replace the (UPS) which is critical to maintain power and functionality to the SCADA system during a loss of power. The SCADA system monitors and controls both water and wastewater systems in the city.

4. Funding in the total estimated amount of $58,945.00 is available in the Water and Sewer Non-Bond CIP Fund.

Recommendation

The resolution be approved.

30 Resolution - Renewing the Annual Contract with ITRON, Inc., in the Total Estimated Amount of $300,000.00 for ITRON Equipment

Administrative Comments

1. This item is recommended by the Water Utilities Department.

2. Impact: ITRON equipment allows water meters to be read remotely. This contract will allow staff to continue to upgrade the current metering system as the city transitions over to a fixed network system through the Advanced Metering Infrastructure (AMI) project.

3. This renewal establishes the continuation of an annual contract to supply ITRON equipment including Encoder Receiver Transmitters (ERTs) for meters, remote antennas for ERTs, through the lid mount kits for ERTs, networkrepeaters, networkcollectors (CCUs), network tower collectors (TCUs), and other ancillary items required to read meters remotely. This is the second and final of two optional one

4. Funding for Fiscal Year 2019-20 is available in the Water and Sewer System Fund, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Estimated Expenditure</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITRON, Inc.</td>
<td>7/1/20 – 6/30/21</td>
<td>$150,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$150,000.00</td>
<td>2020-21</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$300,000.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.

---

31  **Resolution - Renewing the Annual Contract with Atlas Utility Supply Company in the Total Estimated Amount of $962,852.00 for Water Meter Boxes**

**Administrative Comments**

1. This item is recommended by the Water Utilities Department.

2. **Impact:** This annual contract allows the department to purchase water meter boxes that are specially manufactured for the electronic radio transmitters (ERTs) that are required for the Advanced Metering Infrastructure (AMI) Project.

3. This renewal establishes the continuation of an annual contract for water meter boxes. This is the first of two one-year renewal options. The current contract expires July 31, 2020.

4. The system includes approximately 50,000 meters.

5. Funding for Fiscal Year 2019-20 is available in the Water and Sewer Operating and Water and Sewer Non-Bond CIP funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Est. Exp.</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atlas Utility Supply Company</td>
<td>8/1/2020 – 7/31/2021</td>
<td>$320,950.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$641,902.00</td>
<td>2020-21</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$962,852.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**
The resolution be approved.

End of Bids

32  Ordinance - Approving a Second Amended and Restated Development Agreement with Vaquero Ventures Management, LLC for the Sale of 313 W. Irving Boulevard

Administrative Comments

1. This item is recommended by the Office of Economic Development.

2. **Impact**: Approval of this Second Amended and Restated Development Agreement with Vaquero Ventures would allow for the closing date for the sale of city-owned property at 313 W. Irving Blvd. to be extended, enabling the developer to obtain all necessary closing documents, such as an executed lease with Starbucks for the occupancy of the building to be constructed.

3. On October 3, 2019, City Council approved ORD-2019-10268 approving a Development Agreement with Vaquero Ventures Management, LLC to redevelop the city’s property located at 313 W. Irving Blvd. by building a Starbuck’s coffee store with indoor seating, patio, and drive through.

4. The sale price of the city land is $119,390.00. The Development Agreement includes certain criteria that must be included at the time of closing. Those criteria include (i) an executed lease with Starbuck’s to operate a Starbuck's store with an initial term of not less than five (5) years; (ii) a Performance Bond in the full amount of the Purchase Price, guaranteeing the purchaser will take all actions reasonably necessary and required by the City to construct and occupy a minimum 2,100 square foot Starbuck’s coffee store on or before the Date of Occupancy; (iii) if necessary, obtain proper Zoning for the site plan; and, (iv) obtain a building permit for the construction of the coffee store.

5. Per the original agreement, closing was to occur on February 7, 2020, and Starbucks was to occupy the building by December 31, 2020.

6. Due to ongoing lease negotiation between the purchaser and Starbucks, Vaquero requested an extension to the closing date in order to submit all required documents at closing. Council approved an amendment to the Agreement on January 30, 2020, to extend the closing date by five (5) months to July 7, 2020.

7. Purchaser is still negotiating a Lease with Starbuck’s, which is due at closing. Purchaser estimates an additional 60 days for executed lease, plus an additional 30-60 days for ordering plans and permitting; therefore, has requested to extend the closing date by 150 days.
8. The Second Amended and Restated Development Agreement would extend the Closing Date to December 4, 2020. The Purchaser will deposit an additional $10,000 Earnest Money, non-refundable except for Seller’s Default and amend Date of Occupancy to October 28, 2021.

**Recommendation**
The resolution be approved.

33 **Ordinance - Amending Chapter 16A "Hotel Occupancy Tax" of the Code of Ordinances of the City of Irving, Texas to Update the Penalty Provision**

**Administrative Comments**
1. This item is recommended by Financial Services.
2. Impact: This Ordinance amends the Hotel Occupancy Tax section of the code of ordinances.
3. The penalty and interest charged on delinquent accounts is being changed to match State law. Interest will be charged at a rate of nine percent (9%) per annum beginning the first day of delinquency. A penalty of 15% will be charged beginning once the account is delinquent for a municipal fiscal quarter.

**Recommendation**
The ordinance be adopted.

**INDIVIDUAL CONSIDERATION**

34 **Resolution - Approving the Allocations of the Community Development Block Grant COVID-19 Funds to Non-Profit Organizations in the Amount of $293,400**

**Administrative Comments**
1. This item is recommended by the Planning and Community Development Department.
2. **Impact**: This action will provide funding to local non-profit organizations to prevent, prepare for, and respond to the coronavirus (COVID-19).

3. On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This act allocated additional Community Development Block Grant Funds (CDBG-CV) and Emergency Solutions Grant Funds (ESG-CV) to states, counties, and local governments to address a range of housing and community development activities that prevent, prepare for, and respond to the coronavirus (COVID-19).

4. The City of Irving as an entitlement city received $1,356,438 in CDBG-CV funds and $678,434 in ESG-CV funds.

5. On May 20, 2020, the City Council approved $800,000 of the CDBG-CV funds to be allocated to area agencies to assist with the prevention, preparation for, and response to the coronavirus (COVID-19).

6. The Planning and Community Development Department solicited applications from agencies from May 13 through May 22, 2020. The Housing and Human Services Board sub-committee reviewed all the submitted applications and recommended funding all the requests totaling $293,400.

7. Funding in the amount of $293,400 is available in the Outside Services budget within the Community Development Block Grant COVID-19 Fund.

**Recommendation**

The resolution be approved.

---

35 **Resolution - Approving the Allocations of the Coronavirus Aid, Relief, and Economic Security (CARES) Act Funds to Non-Profit Organizations in an Amount Not to Exceed $6,250,000**

**Administrative Comments**

1. This item is recommended by the City Manager’s Office.

2. **Impact**: This action will provide funding to local non-profits organizations to prevent, prepare for, and respond to the coronavirus (COVID-19).

3. On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The $2 trillion economic relief package was designed to assist the nation’s welfare and economy.

4. This act allocated $250 million to Dallas County. Dallas County will distribute approximately $75 million to 29 cities throughout the county. City of Irving will
5. On June 4, 2020, City Council approved an Interlocal Agreement with Dallas County to facilitate the funding. In addition, City Council supported the preliminary funding recommendations presented by staff.

6. Within the funding recommendations, staff presented four programs for Economic Assistance Initiatives, which include Small Business Assistance, Housing & Utility Assistance, Childcare Center Assistance, and Childcare Payment Assistance.

7. Programs are to be administered by a third party organization.

<table>
<thead>
<tr>
<th>Economic Assistance Initiatives Funding Allocations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Business Assistance – (up to $20,000)</td>
</tr>
<tr>
<td>Rent/Mortgage/Utility Assistance - $6,000 (up to $2,000 per month for 3 months); eligibility 81-120% AMI</td>
</tr>
<tr>
<td>Childcare Center Assistance - $5,000 per provider</td>
</tr>
<tr>
<td>Childcare Payment Assistance - $2,550 each (up to $850 per month, for 3 months)</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.

**ZONING CASES AND COMPANION ITEMS**

36  Resolution - Considering Sign Variance Case #S2002-0032 to Allow an Electronic Monument Sign to be Less Than 100 Feet from a Residential Property Line - Property Located at 1004 South Story Road - Oak View Baptist Church, Applicant/Owner

**Administrative Comments**

1. The applicant is seeking approval of a Sign Variance to allow a new electronic monument sign within 100 feet of a residential property line.

2. The Oak View Baptist Church is located at 1004 South Story Road in a residential area zoned R-6, therefore properties on all sides are zoned R-6. The location of the proposed sign is approximately 74 feet from the nearest property line across the
street.

3. The proposed monument sign is seven (7) feet tall and nine (9) feet wide, with a total of 63 square feet.

4. Chapter 7, Section 7-3 (6)c of the City of Irving Land Development Code states, “Electronic Signs shall be located one hundred (100) feet or more from a residentially-zoned property.”

5. The proposed sign faces north and south, on the east side of Story Road. The affected residential properties are on the west side of the road.

6. The sign cannot be located in the existing sight and utility easement.

7. The existing pole sign in the City’s right-of-way will be removed.

8. Since the sign is on an arterial road and does not directly face any single family homes, staff can support this request.

Recommendation
The Resolution be approved.

37 Ordinance - Zoning Case ZC19-0083 - Considering a Zoning Change from R-6 (Single Family) District Uses to S-P-2 (Generalized Site Plan) District for R-6 (Single Family) District Uses - Approximately 0.17 Acres Located at 2325 Spanish Trail - Don and Nancy Peters, Applicants/Others

Administrative Comments
1. The Planning and Zoning Commission Hearing Date and Recommendation: December 2, 2019 – Postponed Indefinitely 9-0. June 1, 2020 – Denial 6-1 (Commissioner McPhail, nay; Commissioners Zeske and Collins, absent)

2. The 2017 Imagine Irving Comprehensive Plan recommends Residential Neighborhood uses for the subject property, which allows predominantly single-family detached homes or duplexes with some mix of non-residential uses. This case does not meet any of the City’s long term goals in the 2017 Imagine Irving Comprehensive Plan.

3. The owner is requesting a zoning change to allow a 24-foot by 25-foot carport attached to the front wall of the house in front of the garage. It appears the garage has not been converted to living space.

4. An exception is being requested for the carport encroaching into the required 25-foot front setback by 9’ 10”, resulting in a 15’2” setback from the front property line.

5. The front wall of the existing dwelling on this property is approximately 31.5 feet
from the front property line. The applicant has indicated the garage to which the carport will be attached is 40 feet from the front property line. A 25-foot long carport attached to the garage will measure 15’2” from the front property line.

<table>
<thead>
<tr>
<th>Front Setback</th>
<th>Required in R-6</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>25 feet</td>
<td>15 feet 2 inches</td>
</tr>
</tbody>
</table>

6. The site plan provides that the carport will be constructed with brick posts and have a pitched roof. However, as of September 1, 2019, the city may no longer require or enforce any materials beyond those allowed by the building code.

7. There is currently one carport on this block of Spanish Trail between Story and Pearl Streets, on the south side of the street. This carport is constructed of metal with a flat roof and was previously approved by an S-P-2 (Generalized Site Plan) zoning case. Within a quarter mile, there are four (4) other carports, three of which received S-P-2 zoning approval for the carport. The fourth carport on Meadow Lark to the east appears to have been constructed without a building permit. At the P&Z hearing, the applicant provided the locations of other carports further than ¼ mile from the subject property.

8. A total of 32 public notices were mailed. Staff has received two (2) responses in support and none in opposition to this request.

9. This item supports Strategic Objective 3.5 – Effectively plan and manage land use:

**Recommendation**

The ordinance be denied per the recommendation of the Planning and Zoning Commission.

---

38 Ordinance - Zoning Case #ZC19-0093 - Considering a Zoning Change from C-C (Community Commercial) District Uses to S-P-1 (Detailed Site Plan) for C-C (Community Commercial) District Uses - Approximately 0.724 Acres Located at 4900 W. Airport Freeway - Trax, Inc., Applicant/Owner

**Administrative Comments**

1. The Planning and Zoning Commission Hearing Date and Recommendation: February 3, 2020 – Postpone Indefinitely 9-0. June 1, 2020 – Denial 5-2 (Commissioners McPhail and Joy, nay; Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends *Commercial Corridor* uses for this property. This land use category is described as auto-oriented district for retail, office and commercial uses with parking in front with buildings set back from the street. The requested zoning is in conformance with the
Comprehensive Plan.

3. Comprehensive Plan Strategy 1.5.8 is to approve new development that is consistent with and enhances existing development.

4. The property is currently developed with a 2,510 sq. ft. convenience store and gas station. The owner is proposing to expand the existing building in order to add a liquor store. The existing car wash will be remodeled to be incorporated into the proposed liquor store, which would encompass the car wash area as part of the expansion.

5. The State Highway 183 Overlay District requires any nonresidential structure being expanded by 30 percent or more of its current value or area to be brought into compliance with the current standards of the zoning ordinance. The proposed liquor store will be 2,278 sq. ft. which includes the existing car wash. This will expand the building to 4,788 sq. ft., which is a 91% increase in area.

6. The State Highway 183 Overlay District also requires that parking areas between the State Highway 183 right-of-way and a building be landscaped. Additionally, because the expansion is more than 30 percent of the current building size, the applicant is required to provide a 30-foot wide landscape buffer along State Highway 183. The property has an existing gas station canopy that is not being affected by the principal building expansion.

7. The applicant is requesting an exception not to provide the 30 ft buffer or new landscaping on the site due to location of the existing improvements, including the gas canopy and dumpster enclosure.

8. The site plan notes that the existing drive-through menu and the northwest drive approach to the existing car wash will be removed. No drive-through services will be provided, in accordance with the zoning ordinance requirements.

9. The State Highway 183 Overlay District requires one (1) parking space for every 250 square feet of retail use. Accordingly, 20 parking spaces are required for the expanded building. The proposed site plan shows an additional four (4) parking spaces being added and a total of 20 parking spaces for the site.

10. The State Highway 183 Overlay District was enacted specifically to guide new development and enhance the State Highway 183 corridor. Since the applicant is expanding the structure greater than 30% which triggers compliance with Section 52-64d (e)(1)b and (e)(2) of the State Highway 183 Overlay District, the applicant is required to install a full 30-foot deep landscape buffer.

11. A total of seven (7) public notices were mailed. Staff has received two (2) responses in support and none in opposition to this request.

12. This item support Strategic Objective 3.5 – Effectively plan and manage land use.
**Recommendation**

The ordinance be denied per the recommendation of the Planning and Zoning Commission.

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**Ordinance - Zoning Case # ZC20-0010 - Considering a Comprehensive Plan Amendment from "Commercial Corridor" and "Open Space" to "Compact Neighborhood", and Considering a Proposed Zoning Change from M-FW (Freeway) District Use and R-SFA (Single Family Attached) District Use to S-P-2 (Generalized Site Plan) District Use for R-TH (Townhouse) Uses- Approximately 20.71 Acres Located at 920 S. Belt Line Road and 3324 W. Shady Grove Road - Frye Road 9 Acres LLC, Owner. JDJR Engineers Inc, Applicant (Postponed from the May 7, 2020 City Council Meeting)

**Administrative Comments**

1. The Planning and Zoning Commission Hearing Date and Recommendation – April 20, 2020 – Approval of R-TH zoning with no exceptions 5-3 (Commissioners Zeske, McPhail, and Collins, nay; Commissioner Patel, absent).

2. The applicant is requesting to amend the Comprehensive Plan recommendation of "Open Space" and "Commercial Corridor" to "Compact Neighborhood" and a zoning change to develop approximately 173 townhomes with exceptions to the R-TH development standards.

3. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends *Commercial Corridor* uses for this property. This land use category is described as an auto-oriented district for retail, office and commercial uses. The requested zoning is not in conformance with the Comprehensive Plan.

4. One of the major issues analyzed during the formation of the 2017 Imagine Irving Comprehensive Plan was the need to identify suitable tracts of land for residential development (especially a variety of types and of higher density than standard large lot single-family detached) to address Irving’s share of housing the anticipated population growth in the region out to the year 2040. This site would be ideal for the proposed townhouse use with needed retail/restaurant/commercial within 1-2 miles of the site to the north, east and south. This proposed development would support Strategies 1.5.7 and 1.5.8 of Goal 1 promoting a variety of single-family residential types and densities and approving new development that is consistent with and enhances existing development.

5. The subject property is a 20.71 acre undeveloped tract on the southeast corner of S. Belt Line Road and W. Shady Grove Road, with approximately 1,750 feet of frontage on S. Belt Line Road, and 117 feet of frontage on W. Shady Grove Road.
The applicant is requesting a zoning change to allow a 173-unit townhouse development with variances to the lot area, front yard setback, building height, distance between structures, and maximum lot coverage.

6. The majority of the property is currently zoned M-FW (Freeway) district, and a portion adjacent to W. Shady Grove is zoned R-SFA (Single-Family Attached) district. Right-of-way had previously been dedicated to widen Belt Line Road, and large utility easements exist adjacent to the Belt Line frontage. Large culverts were constructed as part of the drainage work which limits the driveway accessibility to Belt Line Road. Both floodplain and floodway cover a large portion of the western and southern portions of the property.

7. A commercial parcel is on the southeast corner of S. Belt Line Road and W. Shady Grove Road, northwest of the subject property. The Graff Farms residential development is adjacent to the east, rezoned in 2004 and developed for 361 R-6 (Single Family) lots.

8. The applicant has modified the site plan since the postponement request from the May 7 City Council hearing and is now asking for the following exceptions to the R-TH zoning district:

<table>
<thead>
<tr>
<th>Required for R-TH</th>
<th>Requested at PZ</th>
<th>Revised</th>
<th>Variance to TH Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum lot area</td>
<td>2,240 sq. ft.</td>
<td>1,750 sq. ft.</td>
<td>2,125 sq. ft.</td>
</tr>
<tr>
<td>Minimum lot depth</td>
<td>80 ft.</td>
<td>70 ft.</td>
<td>85 ft.</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>25 ft.</td>
<td>15 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Rear yard setback</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Min. Distance b/w structures</td>
<td>12 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Garage door setback (from alley)</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>70%</td>
<td>80%</td>
<td>80%</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>30 ft.</td>
<td>3 stories or 45 ft.</td>
<td>3 stories or 45 ft.</td>
</tr>
</tbody>
</table>

The revised site plan **eliminates previous exception requests** to the lot depth, rear yard setback, and garage door setback. The revised site plan also reduces the exception to the minimum lot area. The exception to the front yard setback is increased; however, this is appropriate given the increase to the rear yard setback to allow for a driveway and additional parking.

9. Some of the property is located in FEMA floodplain and floodway. Significant changes were made to the property several years ago during a major drainage
improvement. **No floodplain studies have yet been submitted for this development to identify necessary mitigation.**

10. Two fire access points are required for the number of units in the development. Staff can support the proposed access points and bridge location. In addition, the applicant is aware that the height of the buildings over 30 ft. require a 26 ft. fire lane. This will be provided within the right of way at the time of platting and construction plans. Any on street parking limitations and related signage will be provided at that time.

11. The property must be platted prior to development. **The drainage/floodplain and access issues are typically addressed in the platting process.**

12. The site plan notes that a six-foot tall masonry screening wall will be constructed in private easements for the frontages along S. Belt Line Road and Shady Grove Road, subject to sight visibility and existing or proposed utility easements which will be provided in the platting process. The HOA will maintain these walls and a note will be provided at the time of platting. A fence is not required between the residential townhouse and single family uses nor is one provided on the site plan, however it is expected that the townhouse developer will provide a screening fence where one does not exist.

13. Open space is provided between the townhomes and the commercial property to the north, Belt Line Road to the west, and on scattered lots throughout the subdivision. All open spaces will be maintained by the HOA.

14. The proposed site plan establishes a minimum of 1,600 sq. ft. of air-conditioned living space per unit with two parking spaces to be provided within **rear garages with alley access.**

15. Comments made by Platting (Subdivision Ordinance), CIP, TxDOT, Fire, Parks and Water Department staff cannot be waived through the S-P-1 or S-P-2 site plan approval process. Approval of the zoning site plan does not constitute the acceptance of conditions and may need to be amended to match applicable code and engineering standards.

16. A total of 61 public notices were mailed. Staff has received no responses in support and 15 responses in opposition to this request. The opposition represents 8.09% of the land within 200 feet of the subject property. Since this is less than 20%, a ¾-vote is not required for approval.

17. The property is suitable for both the Compact Neighborhood land use and the R-TH zoning, and the development provides for housing needed by the community. Staff believes the exceptions requested in the revised site plan are appropriate, and can support this request.

**Recommendation**

The ordinance be approved with the site plan as revised.
Resolution - Special Fence Project Plan #ZC20-0019 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Fence Along the Side Property Line Along Marie Lane - Property Located at 122 W. Vilbig Street - Marcus James, Applicant/Owner (Postponed from the June 4, 2020 City Council Meeting)

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendations: May 4, 2020 - Approval subject to the fence being limited to six (6) feet tall, 7-0 (Commissioners Kliner and Patel, absent). A revised site plan was provided to address the recommendations of the Planning and Zoning Commission.

2. The subject property is a 12,500 square foot single family lot in the Caster Estates 5 Addition. The applicant is proposing a special fence project plan to allow an eight (8) foot tall fence along the side property line within a projected front yard along Marie Lane. The applicant would be removing the existing 8-ft tall fence that is built over the property line.

3. The site is currently developed with a single family home that was constructed in 1955. The property is a corner lot and has double frontage on both W. Vilbig Street and Marie Lane. If built today, the house would have been constructed to face Marie Lane, like the home adjacent to it, in order to avoid creating a back yard that was adjacent to a front yard, also known as a “key lot.” However, the home was constructed to face W. Vilbig Street, and established the side yard on Marie Lane.

4. The current owner bought the home in 2019. Shortly thereafter, they received a Code Enforcement complaint regarding the portion of the fence along Marie Lane. At that time, it was discovered that the fence was constructed without a permit by the previous owners and within the projected front yard. (A projected front yard occurs when the side property line of one house is next to the front yard of the next house.) The fence is solid wood and is eight (8) feet tall along Marie Lane and connects to a six (6) foot solid wood fence along the south property line. The owner was cited for the fence not having a permit, the poor condition of the fence at the southeast corner of the lot, and the height and material of the fence.

5. The owner was instructed to obtain a fence permit, to repair the damaged areas, and to either alter the height of the fence to 4 feet with 50 percent through-visibility for a front yard fence or request a Special Fence Project Plan for the needed exceptions for height and a solid fence. Staff also realized, upon inspection of a survey of the property, that the fence was inadvertently constructed several inches into the right-of-way for Marie Lane. The fence must be moved so that it is no longer within the right-of-way. An exception cannot be given to this item.
6. Sec. 15-10 prohibits fences within the front yard or exterior side yard setback from exceeding four (4) feet in height, and such fences must also allow for 50 percent through-visibility. The applicant originally requested an exception to allow a solid wood fence that is eight (8) feet in height on the property line adjacent to Marie Lane. At the May 4, 2020 Planning and Zoning Commission meeting, the applicant agreed to reduce the height of the fence to six (6) feet, per the Planning and Zoning Commission request, and provided a revised site plan.

7. The applicant maintains that the reason for the request is to provide increased privacy, safety, and security for their side yard. The air conditioning units and other electrical boxes are located within the side yard and, additionally, the owner has a child whose bedroom window is on that side of the home.

8. The applicant was also made aware that the neighbor to the south, whose side yard abuts their rear yard, is also concerned about visibility when pulling out of his driveway. Because of this, the applicant is willing to move the fence to create a 10-foot visibility clip where their property lines meet.

9. While the sequence of past events that led to the violations at hand are not the fault of the current owner, the issue of the fence must be rectified. The applicant is willing to do the following:
   - Obtain a fence permit.
   - Repair the area of the fence that is damaged.
   - Move the fence to the property line.
   - Provide a 10-foot visibility clip where his rear property line meets his neighbor’s side property line.

10. The applicant will still need the following exception:
   - An exception to locate a fence taller than four (4) feet that does not have 50 percent through-visibility on the property line in a projected front yard.

11. A total of 37 public notices were mailed. Staff has received 10 responses in support and 2 responses (from the same address) in opposition. The opposition represents 4.33% of the land within 200 feet of the subject property. Since this is not a zoning case, a simple majority is required for approval of this item.

12. During the June 4, 2020 City Council hearing, the applicant explained that he preferred the 8 ft. fence and intended to replace the entire fence on his rear property line at 8 ft. as allowed per code, and therefore the heights would be the same. The City Council postponed this case to give the applicant time to revise the site plan to provide an 8-foot tall fence on the east and south property lines with a 10-ft. x 10-ft. visibility clip. The site plan has been revised to reflect the entire fence line with an 8 ft. fence.

13. Given the circumstances on when and how the property was developed, staff does not object to the fence being in the projected front yard along Marie Lane.
Recommendation

The resolution be approved for a maximum 8 ft. tall fence, per the revised site plan.

Ordinance - Zoning Case ZC20-0028 - Considering a Zoning Change from S-P-1 (Detailed Site Plan) District for R-AB (Restaurant with the Attendant Accessory Use of the Sale of Alcoholic Beverages for On-Premises Consumption) and Entertainment Uses to S-P-1 (Detailed Site Plan) District for R-AB (Restaurant with the Attendant Accessory Use of the Sale of Alcoholic Beverages for On-Premises Consumption) and Entertainment Uses - Approximately 11,693 Square Feet Located at 3554 West Airport Freeway - P&P Barragan, Applicant - Allenex Investments, Inc., Owner

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The applicant is requesting a zoning change to revise a site plan that allows a restaurant with the accessory use of the sale of alcoholic beverages for on-premises consumption with entertainment uses.

3. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Neighborhood Commercial uses for this property. This land use category is described as mixed use commercial areas along major corridors. Opportunities for residential and commercial infill and reinvestment. The requested zoning is in conformance with the Comprehensive Plan.

4. The applicant’s original request was heard by the Planning and Zoning Commission on February 3, 2020 and approved by the City Council on February 13, 2020. The applicant is requesting to make substantial changes to the interior floor plan layout, which requires that the zoning case be amended.

5. The subject property is a vacant 11,693 square foot lease space in a 32-acre multi-tenant retail center with shared parking. The applicant is proposing to amend a recent rezoning to allow a restaurant to sell alcoholic beverages for on-premises consumption along with entertainment uses to change the floor plan and use layout. The zoning case is necessary to make changes to the currently approved site plan, which extend beyond what could be approved by an administrative amendment.

6. The square footage of the current and proposed floor plans is as follows:
<table>
<thead>
<tr>
<th>Current (Approved Feb. 2020)</th>
<th>Proposed</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant Seating Area</td>
<td>4,080 sq. ft.</td>
<td>2,448 sq. ft.</td>
</tr>
<tr>
<td>Pool Table Area (Main)</td>
<td>1,853 sq. ft.</td>
<td>1,080 sq. ft.</td>
</tr>
<tr>
<td>Amusement Area (incl. electronic gaming machines)</td>
<td>1,108 sq. ft.</td>
<td>1,972 sq. ft. (gaming and additional pool tables)</td>
</tr>
<tr>
<td>Kitchen and Bar (incl. serving area and storage)</td>
<td>1,529 sq. ft.</td>
<td>2,481 sq. ft.</td>
</tr>
<tr>
<td>Outdoor deck</td>
<td>539 sq. ft. no tables</td>
<td>539 sq. ft. (with tables)</td>
</tr>
<tr>
<td>Stage floor</td>
<td>674 sq. ft.</td>
<td>400 sq. ft. (incl. dance floor)</td>
</tr>
<tr>
<td>VIP Area</td>
<td>N/A</td>
<td>549 sq. ft.</td>
</tr>
<tr>
<td>Total seating</td>
<td>118 seats (indoor only)</td>
<td>166 seats (indoor &amp; outdoor)</td>
</tr>
<tr>
<td></td>
<td>105 for restaurant</td>
<td>104 for restaurant</td>
</tr>
<tr>
<td></td>
<td>Not specified for bar area</td>
<td>38 for bar area</td>
</tr>
<tr>
<td></td>
<td></td>
<td>24 on VIP outdoor deck</td>
</tr>
</tbody>
</table>

7. The proposed changes significantly alters the previous layout. The revised floor plan shows a 40% reduction of the restaurant area and more area devoted to entertainment (pool and gaming machines) and bar uses. The kitchen/food storage areas are larger and more restrooms have been added. The stage area is smaller and can be used as a dance floor. A 549 square foot VIP area has also been added. The outdoor deck is now proposing to have seating.

The restaurant area now indicates that there will be approximately 104 seats in the dining area, 38 seats in the bar area, and 24 seat on the outdoor deck accessible only to the VIP area only.

8. A total of 85 parking spaces are required at one space for each 100 square feet of restaurant/entertainment area. These spaces are provided from the existing 1,880 spaces that for the shopping center.

9. Under RAB zoning, the kitchen must be fully operational and food must be served at all times while the business is open to the public. The entertainment uses are secondary to the primary use as a restaurant and cannot operate independently. Dining tables and chairs cannot be moved or removed which would cease the operation of the business as a full service restaurant.

10. A total of eight (8) public notices were mailed. Staff has not received any responses
in support of or in opposition to this request.

11. Staff is concerned about the reduction of the restaurant area by 40% (from 4,080 sq. ft. to 2,888 sq. ft.), with an increase of the bar and entertainment areas of 23% (from 5,703 sq. ft. to 7,021 sq. ft.). In order to comply with the RAB zoning, the applicant must submit documents semi-annually to show that 50% or more of the gross food and beverage receipts is from food service. The applicant has indicated that they will be able to meet this requirement with this menu and floorplan. Therefore, Staff is supportive of restaurant and amusement uses to attract new customer traffic to the existing shopping center and the use is compatible with the surrounding area.

**Recommendation**

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

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**Ordinance - Zoning Change ZC20-0034 - Considering a Zoning Change from ML-20A (Light Industrial) District to S-P-2 (Generalized Site Plan) for ML-20A (Light Industrial) District Uses - Approximately 4.15 Acres Located at 5021 Statesman Drive - AJL International, Applicant - DCT Statesman, LLC, Owner**

**Administrative Comments**

1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Business District uses for this property. This land use category is described as a flexible use district for retail, office and commercial uses. Predominantly mid-rise with a mix of surface and structured parking. The requested zoning is in conformance with the Comprehensive Plan.

3. This application is in support of Goal 1 of the 2017 Imagine Irving Comprehensive Plan ensuring that land use decisions are consistent with the adopted Comprehensive Plan and in particular Strategy 1.5.8 – Approve new development that is consistent with and enhances existing development.

4. The subject property is a 4.15 acre tract on the north side of Statesman Drive with a rail spur bisecting the property. The applicant is requesting to rezone to allow outside storage of commercial vehicles and an outside car wash bay for those vehicles.

5. The property is developed with a flex office/warehouse building. The ML-20a district does not allow outside parking of commercial vehicles. The applicant is proposing
to use the property to operate a chauffeured transportation company.

6. The property contains a triangle-shaped concrete area on the northeast side of the railroad spur that bisects the property. No striped or required parking is currently located in this area. This area currently includes a 5,000 square foot storage building that will be demolished. This area is already paved, and is only adjacent to a drainage channel to the east and undeveloped floodplain area to the north. **The applicant is seeking to use this area as an unscreened storage area for buses and other vehicles, such as limousines.**

7. Outside storage would be limited to buses and similar vehicles. Tractor trailers, heavy equipment, and other outside storage would not be permitted. Auto sales would also be prohibited on this site.

8. While the storage area is not screened, it is also not easily visible from the street, is adjacent to Grapevine Creek to the north and to a parking garage and drainage channel to the east. It is only visible to the back of an office warehouse building to the west.

9. Use of this area for outside storage will not remove any current parking spaces on the property.

10. Additionally, a covered **carwash bay is being added to service the vehicles.** This will be a hand wash area under a permanent structure, and will be **located behind the building** where there are currently dock doors and not visible from the public street. The example provided by the applicant shows a painted carwash area cover, with metal columns and a flat truss roof. A commercial wash sand trap for detergents and grease will need to be installed as part of the permitting process. No commercial washing of vehicles other than the chauffeur business is allowed.

11. A total of 11 public notices were mailed. Staff has not received any responses in support of or in opposition to this request.

12. Since the outdoor storage is limited to vehicles and has limited visual impact on surrounding properties, Staff has no objection to this use at this location.

**Recommendation**

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.
Ordinance - Zoning Case ZC20-0025 - Considering a Zoning Change from HCD-TMU (Heritage Crossing District - Transit Mixed Use) to S-P-1 (Detailed Site Plan) District for HCD-TMU (Heritage Crossing District - Transit Mixed Use) and Wireless Telecommunications Facility Uses - Approximately 3.46 Acres Located at 201 Rock Island Road - Allpro Consulting Group, LLC, Applicant - Dallas Area Rapid Transit, Owner

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Transit Oriented Development uses for this property. This land use category is described as “Mixed-use development serving nearby rail stations. Pedestrian-friendly streets and buildings, high quality design, and reduced parking”. The requested zoning is in conformance with the Comprehensive Plan.

3. Although the 2017 Imagine Irving Comprehensive Plan does not directly address placement of cell towers, it does under Strategy 2.2 of the Economic Development Goals, Strategies + Actions section seeks to “Establish Irving as the top location in the US for 5G innovation.” For this reason continued development of cell tower locations across the city serves a role in support this initiative.

4. The applicant is proposing a new “Landmark Smart Light Standard”, which is a new light standard structure with radio and surveillance cameras for DART that will function as a cell tower on the property of the TRE Heritage Crossing Downtown Irving Station. The triangular-shaped tower will be a 38.5-foot tall “light standard” with six (6) bays, three (3) for antenna and three (3) for radio with concealment shrouds to screen the antenna arrays within the light standard.

5. The tower will include site lighting 20 feet off the ground.

6. The tower will be located near the eastern entrance to the bus and rail station area, approximately 39 feet north of Rock Island Road, approximately 215 feet from the east (side) property line and approximately 127 feet from the north (rear) property line. Access is provided from Rock Island Road through the drive aisle to the rail platform.

7. The tower will be able to accommodate up to three antenna arrays for future cellular carriers. The antenna arrays will be screened with exterior “concealment shrouds” painted white that is a “Mini Macro Multi-Tenant Light Standard”, a design that covers all the bay areas that house the equipment within the light poles.

8. New towers must be at least 200 feet or 3-to-1 ratio distance from residential buildings, whichever is greater, to provide for a fall zone. No residentially-zoned structures exist within 200 feet.

9. New towers must be separated from existing towers by 5,000 feet according to
Sect. 52-32d 2(b) 3 of the Zoning Ordinance. According to the map provided by the applicant, there is at least one other tower approximately 2,000 feet east of the subject property. However, given the small height and different nature of this tower, staff has no objections to the proximity to other towers.

10. DART is proposing to install kiosks and to replace standard light poles with a multi-tenant light standard at all of its locations, which will house a GPS receiver, video surveillance cameras and radio bays in addition to being able to accommodate cellular antenna uses.

11. This proposed case and site plan are for consideration and approval of the “cell tower package” only and the detail of the site plan will not apply to the remainder of the property.

12. A total of 15 public notices were mailed. Staff has not received any responses in support of or in opposition to this request.

13. Since the proposed “landmark light standard” tower is less than 40 feet tall, can accommodate up to three antenna for future carriers, is part of a kiosk and light package for DART and it is primarily surrounded by commercial uses, staff can support this request.

Recommendation
The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

44 Ordinance - Zoning Chance ZC20-0030 - Considering a Zoning Change from S-P-2 (Generalized Site Plan) District for FWY (Freeway) District Uses to S-P-1 (Detailed Site Plan) District for FWY (Freeway) District and Wireless Telecommunications Facility Uses - Approximately 3.035 Acres Located at 4200 Jackson Street - Allpro Consulting Group, Inc, Applicant - Dallas Area Rapid Transit, Owner

Administrative Comments
1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Transit Oriented Development uses for this property. This land use category is described as “Mixed-use development serving nearby rail stations. Pedestrian-friendly streets and buildings, high quality design, and reduced parking”. The requested zoning is in conformance with the Comprehensive Plan.

3. Although the 2017 Imagine Irving Comprehensive Plan does not directly address placement of cell towers, it does under Strategy 2.2 of the Economic Development Goals, Strategies + Actions section seeks to “Establish Irving as the top location in
the US for 5G innovation.” For this reason continued development of cell tower locations across the city serves a role in support this initiative.

4. The applicant is proposing a new “Landmark Smart Light Standard”, which is a new light standard structure with radio and surveillance cameras for DART that will function as a cell tower on the property of the TRE West Irving Station. The triangular-shaped tower will be a 38.5-foot tall “light standard” with six (6) bays, three (3) for antenna and three (3) for radio with concealment shrouds to screen the antenna arrays within the light standard.

5. The tower will include site lighting 20 feet off the ground.

6. The tower will be within the station property, approximately 220 feet south of the western entrance from Jackson Street, approximately 329 feet east of the east (side) property line and approximately 267 feet north of the south property. Access is provided from Jackson Street through the drive aisle to the rail platform.

7. The tower will be able to accommodate up to three antenna arrays for future cellular carriers. The antenna arrays will be screened with exterior “concealment shrouds” painted white that is a “Mini Macro Multi-Tenant Light Standard”, a design that covers all the bay areas that house the equipment within the light poles.

8. New towers must be at least 200 feet or 3-to-1 ratio distance from residential buildings, whichever is greater, to provide for a fall zone. No residentially-zoned structures exist within 200 feet.

9. New towers must be separated from existing towers by 5,000 feet according to Sect. 52-32d 2(b) 3 of the Zoning Ordinance. According to the map provided by the applicant, there is at least one other tower approximately 4,800 feet east of the subject property. However, given the small height and different nature of this tower, staff has no objections to the proximity to other towers.

10. DART is proposing to install kiosks and to replace standard light poles with a multi-tenant light standard at all of its locations, which will house a GPS receiver, video surveillance cameras and radio bays in addition to being able to accommodate cellular antenna uses.

11. This proposed case and site plan are for consideration and approval of the “cell tower package” only and the detail of the site plan will not apply to the remainder of the property.

12. A total of 15 public notices were mailed. Staff has not received any responses in support of or in opposition to this request.

13. Since the proposed “landmark light standard” tower is less than 40 feet tall, can accommodate up to three antenna for future carriers, is part of a kiosk and light package for DART and it is primarily surrounded by commercial uses, staff can support this request.

**Recommendation**

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.
Resolution - Board Appointment to the Zoning Board of Adjustments and Appeals to an Unexpired Term

Administrative Comments

1. This item is recommended by the City Secretary’s Office.

2. **Impact:** Appointment of Irving residents to boards, commissions, and committees assures that our residents have a voice in city government.

3. The City Council conducted interviews to fill various vacancies on October 14, 21 and 28, 2019.

4. The vacant position under consideration is for the Zoning Board of Adjustments and Appeals.

**Recommendation**

The resolution be approved.

Mayor’s Report

Adjournment
AGENDA ITEM SUMMARY – PUBLIC INPUT HEARING

Meeting: 6/25/2020
Recommending Department: Financial Services

Public Hearing -- Public Hearing #2 on the 2020-21 City of Irving Fiscal Year Budget

DISCUSSION:

Administrative Comments
1. This item is recommended by the Financial Services Department.
2. In accordance with the Fiscal Year 2020-21 Budget Calendar, public hearings have been scheduled for June 4, 2020 and June 25, 2020 City Council meetings.
3. Notice of the public hearings have been published in the City Spectrum and on the City’s website.
4. Public comments can also be submitted through the city website.

Recommendation
Input be taken under advisement.

ATTACHMENTS:

REVISION INFORMATION:
Prepared: 5/5/2020 03:18 PM by Anita Gomez
Last Updated: 5/26/2020 02:02 PM by Anita Gomez
The Irving City Council met in work session on June 4, 2020 at approximately 1:00 p.m. The following members were present/absent:

<table>
<thead>
<tr>
<th>Attendee Name</th>
<th>Organization</th>
<th>Title</th>
<th>Status</th>
<th>Arrived</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor Rick Stopfer</td>
<td>Irving City Council</td>
<td>Mayor</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>John C. Danish</td>
<td>Irving City Council</td>
<td>Councilman</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Allan Meagher</td>
<td>Irving City Council</td>
<td>Councilman</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Dennis Webb</td>
<td>Irving City Council</td>
<td>Councilman</td>
<td>Present</td>
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<td>Wm David Palmer</td>
<td>Irving City Council</td>
<td>Councilman</td>
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**DISCUSSION TOPIC**

1. **Citizen Comments on Items Listed on the Agenda**

   No one signed up to speak at this meeting.

2. **City Operations Update**

   Mayor Stopfer and City Manager Chris Hillman noted their condolences to the George Floyd family in Minnesota and described various outreach programs the Police and Fire departments utilize to maintain positive relationships with the minority groups in the community.

   - COVID-19 Update and City Response

   Jason Carriere, Emergency Management Coordinator, presented an update on the city’s response to the COVID-19 pandemic. He noted the Emergency Operations Center (EOC) will be deactivated on June 8, 2020 and a plan will be put in place to handle pandemic-related questions by the city departments.

   Councilman Zapanta asked for a protocol be put in place to notify all the council members when executive orders are signed.

   Cary Siegfried, Library Director, presented an update on the library services currently available, including curbside, window, and appointment-based services.

   Joe Moses, Parks and Recreation Director, presented information on the available parks and recreation services available and the facilities that will be open on June 8, 2020.

   It was the consensus of the Council to do a virtual only Fourth of July event this year.
- Diamond Interchange Update

Dan Vedral, Traffic and Transportation Director, provided an update on the Diamond Interchange construction.

3 Road to the Future Update

Dan Vedral, Traffic and Transportation Director, presented an update on the Road to the Future program, noting over 45 miles of roads have been improved with this additional funding.

Pat Lamers, Capital Improvement Program Director, described various paving and utility improvements completed, under construction, and in the design phase.

4 Texas COVID-19 Electricity Relief Program & TXU Energy Aide Update

Melissa Baker, Public Works Administration Manager, provided information on the Texas COVID-19 Electricity Relief Program and TXU Energy Aide program.

5 CARES Act Funding Recommendations

Councilman Taylor abstained from this discussion and has filed an abstention affidavit with the City Secretary’s Office.

Philip Sanders, Assistant City Manager, outlined the CARES Act program guidelines and staff’s recommendation for allocating the CARES Act funding that the City will receive. Recommendations include reimbursing the City for expenses incurred since March 1, 2020 for health and safety supplies and equipment, overtime salary, COVID-19 sick leave and FMLA, and improvements to buildings and facilities. Additional expenses include, decontaminate machines, masks, restocking PPE supplies, sanitizing stations, thermometers, temperature kiosks, and various telework hardware and software. His presentation also included economic assistance initiatives, such as, small business grants, rent/mortgage/utility assistance, childcare center assistance, and childcare payment assistance. Mr. Sanders also described other general COVID-related expenses proposed to improve facilities.

Council and staff discussed the various sanitizing options available.

It was the consensus of the Council to include funding for rent/mortgage/utility assistance for residents with an area median income (AMI) of 81%-120% while Dallas County assists residents eligible under the 80% AMI program and move forward with staff’s recommendations for funding allocation.
Review of Regular Agenda

CONSENT AGENDA

6 Ordinance -- Amending Ordinance No. 2019-10250 Providing Budget Adjustment #5 to the 2019-20 Fiscal Year Budget

Councilman Taylor abstained from this discussion and has filed an abstention affidavit with the City Secretary’s Office.

Shannon Phillips, Budget Manager, outlined the proposed budget amendments related to the grant funds.

8 Resolution -- Approving an Interlocal Agreement Between Dallas County and the City of Irving Relating to Dallas County CARES Act Funding

Councilman Taylor abstained from this discussion and has filed an abstention affidavit with the City Secretary’s Office.

10 Resolution -- Awarding a Contract to DDM Construction Corp., in the Amount of $1,963,153.27 for the Glenmore Street and Shepherd Street Paving and Utility Improvement Project

David Springob, Engineering Manager, confirmed that DDM Construction Corp. has not been used by the City of Irving in the past.

Councilman Zapanta asked for more information on the MWBE participation with details on women-owned businesses versus minority-owned businesses.

11 Resolution -- Awarding a Contract to Pennington Utility Construction, LLC in the Amount of $827,758.00 for the Belltower and Ryan Street Wastewater Improvement Project

Robert Sauceda, Senior Civil Engineer, confirmed that Pennington Utility Construction, LLC has not been used by the City of Irving in the past.

12 Resolution -- Approving an Economic Development Incentive Agreement Between the City of Irving and JP-1925-JCF, LP in an Amount Dependent Upon Annual Qualification

Bryan Haywood, Economic Development Project Manager, clarified the way the city calculates property value requirements outlined in the incentive agreement.

ZONING CASES AND COMPANION ITEMS

23 Ordinance -- ZC19-0073 - Considering a Comprehensive Plan Amendment Changing the Recommended Future Land Use from "Commercial Corridor" to "Compact Neighborhood," and Considering a Zoning Change from ML-40 (Light Industrial) District Use to S-P-2 (Generalized Site Plan) District for R-6 (Single Family)

Jocelyn Murphy, Planning & Community Development Assistant Director, presented the applicant’s request, noting staff recommends approval per the recommendation of the Planning and Zoning Commission.

24 Resolution -- Special Fence Project Plan #ZC20-0006 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Six (6) Foot Tall Wrought Iron Fence Within the Front Setback Along Grauwyler Rd. and Plymouth Dr. - Property Located at 1621 W. Grauwyler Road - Faustina Academy, Applicant/Owner

Jocelyn Murphy, Planning & Community Development Assistant Director, presented the applicant’s request, noting staff recommends approval subject to the fence being a maximum of 5 feet.


Jocelyn Murphy, Planning & Community Development Assistant Director, presented the applicant’s request, noting staff recommends approval per the recommendation of the Planning and Zoning Commission.

26 Resolution -- Special Fence Project Plan #ZC20-0016 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Maintain a Seven-Foot Tall White Rib Steel Roof Panel Fence 180 Feet on the East Side Property Line, 75 Feet on the West Side Property Line and on the Entire Rear Property Line - Property Located at 925 King Avenue - Quaid Mahuwala, Applicant/Owner

Jocelyn Murphy, Planning & Community Development Assistant Director, presented the applicant’s request, noting staff recommends denial per the recommendation of the Planning and Zoning Commission.

27 Resolution -- Special Fence Project Plan #ZC20-0019 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Fence Along the Side Property Line Along Marie Lane - Property Located at 122 W. Vilbig Street - Marcus James, Applicant/Owner

Jocelyn Murphy, Planning & Community Development Assistant Director, presented the applicant’s request, noting staff recommends approval per the recommendation of the Planning and Zoning Commission for a maximum 6 foot fence.
28 Ordinance -- Zoning Case ZC20-0021 - Considering a Zoning Change from R-6 (Single Family) District Uses to S-P-1 (Detailed Site Plan) District for R-6 (Single Family) Uses to Allow an Accessory Dwelling Unit for Permanent Living - Approximately 0.23 Acres Located at 502 Compton Avenue - Ezequiel Gonzalez, Applicant - Barbara Gonzalez, Owner

Jocelyn Murphy, Planning & Community Development Assistant Director, presented the applicant’s request, noting staff recommends approval per the recommendation of the Planning and Zoning Commission with no kitchen.

29 Ordinance -- ZC20-0023 - Considering a Comprehensive Plan Amendment Changing the Recommended Future Land Use from "Compact Neighborhood" to "Business District", and Considering a Zoning Change from R-40 (Single Family) District Use to C-O (Commercial Office) District Use - Approximately 35.27 Acres Located at 5800 Colwell Boulevard - ExxonMobil Environmental and Property Solutions Company, Applicant/Owner

Jocelyn Murphy, Planning & Community Development Assistant Director, presented the applicant’s request, noting staff recommends approval.

ADDENDUM

1 Ordinance -- Take Appropriate Action Concerning Declaration of Local State of Disaster and Implementation of Curfew or Other Emergency Measures in Response to Public Safety Concerns Posed by Civil Disturbances and Rioting

Kuruvilla Oommen, City Attorney, noted that this item has been pulled and no action is needed by Council.
EXECUTIVE SESSION

Council convened into executive session pursuant Section 551.087 of the Texas Local Government Code to discuss the below items at approximately 3:23 p.m.

7 Economic Development Negotiations - Project Blossom – Open Meetings Act § 551.087

8 Economic Development Negotiations - Project Newbase – Open Meetings Act § 551.087

Council reconvened from executive session at approximately 4:03 p.m.

Council adjourned the meeting at 4:03 p.m.

___________________________
Richard H. Stopfer, Mayor

ATTEST:

______________________
Shanae Jennings, TRMC
City Secretary
The City Council met in regular session in the Council Chambers of the City Hall Complex on Thursday, June 4, 2020 at approximately 7:03 p.m. The following members were present / absent:

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<th>Attendee Name</th>
<th>Organization</th>
<th>Title</th>
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<td>John C. Danish</td>
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**ORGANIZATIONAL SERVICE ANNOUNCEMENTS**

There was no organizational service announcement at tonight’s meeting.

**INVOCATION**

The invocation was delivered by Reverend Kathryn Saunders-Allen, Good Shepherd Lutheran Church, Irving, Texas.

**PLEDGE OF ALLEGIANCE**

The pledge of allegiance was led by Councilman Palmer.

**PROCLAMATIONS**

There were no ceremonial items at tonight’s meeting.

**CITIZENS’ FORUM**

Citizens are invited to speak for three (3) minutes on matters relating to City government and on items not listed on the regular agenda.

There were no speakers at tonight’s meeting.
CITY COUNCIL AGENDA

1  City Operations Update

There was no City Operations update at tonight’s meeting.

2  Public Hearing No. 1 on the 2020-21 City of Irving Fiscal Year Budget

Mayor Stopfer opened the public hearing at approximately 7:05 p.m.

No one signed up to speak on this item at tonight’s meeting.

Mayor Stopfer closed the public hearing at approximately 7:05 p.m.

No other action is required on this item at tonight’s meeting.

CONSENT AGENDA

Motioned by Councilman Ward, seconded by Councilman Zapanta to approve consent agenda items 3-20 and pull item(s) 6, 8 and 10 for individual consideration.

Motion approved 9-0.

3  Approving Minutes for Thursday, May 07, 2020

RESULT: ACCEPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

4  Approving Minutes for Thursday, May 07, 2020

RESULT: ACCEPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer
Approving Minutes for Wednesday, May 20, 2020

RESULT: ACCEPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

Ordinance No. ORD-2020-10337 -- Amending Ordinance No. 2019-10250 Providing Budget Adjustment #5 to the 2019-20 Fiscal Year Budget

Councilman Taylor abstained from this discussion and has filed an abstention affidavit with the City Secretary’s Office.

Motioned by Councilman Ward, seconded by Councilman Palmer to Approve Ordinance -- Amending Ordinance No. 2019-10250 Providing Budget Adjustment #5 to the 2019-20 Fiscal Year Budget

Motion approved 8-0-1.

RESULT: ADOPTED [8-0-1]
MOVER: J. Oscar Ward, Councilman
SECONDER: Wm David Palmer, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Palmer
ABSTAIN: Kyle Taylor

Resolution No. RES-2020-166 -- Take Appropriate Action Concerning Declaration of Local Disaster for Public Health Emergency to Address COVID-19

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer
8 Resolution No. RES-2020-167 -- Approving an Interlocal Agreement Between Dallas County and the City of Irving Relating to Dallas County CARES Act Funding

Councilman Taylor abstained from this discussion and has filed an abstention affidavit with the City Secretary’s Office.

Motioned by Councilman Riddle, seconded by Councilman Palmer to Approve Resolution -- Approving an Interlocal Agreement Between Dallas County and the City of Irving Relating to Dallas County CARES Act Funding.

Motion approved 8-0-1.

RESULT: ADOPTED [8-0-1]
MOVER: Phil Riddle, Councilman
SECONDER: Wm David Palmer, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Palmer
ABSTAIN: Kyle Taylor

9 Resolution No. RES-2020-168 -- Approving an Annual Agreement Between the City of Irving and Single-Source Provider Lion Totalcare, Inc., in an Amount Not to Exceed $100,000.00 for Cleaning and Inspection of Firefighting Protective Gear

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

10 Resolution No. RES-2020-169 -- Awarding a Contract to DDM Construction Corp., in the Amount of $1,963,153.27 for the Glenmore Street and Shepherd Street Paving and Utility Improvement Project

Motioned by Councilman Ward, seconded by Councilman Danish to Approve Resolution -- Awarding a Contract to DDM Construction Corp., in the Amount of $1,963,153.27 for the Glenmore Street and Shepherd Street Paving and Utility Improvement Project.

Motion approved 9-0.
11 Resolution No. RES-2020-170 -- Awarding a Contract to Pennington Utility Construction, LLC in the Amount of $827,758.00 for the Belltower and Ryan Street Wastewater Improvement Project

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: John C. Danish, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

12 Resolution No. RES-2020-171 -- Approving an Economic Development Incentive Agreement Between the City of Irving and JP-1925-JCF, LP in an Amount Dependent Upon Annual Qualification

The following individual(s) signed up in support of this item but did not wish to speak:
Scott Florsheim, 12770 Coit Rd. #1050, Dallas, TX

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer
13 Resolution No. RES-2020-172 -- Approving Renewal No. 4 to the Agreement between the City of Irving and Morris & McDaniel, Inc., for an Additional One-Year Term in the Total Estimated Amount of $64,500.00 for Police & Fire Promotional Examinations

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

14 Resolution No. RES-2020-173 -- Approving and Accepting the Bid of KoolCote of Texas in the Total Estimated Amount of $72,581.02 for West Aquatic Facility Deck Resurfacing

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

15 Resolution No. RES-2020-174 -- Approving As-Needed and Emergency Expenditures with Gomez Floor Covering, Inc., in the Total Estimated Amount of $125,000.00 for Carpet and Tile Flooring, Stage Floor Refinishing, Concrete Polishing, Grinding and Staining through the State of Texas Local Government Statewide Cooperative Purchasing Program Administered by the Texas Association of School Boards (The BuyBoard Program)

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer
16 Resolution No. RES-2020-175 -- Approving and Accepting the Bid from F&F Concrete, LLC., in the Total Estimated Amount of $750,000.00 to Provide Concrete Repair through the DART Local Assistance Program

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

17 Resolution No. RES-2020-176 -- Approving and Accepting the Bids of Core & Main LP, and Ferguson Waterworks in the Total Estimated Amount of $218,396.08 for Brass Fittings

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

18 Resolution No. RES-2020-177 -- Approving and Accepting the Bids of Ferguson Waterworks, Core & Main LP, and ACT Pipe & Supply, Inc., in the Total Estimated Amount of $247,531.29 for Iron Fittings

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer
Resolution No. RES-2020-178 -- Approving a Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement Between the City of Irving and Verizon Wireless in the Total Estimated Amount of $866,604.00 for Cellular and Wireless Data Services through the State of Texas Department of Information Resources (DIR)

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

Ordinance No. ORD-2020-10338 -- Approving a Second Amended and Restated Economic Development Incentive Agreement, through the Corridor Enhancement Incentive Program, and an Associated Parking Facility Lease with SMB Staffing, LLC, for Property Located at 124 S Hastings Street, Extending Completion Deadline

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Al Zapanta, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

INDIVIDUAL CONSIDERATION

Ordinance No. ORD-2020-10339 -- Public Hearing and Ordinance Readopting Section 13-14 of the Code of Civil and Criminal Ordinances of the City of Irving, Texas, Relating to Childcare for City Operated Youth Programs

Mayor Stopfer opened the public hearing at approximately 7:13 p.m.

No one signed up to speak on this item at tonight’s meeting.

Mayor Stopfer closed the public hearing at approximately 7:13 p.m.
Motioned by Councilman Ward, seconded by Councilman Meagher to Approve Ordinance -- Public Hearing and Ordinance Readopting Section 13-14 of the Code of Civil and Criminal Ordinances of the City of Irving, Texas, Relating to Childcare for City Operated Youth Programs.

Motion approved 9-0.

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**22 Ordinance No. ORD-2020-10340** -- Conduct a Public Hearing and Consider the First Amendment to the Amended Project Plan and Financing Plan of Tax Increment Reinvestment Zone Number One

Mayor Stopfer opened the public hearing at approximately 7:13 p.m.

No one signed up to speak on this item at tonight’s meeting.

Mayor Stopfer closed the public hearing at approximately 7:16 p.m.

Motioned by Councilman Ward, seconded by Councilman Taylor to Approve Ordinance -- Conduct a Public Hearing and Consider the First Amendment to the Amended Project Plan and Financing Plan of Tax Increment Reinvestment Zone Number One.

Motion approved 6-3.

Councilmember(s) voting in favor of this motion include: Mayor Stopfer, Danish, Meagher, Webb, Ward and Taylor

Councilmember(s) voting in opposition of this motion include: Riddle, Zapanta and Palmer

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<td>NAYS:</td>
<td>Phil Riddle, Al Zapanta, Wm David Palmer</td>
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Mayor Stopfer opened the public hearing at approximately 7:16 p.m.

The following individual(s) signed up to speak in support of this item:
Shamim Choudhury, 2071 N. Collins Blvd, Richardson, TX
M. D. Islam, 9401 LBJ Fwy, Dallas, TX

Mayor Stopfer closed the public hearing at approximately 7:30 p.m.


Motion approved 8-1.

Councilmember(s) voting in opposition of this motion include: Meagher

RESULT: ADOPTED [8 TO 1]
MOVER: Dennis Webb, Councilman
SECONDER: J. Oscar Ward, Councilman
AYES: Stopfer, Danish, Webb, Riddle, Ward, Zapanta, Taylor, Palmer
NAYS: Allan Meagher
24 Resolution No. RES-2020-179 -- Special Fence Project Plan #ZC20-0006 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Six (6) Foot Tall Wrought Iron Fence Within the Front Setback Along Grauwyler Rd. and Plymouth Dr. - Property Located at 1621 W. Grauwyler Road - Faustina Academy, Applicant/Owner

Mayor Stopfer opened the public hearing at approximately 7:31 p.m.

The following individual(s) signed up to speak in support of this item:
Reev Rohrer, 3100 Wingreen, Irving, TX
Matt & Mia Nelson, 1618 Green Oaks, Irving, TX

Mayor Stopfer closed the public hearing at approximately 7:35 p.m.

Motioned by Councilman Taylor, seconded by Councilman Ward to Approve Resolution -- Special Fence Project Plan #ZC20-0006 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Six (6) Foot Tall Wrought Iron Fence Within the Front Setback Along Grauwyler Rd. and Plymouth Dr. - Property Located at 1621 W. Grauwyler Road - Faustina Academy, Applicant/Owner.

Motion approved 9-0.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kyle Taylor, Councilman
SECONDER: J. Oscar Ward, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer


Mayor Stopfer opened the public hearing at approximately 8:10 p.m.
The following individual(s) signed up in support of this item but did not want to speak:
Ana Padilla, 2214 Cedarview Dr., Irving, TX
Ariana Brendle, 15051 Royal Oaks Ln. #2102, Irving, TX

The following individual(s) signed up to speak in support of this item:
Sharon Barbosa Crain, 2608 Alan A Dale, Irving, TX
Jim Widener, 900 Turtlelake Blvd., Irving, TX
James Cornelius, 1601 Elm Street, Dallas, TX
Craig Carney, 5700 Granite Parkway, Plano, TX
Chris Shear, 8050 Spectrum Blvd., Addison, TX

The following individual(s) signed up to speak in opposition of this item:
Rachel Wilson, 931 Turtlelake Blvd., Irving, TX
Greg Hoffman, 1204 Garden Terrace, Irving, TX
Teresa Stadleman, 1007 Turtlelake, Irving
Jay Young, 1201 Sea Terrace, Irving, TX
Cherry Sue Mackenzie, 941 Turtle Cove, Irving, TX

Mayor Stopfer closed the public hearing at approximately 9:04 p.m.


Motion approved 7-2.

Councilmember(s) voting in opposition of this motion include: Riddle and Zapanta

RESULT: ADOPTED [7 TO 2]
MOVER: Kyle Taylor, Councilman
SECONDER: Dennis Webb, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Ward, Taylor, Palmer
NAYS: Phil Riddle, Al Zapanta
Resolution No. RES-2020-180 -- Special Fence Project Plan #ZC20-0016 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Maintain a Seven-Foot Tall White Rib Steel Roof Panel Fence 180 Feet on the East Side Property Line, 75 Feet on the West Side Property Line and on the Entire Rear Property Line - Property Located at 925 King Avenue - Quaid Mahuwala, Applicant/Owner

Mayor Stopfer opened the public hearing at approximately 7:37 p.m.

No one signed up to speak on this item at tonight’s meeting.

Mayor Stopfer closed the public hearing at approximately 7:38 p.m.

Motioned by Councilman Palmer, seconded by Councilman Meagher to Deny Resolution -- Special Fence Project Plan #ZC20-0016 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Maintain a Seven-Foot Tall White Rib Steel Roof Panel Fence 180 Feet on the East Side Property Line, 75 Feet on the West Side Property Line and on the Entire Rear Property Line - Property Located at 925 King Avenue - Quaid Mahuwala, Applicant/Owner.

Motion to deny approved 8-1.

Councilmember(s) voting in opposition of this motion include: Riddle

RESULT: DENIED [8 TO 1]
MOVER: Wm David Palmer, Councilman
SECONDER: Allan Meagher, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Ward, Zapanta, Taylor, Palmer
NAYS: Phil Riddle

Resolution No. RES-2020-181 -- Special Fence Project Plan #ZC20-0019 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Fence Along the Side Property Line Along Marie Lane - Property Located at 122 W. Vilbig Street - Marcus James, Applicant/Owner (Postponed from the June 4, 2020 City Council Meeting)

Mayor Stopfer opened the public hearing at approximately 7:39 p.m.

The following individual(s) signed up to speak in support of this item:
Marcus James, 122 W. Vilbig, Irving, TX

Mayor Stopfer closed the public hearing at approximately 7:50 p.m.
Motioned by Councilman Palmer, seconded by Councilman Danish to Postpone Resolution -- Special Fence Project Plan #ZC20-0019 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Fence Along the Side Property Line Along Marie Lane - Property Located at 122 W. Vilbig Street - Marcus James, Applicant/Owner to June 25, 2020.

Motion approved 9-0.

RESULT: POSTPONED [UNANIMOUS]  
Next: 6/25/2020 7:00 PM  
MOVER: Wm David Palmer, Councilman  
SECONDER: John C. Danish, Councilman  
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

28 Ordinance No. ORD-2020-10343 -- Zoning Case ZC20-0021 - Considering a Zoning Change from R-6 (Single Family) District Uses to S-P-1 (Detailed Site Plan) District for R-6 (Single Family) Uses to Allow an Accessory Dwelling Unit for Permanent Living - Approximately 0.23 Acres Located at 502 Compton Avenue - Ezequiel Gonzalez, Applicant - Barbara Gonzalez, Owner

Mayor Stopfer opened the public hearing at approximately 7:50 p.m.

The following individual(s) signed up to speak in support of this item: Barbara Gonzales, 502 Compton Ave., Irving, TX

Mayor Stopfer closed the public hearing at approximately 7:51 p.m.

Motioned by Councilman Webb, seconded by Councilman Taylor to Approve Ordinance -- Zoning Case ZC20-0021 - Considering a Zoning Change from R-6 (Single Family) District Uses to S-P-1 (Detailed Site Plan) District for R-6 (Single Family) Uses to Allow an Accessory Dwelling Unit for Permanent Living - Approximately 0.23 Acres Located at 502 Compton Avenue - Ezequiel Gonzalez, Applicant - Barbara Gonzalez, Owner.

Motion approved 9-0.

RESULT: ADOPTED [UNANIMOUS]  
MOVER: Dennis Webb, Councilman  
SECONDER: Kyle Taylor, Councilman  
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer
Ordinance No. ORD-2020-10344 -- ZC20-0023 - Considering a Comprehensive Plan Amendment Changing the Recommended Future Land Use from "Compact Neighborhood" to "Business District", and Considering a Zoning Change from R-40 (Single Family) District Use to C-O (Commercial Office) District Use - Approximately 35.27 Acres Located at 5800 Colwell Boulevard - ExxonMobil Environmental and Property Solutions Company, Applicant/Owner

Mayor Stopfer opened the public hearing at approximately 7:52 p.m.

The following individual(s) signed up in support of this item but did not want to speak:
Hammond Perot, 1609 Driscoll, Irving, TX

The following individual(s) signed up to speak in support of this item:
William Johnson, 401 Northwest Hwy, Irving, TX

Mayor Stopfer closed the public hearing at approximately 7:52 p.m.

Motioned by Councilman Ward, seconded by Councilman Meagher to Approve Ordinance -- ZC20-0023 - Considering a Comprehensive Plan Amendment Changing the Recommended Future Land Use from "Compact Neighborhood" to "Business District", and Considering a Zoning Change from R-40 (Single Family) District Use to C-O (Commercial Office) District Use - Approximately 35.27 Acres Located at 5800 Colwell Boulevard - ExxonMobil Environmental and Property Solutions Company, Applicant/Owner.

Motion approved 9-0.

RESULT: ADOPTED [UNANIMOUS]
MOVER: J. Oscar Ward, Councilman
SECONDER: Allan Meagher, Councilman
AYES: Stopfer, Danish, Meagher, Webb, Riddle, Ward, Zapanta, Taylor, Palmer

APPOINTMENTS AND REPORTS

Mayor's Report

There was no mayor's report at tonight's meeting.
ADDENDUM

1 **Ordinance No. ORD-2020-10345** -- Take Appropriate Action Concerning Declaration of Local State of Disaster and Implementation of Curfew or Other Emergency Measures in Response to Public Safety Concerns Posed by Civil Disturbances and Rioting

This item was withdrawn by staff, no council action needed.

| RESULT: | WITHDRAWN NO VOTE |

Adjournment

The meeting was adjourned at approximately 9:06 p.m.

Richard H. Stopfer, Mayor

ATTEST:

Shanae Jennings, TRMC
City Secretary
Resolution -- Take Appropriate Action Concerning Declaration of Local Disaster for Public Health Emergency to Address COVID-19

Administrative Comments
1. This item is recommended by the City Manager’s Office and the Office of Emergency Management.
2. **Impact:** The proposed resolution would ratify the local state of disaster declared by the Mayor on March 12, 2020, and extend it to July 16, 2020, which is the date of the next City Council meeting.
3. On March 12, 2020, Mayor Richard H. Stopfer issued a proclamation declaring a local state of disaster resulting from a public health emergency caused by the 2019 Coronavirus Disease (COVID-19). This order was effective through 11:00 a.m. on March 20, 2020.

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

CURRENT YEAR FINANCIAL IMPACT:
NONE

REVISION INFORMATION:
Prepared: 6/5/2020 08:52 AM by Anthony Cao
Last Updated: 6/8/2020 04:09 PM by Anthony Cao
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11063)

A RESOLUTION RATIFYING AND EXTENDING THE MARCH 12, 2020 DECLARATION OF LOCAL DISASTER FOR PUBLIC HEALTH EMERGENCY UNTIL JULY 16, 2020; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on the 12th day of March, 2020, the Mayor issued a proclamation declaring a local state of disaster for the City of Irving, Texas, resulting from a public health emergency caused by the disease COVID-19; and

WHEREAS, the existence of the public health emergency necessitating declaration of a local state of disaster remains as the disease COVID-19 continues to spread through the world, state, and region, with increasing COVID-19 cases confirmed in Dallas County; and

WHEREAS, § 418.108 (b) of the Texas Government Code provides that a local state of disaster may not be continued for a period in excess of seven days without the consent of the governing body of the political subdivision; and

WHEREAS, the City Council of the City of Irving, ratified and extended the Mayor’s March 12, 2020, Declaration of Local Disaster for Public Health Emergency until April 18, 2020, and subsequently ratified and extended it until June 25, 2020;

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

SECTION 1. That the local state of disaster proclaimed for the City of Irving by the Mayor on the 12th day of March, 2020 shall be ratified and shall continue in effect until 11:59 p.m. on July 16, 2020; provided however that this declaration may be terminated before July 16, 2020 by subsequent order of the City Council, and may be continued or renewed beyond July 16, 2020 only with the consent of the City Council of the City of Irving.

SECTION 2. Pursuant to §418.018 (c) of the Government Code, the declaration shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

SECTION 3. That this resolution shall become effective immediately upon passage.

RICHARD H. STOPFER
MAYOR

ATTEST:

________________________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

________________________________________
Kuruvilla Oommen
City Attorney
Resolution -- Approve Allocating Use of Debt Service Sub-Fund Revenues and Fund Balance as an Internal Fund Loan to Provide Payment Relief to a Portion of the Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017 (Convention Center Bonds), and the Terms of Repayment of the Internal Fund Loan

Administrative Comments

1. This item is recommended by Financial Services. It supports Strategic Objective 1.1 – Contain costs and increase operational efficiency.

2. Impact: This resolution documents the Council’s direction to use Debt Service Sub-Fund Revenues and Fund Balance to cover the debt service associated with the Convention Center Bonds and provides a method for repayment from the two-sevenths Hotel Occupancy tax when that revenue exceeds debt service needs.

3. The City Council adopted an ordinance on December 9, 1999, which levied a tax upon the cost of occupancy of any room furnished by any hotel equal to 7% of the consideration paid by the occupant of the room.

4. The ordinance also provided that the revenue derived from two-sevenths of the hotel occupancy tax be used for the purpose of planning, constructing and equipping a convention center project.

5. The City Council adopted an ordinance on January 8, 2009 authorizing the issuance and sale of Combination Tax and Hotel Occupancy Tax Revenue Certificates of Obligation, Series 2009 in an amount not to exceed $130,000,000 for the purpose of constructing and equipping the Convention Center and the City Council adopted an ordinance on August 10, 2017 authorizing the issuance and sale of Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds to refunding the Series 2009 bonds.

6. During certain periods of the HOT revenue cycle, the two-sevenths of the HOT revenue may not be adequate to cover debt service due on the Convention Center Bonds.

7. This resolution intends to create a mechanism for an internal fund loan from the General Debt Service Sub-Fund to the Hotel Occupancy Tax Sub-Fund in any year as is necessary to pay the Convention Center Bonds and the repayment of the internal fund loan when the two-sevenths of the HOT revenue is in excess of the amount required to cover the debt service due in any year on the Convention Center Bonds.

8. Resolution 2010-330 created an interfund loan related to the Combination Tax and Hotel Occupancy Tax Revenue Certificates of Obligation, Series 2009. As of September 30, 2019, the balance on that interfund loan was $5,810,015. The amount of the internal fund loan created by this Resolution will be in addition to the $5,810,015 already approved through resolution 2010-330.
Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

<table>
<thead>
<tr>
<th>Contract Required</th>
<th>Review Completed By</th>
<th>Previous Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Christina N. Weber</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council Action:</td>
<td>Approval</td>
</tr>
</tbody>
</table>

Discretionary Contract Disclosure Form Required:

Certificate of Interested Parties (Form 1295) Required:

CURRENT YEAR FINANCIAL IMPACT:

XXXX-XXXX-XXXX-XXXX, XXXX-XXXX-XXXX-XXXX     Budget: $     Actual:
P0__________, P0___________

Budget Adjustment/Transfer Required: Yes\No (If yes, please explain.)

REVISION INFORMATION:

Prepared: 5/26/2020 10:04 AM by Anita Gomez
Last Updated: 6/18/2020 08:48 AM by Anita Gomez
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11034)

WHEREAS, the City Council adopted ordinance 7590 on December 9, 1999 which levied a tax upon the cost of occupancy of any room furnished by any hotel equal to 7% of the consideration paid by the occupant of the room (the “HOT”); and

WHEREAS, ordinance 7590 also provided that the revenue derived from two-sevenths of the hotel occupancy tax to be used as provided in Tex. Tax Code 351.101 for the purpose of planning, constructing and equipping a convention center project; and

WHEREAS, the City Council adopted ordinance 2009-9035 on January 8, 2009 authorizing the issuance and sale of Combination Tax and Hotel Occupancy Tax Revenue Certificates of Obligation, Series 2009 in an amount not to exceed $130,000,000.00 for the purpose of constructing and equipping the Convention Center (together called the “Convention Center Certificates of Obligation”); and the City Council adopted ordinance 2017-9963 on August 10, 2017 authorizing the issuance and sale of Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017 in an amount not to exceed $125,255,000 for the purpose of refunding the Series 2009 Certificate of Obligations; and

WHEREAS, during certain periods of the HOT revenue cycle, the two-sevenths of the HOT revenue may not be adequate to cover debt service due on the Convention Center Bonds; and

WHEREAS, the City Council, by this resolution, intends to create a mechanism for an internal fund loan from the General Debt Service Sub-Fund to the Hotel Occupancy Tax Sub-Fund in any year as is necessary to pay the Convention Center Bonds and the repayment of the internal fund loan when the two-sevenths of the HOT revenue is in excess of the amount required to cover the debt service due in any year on the Convention Center Bonds;

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

SECTION 1. That the declarations in the preamble to this resolution are adopted and restated.

SECTION 2. Creation of internal fund loan. That upon the use of debt service sub-fund revenues or fund balance to make a payment of the debt service due on the Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017 in any year, as provided by the Ordinances authorizing the Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017, such amount assessed shall be an internal fund loan from the of the City’s General Debt Service Sub-Fund to the Hotel Occupancy Tax Debt Service Sub-Fund for the sole purpose of paying debt service on the Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017. The amount of such internal fund loan shall be recorded and an internal fund loan receivable in the General Debt Service Sub-Fund and an internal fund loan payable in the Hotel Occupancy Tax Debt Service Sub-Fund in the records maintained by the Chief Financial Officer.

SECTION 3. Obligation to repay. At such time that the two-sevenths of the HOT revenue exceeds the amount necessary to pay debt service on the Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017 and any other obligations to which the HOT is
pledged (the Combination Tax and Hotel Occupancy Tax Revenue Refunding Bonds, Series 2017 and any additional obligations to which the 7% HOT is pledged together are referred to herein as the “Pledged Obligations”), any excess revenue will be used to reduce the internal fund loan payable due the City’s Debt Service Sub-Fund to repay the loan authorized by Section 2. Should there be any excess revenue of the two-sevenths of the HOT following the payment of the Pledged Obligations and this internal fund loan, such excess revenue shall be deposited into an account for convention center maintenance.

SECTION 4. That the City Manager and Chief Financial Officer shall take those actions reasonable and necessary to comply with the intent of this Resolution.

SECTION 5. That this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


_________________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_____________________________
Kuruvilla Oommen
City Attorney
Resolution -- Authorizing Publication of Notice of Intention to Issue Combination Tax and Revenue Certificates of Obligation; Authorizing the Preparation of a Preliminary Official Statement and Notice of Sale; and Providing for Other Matters Incidental Thereto

Administrative Comments
1. This item is recommended by the Financial Services Department.

2. **Impact:** The impact of the 2020 Certificates will allow the City to provide cost efficient funding for improvements to support the Drainage Solutions for Tomorrow program.

3. The resolution provides notice that the City, on or about August 20, 2020 intends to issue up to $15,000,000 principal amount of Combination Tax and Revenue Certificates of Obligation, Series 2020.

4. The attached notice reads that the estimated interest rate on the certificates is 4%.

5. The rate on the certificates will be fixed. Variable rates are not a part of this financing structure.

6. The certificates will be used to provide funding for public infrastructure projects to improve drainage capacity.

7. The City is required to place two consecutive notices in the newspaper. The notice will be published once a week for two consecutive weeks. The date of the first publication being not less than the 45th day prior to the date of passage of the ordinance authorizing the certificates.

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: No
Previous Action: N/A

Review Completed By: Christina Weber
Council Action: N/A

CURRENT YEAR FINANCIAL IMPACT:
N/A

REVISION INFORMATION:
Prepared: 6/1/2020 11:38 AM by Brad Duff
Last Updated: 6/18/2020 08:51 AM by Marivi Gambini
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11043)

WHEREAS, the City Council of the City of Irving, Texas (the “City”) deems it advisable to issue certificates of obligation (the “Certificates”) of the City in accordance with the notice hereinafter set forth; and

WHEREAS, the City desires to authorize the preparation of a preliminary official statement (the “Preliminary Official Statement”) and notice of sale (the “Notice of Sale”) in anticipation of its issuance of the Certificates; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS THAT:

The findings, determinations, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council and made a part hereof for all purposes.

The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto as Exhibit A, a notice of the City’s intention to issue the Certificates (the “Notice”).

The Notice shall be published once a week for two (2) consecutive weeks in a newspaper that is of general circulation in the City, the date of the first publication to be at least forty-six (46) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City’s website for at least forty-five (45) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

The City hereby authorizes the preparation and distribution of a Notice of Sale, if required, and Preliminary Official Statement relating to the Certificates and authorizes the City Manager or the Chief Financial Officer to approve the contents of and deem final such Preliminary Official Statement within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934.

For purposes of section 1.150-2(d) of the Treasury Regulations, this Notice serves as the City’s official declaration of intent to reimburse itself from proceeds of the Certificates in the maximum principal amount and for expenditures paid in connection with the projects, each as set forth in Exhibit A hereof. Any such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date the project to which such expenditure relates is placed in service or abandoned, but in to event more than three years after the original expenditure is paid.

The City’s financial advisor, Hilltop Securities, Inc., and bond counsel, Bracewell LLP, are authorized and directed to proceed with the necessary arrangements for the sale of the Certificates in accordance with the aforesaid Notice of Sale and Preliminary Official Statement.

The Mayor, City Manager, Chief Financial Officer, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.
This resolution shall take effect immediately upon its passage.

[Execution Page to Follow]

PASSED AND APPROVED on this the 25th day of June, 2020 by the City Council of the City of Irving, Texas.

City Secretary
City of Irving, Texas

Mayor
City of Irving, Texas

[SEAL]

EXHIBIT A

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Irving, Texas (the “City”), will meet at the City Council Chambers, 825 W. Irving Blvd., Irving, Texas, at 7:00 p.m., on the 20th day of August, 2020 (unless alternative meeting arrangements are required to address public health concerns, which meeting arrangements will be specified in the notice of such meeting posted in accordance with applicable law), which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City’s Combination Tax & Revenue Certificates of Obligation, Series 2020 (the “Certificates”), in the maximum aggregate principal amount not to exceed $15,000,000, payable from the levy of a direct and continuing ad valorem tax against all taxable property within the City sufficient to pay the interest on this series of Certificates as due and to provide for the payment of the principal thereof as the same matures, as authorized by Chapter 271, Subchapter C, Texas Local Government Code, as amended, and from all or a part of the surplus revenues of the City’s waterworks and sewer system, such pledge of surplus revenues being limited to $1,000,000, bearing interest at any rate or rates not to exceed the maximum interest rate authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the Certificates, and maturing over a period not to exceed forty (40) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with (i) the design, development, construction and acquisition of drainage improvements and facilities within the City, including the acquisition of land therefor; and (ii) professional services incurred in connection with item (i), and (iii) to pay the costs incurred in connection with the issuance of the Certificates. The estimated combined principal and interest
required to pay the Certificates on time and in full is $19,029,581. Such estimate is provided for illustrative purposes only, and is based on an assumed interest rate of approximately 4%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount outstanding of tax-supported debt obligations of the City is $433,120,000. Based on the City’s expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City on time and in full is 585,404,953.


Shanae Jennings
City Secretary
City of Irving, Texas

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTY OF IRVING §

I, the undersigned officer of the City Council of the City of Irving, Texas, hereby certify as follows:

1. The City Council of the City of Irving, Texas, convened in a regular meeting on the 25th day of June, 2020, at the regular meeting place of the City Council, and the roll was called of the duly constituted officers and members of said City Council, to wit:

Rick Stopfer Mayor (At-Large)
J. Oscar Ward Mayor Pro Tem, Place 5
Wm. David Palmer Deputy Mayor Pro Tem, At-Large (Place 8)
John C. Danish Council Member, Place 1
Allen E. Meagher Council Member, At-Large (Place 2)
Dennis Webb Council Member, Place 3
Phil Riddle Council Member, Place 4
Al Zapanta Council Member, District 6
Kyle Taylor Council Member, Place 7

and all of said persons were present, except the following absentee(s): ____________________, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written
RESOLUTION NO. 20____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AUTHORIZING THE PREPARATION OF A PRELIMINARY OFFICIAL STATEMENT AND NOTICE OF SALE; AND PROVIDING FOR OTHER MATTERS INCIDENTAL THERETO

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said resolution, prevailed and carried by the following vote:

_________ Member(s) of City Council shown present voted “Aye.”

_________ Member(s) of City Council shown present voted “No.”

2. A true, full and correct copy of the aforesaid resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said resolution has been duly recorded in said City Council's minutes of said meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said meeting pertaining to the adoption of said resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this ___ day of _____________, 2020.

City Secretary
City of Irving, Texas

[SEAL]

______________________________

RICHARD H. STOPFER
MAYOR

ATTEST:

______________________________

Shanae Jennings
City Secretary

APPROVED AS TO FORM:

______________________________

Kuruvilla Oommen
City Attorney
Resolution -- Authorizing Additional Expenditures in the Total Estimated Amount of $843,000 to Fund the Automatic Renewal of the Clinical Services Agreement with CareATC, Inc., to Continue Providing an Employee Health Clinic and Medical Services for a One-Year Term

Administrative Comments

1. This item is recommended by the Human Resources Department. It supports Strategic Goal No. 1.1 Contain cost and increase operational efficiency and Strategic Goal No. 6.2 Recruit, retain, and develop a diverse municipal workforce.

2. **Impact:** This renewal will continue to provide an employee health clinic for employees, spouses, dependents and pre-65 retirees that are on the city’s health plan. The clinic is staffed with a full-time physician, clinic staff, and nurse practitioners. Services offered by the clinic include, but are not limited to primary care, prescriptions, laboratory tests, and health assessments.

3. Employees on our PPO plans will continue to have access to the clinic at no cost, while employees on our High Deductible plan will continue to be charged a Fair Market Value rate of $40, which is mandated by the IRS.

4. Funding for Fiscal Year 2020-2021 in the amount of $843,000.00 is being requested to allocate into the Health Self-Insurance Fund for the continued operations of the clinic. Funding for the remainder of the current fiscal year was secured from council resolution (RES-2018-237).

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Yes.  
Review Completed By: Zachary Noblitt
Previous Action: N/A  
Council Action: N/A

Discretionary Contract Disclosure Form Required: No.
Certificate of Interested Parties Form Required: No.

ATTACHMENTS:

CareATC Presentation (PPTX)

CURRENT YEAR FINANCIAL IMPACT:

61011603-640021  
Budget: $843,000.00  Actual: $843,000.00

REVISION INFORMATION:

Prepared: 5/1/2020 03:43 PM by Robert A. Cascante Diaz
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby authorizes additional expenditures in the estimated amount of $843,000.00 for the automatic one-year renewal of the Clinical Services Agreement with CareATC, Inc. to continue providing an employee health clinic and medical services, subject to funds being appropriated in Fiscal Year 2020-2021.

SECTION II. THAT funding for this expenditure is available in the Health budget within the Self-Insurance Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
CareATC
Employee Clinic Utilization from Inception through June 1, 2020

City Council Work Session June 24, 2020
Summary

• Rolled out to employees and family members on the City’s Health Plan in October 2018
• Six clinics in the North Texas Region
  – Irving
  – Arlington
  – Carrollton
  – Richardson
  – Mansfield
  – Fort Worth
Summary

• Types of Visits
  – Routine Doctor Visits
  – Labs
  – Prescription Orders
  – Injections
Utilization

- 1,098 Individuals utilized the clinic
  - 75% were on the Choice Local Plus or Quality Open Access Plans
  - 25% were on the HSA plan
Utilization by Location

Visits by CareATC Location

- Richardson: 105
- Fort Worth: 141
- Arlington: 194
- Mansfield: 108
- Carrollton: 57
- Irving: 2,573
Utilization

• 3,178 visits were completed
  – 84% were on the Choice Local Plus or Quality Open Access Plans
    • Individuals on these plans utilized the clinic on average 3 times in 19 months
  – 16% were on the HSA plan
    • Individuals on the HSA plan utilized the clinic on average 2 times in 19 months
*2 months in current quarter – COVID 19 Impact

• Primary care visits to non-CareATC Clinics decreased by:
  – 1.6% for members on the Cigna Quality Connect (HDHP) Plan
  – 13% for members on the Cigna Quality OAP Plan
  – 7.5% for members on the Cigna Choice Local Plus Plan
Chronic Disease

Chronic Disease Counts by Age Group

- Asthma/CCPD
- Diabetes
- Hyperlipidemia
- Hypertension
- Obesity
- Tobacco

Legend:
- Over 40
- Under 40
Employee Satisfaction

- 2,548 surveys sent
- 508 responses
- Employee Satisfaction Score = 88 (up from 84 the previous year)
Top Medications by Conditions on the Health Plan

Top 15 Medications by Condition RX Count

- ADHD
- Horomone Replacement
- Inflammation
- Heart/Hypertension
- Pain
- Arthritis/Pain
- Seizures
- Contraception
- Asthma
- Thyroid
- Diabetes
- Cholesterol
- Infection
- Depression
- Hypertension
Other Services

• Vaccinations
• Screenings
• Labs
• Health Consultations/Referrals
• Specialty Programs
Recommendation

Based on utilization data of the CareATC clinic, the Human Resources Department recommends funding for the 2020-2021 fiscal year.
QUESTIONS?
Resolution -- Approving an Interlocal Agreement for School Resource Officers Between the City of Irving and the Carrollton-Farmers Branch Independent School District (CFB ISD) to Maintain the School Resource Officer Program at CFB ISD Campuses Located in the City of Irving

Administrative Comments

1. This item is recommended by the Police Department. It supports Strategic Objective No. 4.1: Safeguard public safety, security and health.

2. Impact: This agreement will provide security and peace officer services to protect Carrollton - Farmers Branch ISD (CFB ISD) property and the safety and welfare of CFB ISD students and personnel.

3. This is an annual agreement which takes effect August 1, 2020, and expires July 31, 2021, subject to additional renewal by the parties.

4. The Carrollton – Farmers Branch Independent School District shall pay the City 50% of the costs for two School Resource Officers’ salaries, retirement, health insurance, workers compensation insurance, and unemployment insurance. The City’s portion is estimated at $120,303.00, not including overtime. The funds are available in the Police Department budget.

5. Payments will be in three equal payments as compensation due on December 1, April 1, and August 1, in each year which this agreement is effective.

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Yes
Previous Action: N/A
Discretionary Contract Disclosure Form Required: N/A
Certificate of Interested Parties (Form 1295) Required: N/A
TGC Form 2270 Required: N/A

ATTACHMENTS:

CFBISD Interlocal Agreement 20-21_jmsrev_051220 (DOCX)

CURRENT YEAR FINANCIAL IMPACT:

None

REVISION INFORMATION:

Prepared: 5/8/2020 02:35 PM by Lauren Gilmette
Last Updated: 6/18/2020 09:01 AM by Janet Spugnardi
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11002)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves the attached Interlocal Agreement for School Resource Officers between the City of Irving and the Carrollton-Farmers Branch Independent School District (CFB ISD) whereby CFB ISD will pay to the City $120,303.00 to provide security and peace officer services at two CFB ISD schools in the City of Irving from August 1, 2020 until July 31, 2021, and the Mayor is authorized to execute said agreement.

SECTION II. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________________
Kuruvilla Oommen
City Attorney
INTERLOCAL AGREEMENT FOR SCHOOL RESOURCE OFFICERS

Pursuant to Texas Government Code §§791.001 et seq., the Interlocal Cooperation Act (the “Act”), the City of Irving, Texas, ("CITY"), and the Carrollton-Farmers Branch Independent School District ("CFB ISD"), each being a unit of "Local Government" as defined by the Act, make and enter into this Agreement for the performance of governmental functions and services for the purposes and consideration as set out below.

WITNESSETH:

WHEREAS, CFB ISD and the Police Department of CITY have instituted a cooperative School Resource Officer Program in CFB ISD schools contained within the City of Irving to combat juvenile delinquency, to personally assist students with various problems involving potential involvement with law enforcement, to develop and maintain positive relations between students and CITY police officers and to assist CFB ISD in maintaining a safe, orderly, and secure environment to learning; and

WHEREAS, CFB ISD and CITY desire to establish the School Resource Officer program at CFB ISD campuses located in the City of Irving; and

WHEREAS, CITY has full-time commissioned peace officers in its employ capable of providing CFB ISD School Resource Officers; and

WHEREAS, the Act authorizes CITY and CFB ISD to contract with one another for police protection, related administrative functions, and other governmental functions in which they are mutually interested; and
WHEREAS, the CFB ISD has found, and hereby declares, it is in need of security personnel and law enforcement services to (1) protect the safety and welfare of its students, employees, and other persons authorized to be on CFB ISD property or at CFB ISD sponsored events or activities; and (2) protect the real and personal property of CFB ISD; and

WHEREAS, the CFB ISD desires to utilize the security and law enforcement services and personnel of CITY for those functions and purposes; and

WHEREAS, the performance of these functions and services will be paid for out of the current revenues available to the CITY and CFB ISD; and

WHEREAS, the CITY desires to provide CFB ISD the required School Resource Officers;

NOW, THEREFORE, in consideration of the premises and of the terms, provisions, and mutual provisions herein contained, CITY and CFB ISD hereby agree as follows:

I.

Purpose

1.01 The primary purpose of this Agreement is for CFB ISD to secure the services of security and commissioned peace officers to protect its property and the safety and welfare of CFB ISD students and personnel. It is also the purpose of this Agreement to provide for the maintenance of the School Resource Officer Program by assigning School Resource Officers ("SROs") to CFB ISD's schools.

II.

Services and Obligations of CITY

The CITY, through the SROs, shall provide CFB ISD the following services and related activities:
2.01 Beginning August 1, 2020, officers will be assigned within the CFB ISD to serve as follows:

[1] officer will be assigned to Ranchview High School

[1] officer will be assigned to Barbara Bush Middle School

Officers will also service all CFB ISD schools within the City of Irving as requested by CFB ISD.

2.02 The SROs will work an eight (8) hour duty on instructional days during the regular school term with specific duty times to be determined by mutual consent of CFB ISD and the Irving Police Department. Duty assignments for summer school SROs will be assigned annually, with the schedule to coincide with the District's summer school program schedule. SROs shall arrive at their assigned campus and duty station 30 minutes prior to the first bell. Exceptions to such duty may arise when an assigned SRO is in required training or is otherwise temporarily required elsewhere as determined by the CITY. CITY shall provide CFB ISD notice by notifying the Campus Administration or the Security Department of CFB ISD, in accordance with Paragraph 9.02 of this Agreement, and by notifying the campus principal or other administrator in charge at the location of assignment of when such exceptions are required for training or other required assignments ten (10) days prior to such exception days or, when ten (10) days prior notice is not possible, as soon as CITY becomes aware of such exceptions. In the event an assigned SRO is removed, CITY shall provide a replacement officer. The CITY shall provide law enforcement training and certification, Basic SRO training, a police vehicle, and other police equipment including communication equipment necessary to allow each officer to communicate with the CITY's Police Department and other officers.

2.03 Changes in the total number of personnel to be provided by CITY and the duty hours to be worked by the officers shall be determined by mutual consent of the parties.
2.04 SROs shall prepare and submit attendance logs to CFB ISD outlining attendance and events of each duty day. The logs shall be provided by the SRO to the campus principal or other district administration in charge at the location of assignment. The frequency of the submission shall be determined by mutual agreement.

2.05 The duties of the SROs shall include, but not be limited to, the following:

(a) Monitoring access to the school grounds and assisting in limiting access to authorized persons;

(b) Protecting the property of CFB ISD and the security and safety of its students, personnel, and any person in the jurisdiction of the SROs, as outlined in the Agreement, in accordance with the duties of a commissioned peace officer of the CITY;

(c) Patrolling school property during and after school hours;

(d) Answering calls for assistance from school officials;

(e) Investigating and/or deterring the commission of criminal acts which may occur on school property and within their hereinafter-described jurisdiction;

(f) Preparing reports and documentation on criminal activities and filing of cases with the proper authorities;

(g) Making court appearances as necessary, related to events occurring within the officer’s jurisdiction as addressed herein below;

(h) Answering calls and assisting with the facilitation of dispute resolution between students, students and school authorities and parents and school authorities;
(i) Coordinating the Crime Stoppers Program;

(j) Serving as liaison between CFB ISD school and CITY's Police Department, juvenile officials, probation officials, courts, and other agencies of the juvenile justice system;

(k) Providing a high visibility, crime deterrent on school properties, in buildings, or parking lots, and on athletic fields;

(l) Attempting to detect and identify the early signs of deviant behavior associations;

(m) Promoting student adherence to the CFB ISD Student Code of Conduct;

(n) Providing traffic control and direction at locations and during time specified by CFB ISD;

(o) Being present upon request, when a school official is conducting a search of a student and the school official has reasonable grounds to believe that the search will discover evidence that the student has violated or is violating the law or the rules of the school;

(p) Attending meetings as requested by CFB ISD; and

(q) Other duties as assigned by CFB ISD and agreed upon by the CITY’s Police Department.

**Education Services**

2.06 The SROs shall participate as resource persons in the classroom, at assemblies, with parent groups, teach classes, lead discussions, and/or offer information
on law enforcement topics, campus security, or other Police Department programs, as requested by CFB ISD.

**Public Relations**

2.07 The SROs shall provide assistance to neighborhood merchants and residents regarding school related problems.

2.08 The SROs shall, upon request and approval by the Irving Police Department, provide presentations to civic groups on topics ranging from SRO programs to information about gang activities and gang strategies.

2.09 The SROs shall provide interpretation of the function and purpose of the SRO Program for the community.

2.10 The SROs shall assist in facilitating and maintaining good relations between CFB ISD and other law enforcement units and officers.

**Guidance Services**

2.11 The SROs shall assist in providing guidance and direction to students, parents, and school staff in law enforcement matters.

2.12 The SROs shall discuss student-police problems with the student council(s) and/or other Principal-approved student groups.

2.13 The SROs shall meet at the school with parents of students with potential law enforcement problems.

2.14 The SROS shall make pertinent literature, with the prior written approval of the campus principal, available to students.
Equipment

2.15 CITY agrees to supply any and all necessary equipment, including but not limited to, uniforms, a vehicle, radios, personal defense equipment, and any other equipment the CITY, in its sole discretion deems necessary to perform the duties of a police officer contemplated by this Agreement. SEE ALSO Paragraph 7.01 below regarding work space and support to be provided by CFB ISD.

III.
Confidentiality

3.01 In carrying out duties, SROs shall at all times recognize and respect the confidentiality of student and education records and shall seek access to such records only in accordance with the requirements of the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g and its implementing regulations 34 C.F.R. Part 99 ("FERPA") and CFB ISD Board Policy FL (LEGAL) and (LOCAL). These Board policies are available on CFB ISD’s website located at: https://pol.tasb.org/Home/Index/359.

3.02 CFB ISD agrees to provide CITY’s Police Department access to student records to the extent permitted under FERPA. SROs may be considered school officials allowed access to student records if he or she has a legitimate educational interest in the records pursuant to FL (LOCAL). All SROs provided with student records shall follow the same rules as CFB ISD employees concerning privacy of the records and shall return the records to CFB ISD upon completion of their assignment. CITY agrees that any student information obtained from CFB ISD will be used solely for legitimate educational purposes in accordance with all applicable, federal, state, and local laws, rules and regulations.
3.03 The CITY agrees to provide CFB ISD access to information, to the extent permitted by law, pertinent to the safety of any party that CFB ISD is responsible for, and all information pertinent to investigations.

3.04 CFB ISD will provide, and SROs shall attend, annual training for SROs, in connection with the duties of the SROs, to include the following: training on the application and requirements of CFB ISD operations; confidentiality of student records and information under FERPA; crisis prevention training (CPI); and other trainings or meetings deemed necessary by CFB ISD and beneficial to SROs or as required by law. Nothing contained herein shall restrict an officer's method of response during investigations of criminal activity or response to behavior that violates criminal laws or threatens the safety of a student or others.

IV.
Jurisdiction

4.01 When acting as a commissioned peace officer on CFB ISD property, the officer's jurisdiction shall include, in addition to his jurisdiction as an Irving Police Officer, all territory within the boundaries of the CFB ISD that is within the city limits of Irving and all property, real and personal, outside the boundaries of CFB ISD that is within Irving city limits and owned, leased, or rented by or otherwise under the control of CFB ISD and its Board of Trustees.

4.02 Infractions of school rules, policies, or any behavior deemed inappropriate by the SRO, will be reported by the SROs to the appropriate school officials within a practical time frame. The appropriate disposition of these incidents will be determined through a collaborative effort between the SROs and the appropriate school official.

V.
Qualifications
The SROs assigned by CITY Police Department shall have the following qualifications:

5.01 Must continuously satisfy all minimum standards for peace officers established from time to time by the Texas Commission on Law Enforcement and additional standards, if any, of CITY’s Police Department, and, when required by Texas Education Code §37.081(f), must be licensed by the Texas Commission on Law Enforcement.

5.02 Possess satisfactory knowledge of the applicable Federal and State laws, City and County ordinances, CFB ISD Board Policies, and CFB ISD Student Code of Conduct.

5.03 Demonstrated ability to communicate effectively.

5.04 Demonstrated ability to develop sincere relationships with students.

5.05 Initial selection and assignment of the SRO will be by CITY's Police Department, and mutually agreed upon by the Associate Superintendent for Business Services for CFB ISD. Continued assignment at a specific school will be subject to maintaining a satisfactory working relationship with the campus principal. If the working relationship between the officer and the campus principal becomes unsatisfactory or no longer beneficial to the SRO program, the CITY’s Police Department and the Associate Superintendent for Business Services or designee for CFB ISD will resolve the conflict in a manner that is agreeable to both parties.

VI.

Employees of the CITY

6.01 The SROs furnished by CITY will be an employee of the CITY and will at all times be subject to the supervision and control of, and shall be responsible to the CITY’s Chief of Police. No SRO employed by CITY shall be considered an agent, servant, or employee of CFB ISD. The relationship of CITY and CFB ISD is that of independent contractor and client. Nothing in this Agreement shall be construed to create
a relationship of partnership, joint venture, or agency by or between CITY and CFB ISD. Neither party shall be the agent of the other or have the authority to bind the other.

6.02 CITY is solely responsible for the payment of wages, benefits, and taxes on behalf of its employees and for the maintenance of workers' compensation insurance and the coverage of any work related claims for personal injury by CITY's SROs. SROs shall be subject to all personnel policies, general orders and practices of CITY.

6.03 The supervisory personnel of the SROs who are responsible for their direct supervision shall be available upon request to meet and confer with designated officials of CFB ISD.

6.04 Each SRO will report to the CFB ISD Associate Superintendent for Business Services and shall follow the education laws of the state and the policies and procedures promulgated by the CFB ISD's Board of Trustees to the extent the duties do not conflict with the policies and procedures of the CITY.

VII. Services and Obligations of CFB ISD

CFB ISD shall fulfill the following obligations in return for the CITY's performance of the foregoing services:

7.01 Provide an office, desk, computer and telephone for the SRO at the designated school to which the SRO may be assigned, together with the support of the professional staff as reasonably necessary to efficiently aid the SRO in the performance of his duties described in this Agreement. The SRO will be required to sign the CFB ISD Acceptable Use Agreement signed by all CFB ISD personnel regarding use of CFB ISD computer networks and internet access. During the performance of services under this Agreement, each SRO shall utilize their City of Irving email address account and shall not utilize a CFB ISD email account.
7.02 The CITY shall invoice CFB ISD and CFB ISD shall pay the CITY 50% of the costs for the SRO’s salary (police officer/Step 8), retirement, health insurance, life insurance, Medicare, workers compensation insurance, and unemployment insurance. See attached "Schedule A" setting forth the costs for the 2020-2021 school year, which is incorporated fully herein by reference. Payment shall be made in full as compensation for the contracted services of officers as set forth herein between October 1 and November 15 in each year in which this Agreement is in effect. Payments for the above described governmental services must be made from current revenues available to CFB ISD. Payments shall be delivered to:

City Treasurer  
Civic Center Complex  
825 West Irving Boulevard  
Irving, Texas 75060

7.03 In the event that the SRO is removed from service at the CFB ISD location or function as set forth in Paragraphs 2.01 and 2.02 above, CFB ISD will not be required to compensate CITY for the affected SRO for the time period for which the SRO is removed. Further, CITY will reimburse CFB ISD for any time period not served by the SRO and for which CITY has already received payment.

7.04 During the course of a criminal investigation or a use of force investigation being conducted by CITY, CFB ISD agrees to provide CITY with access to documents, records, recordings, images, emails, and other materials ("CFB ISD Materials") related to the criminal or use of force investigation, to the extent those CFB ISD Materials are not protected under FERPA, without requiring the CITY to make a request pursuant to the Texas Public Information Act ("TPIA"). To the extent those CFB ISD Materials are protected under FERPA, CFB ISD agrees to make reasonable efforts to cooperate with the CITY’s investigation and to seek consent from CFB ISD parent(s), guardian(s) or eligible student(s) to allow CITY access to the CFB ISD Materials for the limited purpose of the criminal or use of force investigation. Nothing herein shall be construed as requiring the CFB ISD to disclose CFB ISD Materials that are confidential under federal or state law or that are protected by
the attorney-client privilege and/or the attorney work product privilege. Use of force investigation is a term of art used by CITY and as used herein refers to a CITY internal investigation of the appropriateness of use of force by a CITY police officer during the course and scope of their employment.

7.05 When Irving police officers are requested by CFB ISD administrators to provide security and law enforcement services for CFB ISD athletic, extra-curricular or special events, compensation will be at the CITY overtime rate of the individual officer(s) assigned to the event. The CITY will make payment to the officer(s) at the overtime rate and will invoice the CFB ISD on a quarterly basis for reimbursement. CFB ISD agrees to remit payment to the CITY for the overtime rate. The CITY will provide CFB ISD with the name, hourly rate of pay, and total amount of time worked at a CFB ISD event as well as a copy of each overtime entry for each officer.

VIII.
Term

8.01 The term of this Agreement shall be for one year, and shall commence on August 1, 2020, and end on July 31, 2021. Prior to expiration of the term, this Agreement may be renewed for successive one-year terms upon approval of said renewal by the Irving City Council and Board of Trustees of the Carrollton-Farmers Branch Independent School District. If the parties do not renew the Agreement before the expiration of the Term, then this Agreement automatically terminates. Any party desiring to renew this agreement or desiring to change any terms or conditions of this Agreement, shall provide notice to the other party in writing at least sixty (60) days prior to expiration of the Agreement.

8.02 Prior to end of the term of the Agreement, either party may terminate the Agreement, with or without cause, by giving a thirty (30) day written notice to the other, and the Agreement shall terminate on the date set out in the notice. Termination of this Agreement shall not excuse any of the payments due for services provided during the term prior to the effective date of the notice for termination.
IX.

Notices and Administration

9.01 CFB ISD and CITY shall each monitor, review and provide oversight and supervision of the services as they are provided and each agrees to notify the other as soon as reasonably possible in the event the level or quality of any services becomes unsatisfactory.

9.02 All notices, communications and reports required or permitted under this Agreement shall be personally delivered to the respective parties, by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is subsequently notified otherwise in writing.

If intended for CITY, to:

CHIEF OF POLICE
City of Irving
305 North O'Connor Road
Irving, Texas 75061

If intended for CFB ISD, to:

ASSOCIATE SUPERINTENDENT FOR BUSINESS SERVICES
Carrollton-Farmers Branch Independent School District
P.O. Box 115186
Carrollton, Texas 75011-5186

X.

Miscellaneous Provision

10.01 VENUE: The obligations of the parties are performable in Irving, Texas, and if legal action is necessary to enforce same, exclusive venue shall be in Dallas County, Texas.

10.02 APPLICABLE LAW: This Agreement is made subject to the provisions of the Charter and Ordinances of CITY, as amended, enacted written Policies of CFB ISD's Board of Trustees, as amended, and all applicable State and Federal laws.
10.03 GOVERNMENTAL SERVICES - INDEPENDENT CONTRACTOR:
Notwithstanding any provision to contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by governmental entities:

(a) The services provided for herein are governmental functions and CFB ISD and CITY shall be engaged in the conduct of a governmental function while providing and/or performing service pursuant to this Agreement.

(b) The relationship of the CFB ISD and CITY shall, with respect to that part of any service or function undertaken as, a result of or pursuant to this Agreement, be that of independent contractors.

10.04 NO INDEMNIFICATION: It is understood and agreed between parties that each party hereto shall be responsible for its own acts of negligence in connection with this Agreement. Neither party shall be responsible to the other party for any negligent act or omission in connection with this Agreement. It is specifically agreed that, as between the parties, each party to this Agreement shall be individually and respectively responsible for responding to, dealing with, insuring against, defending and otherwise handling and managing liability and potential liability pursuant to this Agreement. Each party hereto reserves and expressly does not waive any defense available at law or in equity, including governmental immunity, for any claim or cause of action whatsoever that may arise or result from the services provided and/or any circumstances arising under this Agreement. These provisions are solely for the benefit of the parties hereto and not for the benefit of any person or entity not a party hereto; this Agreement shall not be interpreted nor construed to give any claim or cause of action to any third party. Neither the CITY nor CFB ISD shall be held legally liable for any claim or cause of action arising pursuant to or out of the services provided under this Agreement, except as specifically provided by the law. Where injury or property damage results from the joint or concurrent negligence of both parties, liability, if any, shall be shared by each party on the basis of comparative responsibility in accordance with the applicable laws of the State of Texas, subject to all defenses available to them, including governmental immunity.
10.05 IMMUNITY: This Agreement is expressly made subject to the CITY and CFB ISD's governmental immunity under the Texas Civil Practice and Remedies Code from suit and liability and all applicable federal, state, and local laws, rules, regulations, ordinances, and policies. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to CITY or CFB ISD or to create any legal rights or claim on behalf of any third party. Neither CFB ISD nor CITY waive, modify or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the federal or State of Texas laws.

10.06 DUTY TO COOPERATE: CITY and CFB ISD shall each have a duty to reasonably cooperate with each other in the event that a lawsuit is filed against CITY or CFB ISD by any third party resulting from or related to the services performed under this Agreement.

10.07 GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

10.08 LEGAL CONSTRUCTION: In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of it and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10.09 CAPTIONS: The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the items and conditions of this Agreement.

10.10 COUNTERPARTS: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

10.11 ENTIRE AGREEMENT: This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein, cannot be modified without written agreement of the parties to be attached to
and made a part of this Agreement.

10.12 AUTHORITY: The parties acknowledge and confirm that this Agreement has been entered into pursuant to the authority granted under the Interlocal Cooperation Act of Texas. All terms and provisions herein are to be construed and interpreted consistently with the Act.
EXECUTED as of the ________ day of ________ 2020.

CITY OF IRVING, TEXAS

By: __________________________ 
   Richard H. Stopfer, Mayor

ATTEST:

______________________________
Shanae Jennings, 
City Secretary

APPROVED AS TO FORM:

______________________________
Kuruvilla Oommen, 
City Attorney

CARROLLTON-FARMERS BRANCH 
INDEPENDENT SCHOOL DISTRICT

By: __________________________ 
   Nancy S. Cline, 
   President Board of Trustees

ATTEST:

______________________________
Tara Hrbacek, 
Secretary Board of Trustees

APPROVED AS TO FORM:

______________________________
Elisabeth Nelson, 
Attorney for CFB ISD
MAYOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Richard H. Stopfer, Mayor of the City of Irving, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said City of Irving, Texas, a municipal corporation, that he was duly authorized to perform the same by appropriate resolution of the City Council of the City of Irving and that he executed the same as the act of the said City for purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of ___________ A.D. 2020.

Notary Public in and for the State of Texas

TRUSTEE’S ACKNOWLEDGEMENT

THE STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared ________________, President, Board of Trustees of the Carrollton-Farmers Branch Independent School District, Carrollton, Texas, a political subdivision of the State of Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Carrollton-Farmers Branch Independent School District, that he was duly authorized to perform the same by appropriate resolution of the Board of Trustees of the Carrollton-Farmers Branch Independent School District and that he executed the same as the act of the said City for purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of ___________ A.D. 2020.

Notary Public in and for the State of Texas
SCHEDULE A

Costs for the 2020 - 2021 School Year

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<th>Category</th>
<th>Police Officer CSP-01, step 8</th>
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<td>Salary</td>
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</tr>
<tr>
<td>T.M.R.S.</td>
<td>$13,005.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$120,303.00</strong></td>
</tr>
</tbody>
</table>

Total Cost for Two SROs $240,606.00
Resolution -- Approving a Memorandum of Agreement Between the City of Irving and the City of North Richland Hills for the Purpose of Reimbursement of Overtime Salary Costs Directly Related to Work Performed by Officer(S) in Providing Resources to Assist the North Texas Anti-Gang Center Task Force.

Administrative Comments

1. This item is recommended by the Police Department. It supports Strategic Goal No. 4.1: Safeguard public safety, security and health.

2. Impact: This Memorandum of Agreement (MOA) is entered between the City of Irving Police Department and the City of North Richland Hills to participate in the North Texas Anti-Gang Center Task Force.

3. Participation in this MOA allows the Irving Police Department to provide resources to assist the North Texas Anti-Gang Center Task Force (TAG). TAG offers a centralized point of coordination for law enforcement agencies to focus on the activities of organized gangs, and engage in investigative and preventative efforts in the region and community of Irving.

4. This item requires no funding.

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Yes Review Completed By: Janet Spugnardi
Previous Action: N/A Council Action: N/A
Discretionary Contract Disclosure Form Required: N/A
Certificate of Interested Parties (Form 1295) Required: N/A
TGC 2270 Verification Form Required: N/A

ATTACHMENTS:

2020 MOA - TAG AGENCY OVERTIME REIMBURSEMENT -- City of Irving (PDF)

CURRENT YEAR FINANCIAL IMPACT:

None

REVISION INFORMATION:

Prepared: 6/12/2020 03:32 PM by Kayte Roberts
Last Updated: 6/12/2020 03:50 PM by Jennifer Phillips
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11082)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves the attached Memorandum of Agreement between the City of Irving and the City of North Richland Hills for the reimbursement of overtime salary costs associated with the North Texas Anti-Gang Center Task Force, and the Mayor is authorized to execute said agreement.

SECTION II. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
MEMORANDUM OF AGREEMENT
Between the City of North Richland Hills and the City of Irving
For Reimbursement of Overtime Salary Costs
Associated with the
North Texas Anti-Gang Center Task Force

I. PURPOSE

This Memorandum of Agreement, hereinafter referred to as “MOA,” is effective as of the 1st day of September, 2019 between the City of North Richland Hills, hereinafter referred to as “NRH,” and the City of Irving, hereinafter referred to as “Irving” each parties to that certain Local Administrative Agreement between the Constituent Agencies of the Texas Anti-Gang Center (“ILA”), for the purpose of reimbursement of overtime salary costs directly related to work performed by the Irving officer(s) in providing resources to assist the North Texas Anti-Gang Center Task Force, hereinafter referred to as “TAG.”

II. CONDITIONS AND PROCEDURES

A. Irving will be responsible for making payments of overtime to its officer(s) during the period of assignment to TAG. Subject to availability of funds and to the extent they are included in TAG’s approved fiscal year budget, NRH will reimburse Irving for overtime payments made by Irving to its officer(s) assigned to TAG investigations/assignments, up to a maximum sum equivalent to 25 percent of the salary of a GS-12, Step 1-RUS Employee or any maximum amount less than this as approved by the TAG Board of Directors. Overtime costs will not include benefits such as paid annual leave, compensatory leave, sick leave, holiday leave or retirement. All reimbursable hours of overtime work covered under this MOA must be approved in advance by the TAG Administrator.

B. Irving will submit all requests for reimbursable payments, together with the appropriate documentation as to time and activity reports, to the TAG Administrator by the 10th day of each subsequent month that the agency is seeking reimbursement. Irving will submit the request for reimbursement via email to TAGAdmin@texomahidta.org or mail to the following address: North Texas TAG, Attn: Scott McRory, 8404 Esters Blvd. Suite 100, Irving, Texas 75063.

C. Circumstances of this MOA deem Irving to be a single source provider of the services for their employees covered under this agreement.

III. DURATION

The term of this MOA shall be effective from the date in paragraph one and will remain in effect until the earlier of August 31, 2020 or the expiration of the ILA. This MOA may be modified only by mutual consent of the parties pursuant to a duly executed and approved written amendment to this MOA. This MOA may be terminated by either one of the parties with 60 days written notice to the other party. Billing for all outstanding obligations must be received by NRH within 60 days of the date of termination of this agreement. NRH will be responsible only for obligations incurred by Irving during the term of this MOA.

IN WITNESS WHEREOF, the following authorized representatives execute this agreement:

City of North Richland Hills

BY: ______________________________
   Mark Hindman, City Manager

Date: ______________________________

Attest: ______________________________
   Alicia Richardson, City Secretary

Approved as to Form and Legality: ______________________________
   Maleshia McGinnis, City Attorney

City of Irving

BY: ______________________________
   Richard H. Stopfer

Date: ______________________________

Attest: ______________________________
   Shanae Jennings, City Secretary

Approved as to Form: ______________________________
   Janet M. Spugnardi, Deputy City Attorney
Resolution -- Approving an Agreement Between the City of Irving and University of Texas at Dallas for the EMS School Students to Complete Their Supervised Field Instruction with the Irving Fire Department

Administrative Comments
1. This item is recommended by the Fire Department.
2. **Impact:** This agreement allows the University of Texas at Dallas EMS, EMT, and Paramedic Students to complete their supervised field instruction experiences with the Fire Department’s EMS personnel.
3. This Agreement shall become effective on July 1, 2020, for a term of one (1) year, and shall automatically renew for five additional one (1) year terms unless terminated by either party.

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

<table>
<thead>
<tr>
<th>Contract Required:</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Previous Action:</td>
<td>N/A</td>
</tr>
<tr>
<td>Discretionary Contract Disclosure Form Required:</td>
<td>No</td>
</tr>
<tr>
<td>Certificate of Interested Parties (Form 1295) Required:</td>
<td>No</td>
</tr>
</tbody>
</table>

ATTACHMENTS:

Agreement - UTD EMS School (6-25-20) (PDF)

CURRENT YEAR FINANCIAL IMPACT:
None

REVISION INFORMATION:
Prepared: 6/3/2020 03:53 PM by Anna Glenn
Last Updated: 6/10/2020 01:37 PM by Anna Glenn
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves the attached Agreement between the City of Irving and the University of Texas at Dallas for the EMS School Students to complete their supervised field instruction with the Irving Fire Department, and the Mayor is authorized to execute said agreement.

SECTION II. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
STATE OF TEXAS  §  AGREEMENT FOR STUDENT EMS FIELD INSTRUCTION
COUNTY OF DALLAS  §  WITH IRVING FIRE DEPARTMENT’S EMS PERSONNEL

This Agreement for Student EMS Field Instruction with Irving Fire Department’s EMS Personnel ("Agreement") is entered into by and between the City of Irving, Texas (the "City"), and University of Texas at Dallas Emergency Medical Response ("EMS School") (each a "Party" or collectively the "Parties"), acting by and through their authorized representatives.

RECITALS:

WHEREAS, the EMS School offers an emergency medical services ("EMS") education and certification program where students receive the training and instruction necessary to become an EMS Emergency Medical Technician ("EMT") or paramedic certified by the Texas Department of State Health Services; and

WHEREAS, as part of the certification process, the EMS School’s EMS, EMT and paramedic students participating in the EMS education and certification program are required to complete field instruction, including supervised experiences in the emergency department of a Texas Department of State Health Services-licensed EMS provider; and

WHEREAS, the City’s Fire Department is a Texas Department of State Health Services-licensed EMS provider that utilizes trained and certified EMS personnel; and

WHEREAS, the EMS School has requested that the City allow its EMS, EMT and paramedic students to complete their supervised field instruction experiences with the City Fire Department’s EMS personnel, and the City has agreed to the same in accordance with the terms and conditions herein; and

WHEREAS, the City believes it is mutually beneficial and in the best interest of the citizens of Irving to help train future EMS, EMT and paramedic personnel to ensure continuity of protection of the public health, safety and welfare.

NOW, THEREFORE, in consideration of the terms and conditions contained herein and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Article I
Term; Termination

1.1 The term of this Agreement shall commence on the 1st of July 2020 and shall be for a period of one (1) year, unless sooner terminated as provided herein. This Agreement shall automatically renew for five additional one (1) year terms unless either the City or the EMS School
provides the other Party written notice of its election to terminate the Agreement at least ninety (90) days prior to the expiration date of the initial term or any renewal term. Any renewal term shall be subject to all of the same terms and conditions of this Agreement, unless expressly modified in writing and duly executed by the parties and shall be subject to annual appropriation of funds by the City and EMS School.

1.2 Either Party may terminate this Agreement if the other Party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof. Either Party may terminate this Agreement by providing thirty (30) days prior written notice to the other Party. City may suspend or immediately terminate the Agreement for any unsafe, dangerous or other unauthorized behavior of the EMS School’s students while participating in field instruction with the City’s EMS personnel.

Article II
Purpose

The purpose of this Agreement is to set forth the terms and conditions under which EMS School’s EMS, EMT and paramedic students may complete their supervised field instruction experiences with the City Fire Department’s EMS personnel as is required to become EMS EMT or paramedics certified by the Texas Department of State Health Services.

Article III
City’s Duties

3.1 The Chief of the City’s Fire Department shall designate a member of the City’s EMS personnel as the EMS Student Instruction Officer whose duties shall be to serve as a liaison to the EMS School regarding this Agreement and to ensure the City’s duties required in this Article are performed.

3.2 The City will permit the EMS School’s assigned EMS EMT and paramedic students to observe City EMS personnel’s work, and to the extent approved by the Chief of the City’s Fire Department, to participate in the City EMS personnel’s routine and procedures under the direct supervision of City EMS personnel during their assigned duty days.

3.3 The City will supply necessary equipment required for its EMS personnel to the EMS School’s assigned EMS, EMT and paramedic students, such as gloves, gowns, and all medical supplies used on any patients. EMS School shall provide safety glasses and ANSI-approved safety vests for all students.

3.4 EMS School’s assigned EMS, EMT and paramedic students will be given the opportunity to participate in meals with the City’s EMS personnel at said students’ cost. City shall provide beds for said students’ use while receiving field instruction, and students shall provide their own sheets, blankets, and pillows if staying overnight.
Article IV
EMS School’s Duties

4.1 The EMS School shall designate a member of the EMS School’s faculty or staff as the EMS School’s Liaison, whose duties shall be to serve as a liaison to the City regarding this Agreement and to ensure the EMS School’s duties required in this Article are performed.

4.2 The EMS School’s Liaison shall negotiate schedules and assignments with the City’s EMS Student Instruction Officer at least two weeks prior to the requested rotations. The City assumes no guarantees of availability for those rotations, but will attempt to work with the EMS School to the best of its capacity. The EMS School’s Liaison shall notify the City when schedules require revision or when assigned students will be late or absent from planned field instruction.

4.3 The EMS School and the City shall mutually evaluate and develop the ride out rotations and learning experiences for the students receiving field instruction.

4.4 EMS School students receiving field instruction with the City shall be subject to all rules and regulations established by the Chief of the City’s Fire Department. Any member of the City’s EMS personnel shall have the authority to terminate an EMS School student’s field instruction in the event said EMS School student fails to adhere to the rules and regulations established by the Chief of the City’s Fire Department. The City reserves the right to refuse approval for an individual student’s field instruction once given, should a student fail to meet the standards required by the City.

4.5 The EMS School shall be responsible for ensuring that all students and instructors respect the confidential nature of all information which may come to them during their instruction with the City with respect to all patient information and City records. Each EMS School EMT and paramedic student receiving field instruction with the City shall complete a confidentiality and liability release form, in a form provided by City, prior to being permitted to observe and receive field instruction with City EMS personnel.

4.6 EMS School students receiving field instruction with the City shall follow the City Fire Department’s policy on Personal Appearance at all times. A copy of said policy will be provided to the EMS School and updated prior to any scheduling of internships. A request for a variance may be filed with the City Fire Department’s Battalion Chief – EMS prior to scheduling the internship. The decision of the City Fire Department’s Battalion Chief – EMS is final. EMS School students shall wear a “uniform” when receiving field instruction at the City, including dark blue or black trousers; dark blue, light blue, white or grey uniform shirt with a collar; and black shoes or boots. Students’ hair shall be neatly trimmed. Students shall wear an ID tag issued by the EMS School clearly stating their name, the name of the EMS School, and student status. Said students are not permitted to wear any City uniform items. Students may not use cell phones while receiving field instruction, except in the event of an emergency.
4.7 EMS School students shall not be permitted to use any City computer, fax, or telephone equipment, except the City's telephone may be used in the event of an emergency. Students shall not be permitted to utilize City exercise equipment.

4.8 The EMS School's Liaison shall be responsible for ensuring that all EMS School's assigned EMS, EMT and paramedic students are free from communicable diseases and will exercise universal health and safety precautions as required by the City.

Article V
Miscellaneous

5.1 The Parties understand that under no circumstance is any EMS School EMT or paramedic student considered an agent or employee of the City. Should any student be instructed to perform or assist in the performance of City EMS personnel's function or duty, it must be carried out under the direct supervision of said City EMS personnel. The parties further acknowledge and understand that EMS School EMT and paramedic students are not eligible for Worker’s Compensation or any other benefit from the City. Payment for any medical treatment of EMS School EMT and paramedic students’ injuries, exposures, and for any necessary inoculations is the responsibility of the EMS School paramedic student or the EMS School.

5.2 Insurance. EMS School shall obtain and maintain in full force and effect, at its expense, the following policies of insurance and coverage:

A. Professional Liability Insurance Policy with a limit of not less than One Million Dollars ($1,000,000), with a Three Million Dollar ($3,000,000) aggregate, for all negligent acts, errors, and omissions by the EMS School’s students, the EMS School’s sub-contractors, its consultants and employees, that arise out of the performance of this Agreement.

B. Commercial General Liability Policy covering bodily injury, death and property damage, including the property of the City, its officers, contractors, agents and employees (collectively referred to as the “City Indemnitees”) insuring against all claims, demands or actions relating to field instruction provided pursuant to this Agreement with minimum limits on a per project basis of not less than One Million Dollars ($1,000,000) combined single limit and Two Million Dollars ($2,000,000) aggregate, including products and completed operations coverage and Personal and Advertising Injury with a minimum per occurrence limit of One Million Dollars ($1,000,000). This policy shall be primary to any policy or policies carried by or available to the City.

C. Waiver of Subrogation Rights. All such policies of insurance shall waive the insurer's right of subrogation against the City. All Insurance policies required pursuant to this Agreement shall provide for waivers of all rights of subrogation against the City.
D. **Additional Insured Status.** All insurance required pursuant to this Agreement shall be endorsed to name City as additional insureds using Additional Insured Endorsements for the City under Texas law, including products/completed operations.

E. **Certificates of Insurance.** Certificates of Insurance and policy endorsements in a form satisfactory to City shall be delivered to City prior to the commencement of field instruction under this Agreement and annually thereafter until the expiration or termination of this Agreement. All required policies shall be endorsed to provide the City with thirty (30) days advance notice of cancellation, waiver of subrogation, City as additional insureds, and shall be primary with City insurance coverage being non-contributory. At the renewal of the required insurance policies, EMS School shall cause a Certificate of Insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to City. In addition, EMS School shall, within ten (10) business days after written request, provide City with Certificates of Insurance and policy endorsements for the insurance required herein. The delivery of the Certificates of Insurance and the policy endorsements to the City is a condition precedent to the continuation of the field instruction for EMS School students. The failure to provide valid Certificates of Insurance and policy endorsements shall be deemed a default and/or breach of this Agreement. All policies and endorsements shall remain in effect until the expiration or termination of this Agreement. All policies must be written on a primary, non-contributory basis with any other insurance coverage and/or self-insurance maintained by City as relates to field instruction for EMS School students.

F. **Carriers.** All policies of insurance required to be obtained by EMS School pursuant to this Agreement shall be maintained with insurance carriers that are reasonably satisfactory to City and lawfully authorized to issue insurance in the state of Texas for the types and amounts of insurance required herein. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A - VII or better" by AM Best or other equivalent rating service.

5.3 **Indemnification.**

A. **TO THE FULLEST EXTENT PERMITTED BY LAW AND EXCEPT AS PROVIDED BELOW, THE EMS SCHOOL SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (COLLECTIVELY THE “CITY INDEMNITEES”) FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO, ATTORNEYS’ FEES ARISING OUT OF OR RESULTING FROM BODILY INJURY OR DEATH OF A PERSON OR PROPERTY DAMAGE, INCLUDING THE LOSS OF USE OF PROPERTY, ARISING OR ALLEGED TO ARISE OUT OF OR IN ANY WAY RELATED TO THE FIELD INSTRUCTION OF THE EMS SCHOOL’S STUDENTS OR THE RESULT
OF ANY NEGLIGENT ACT OR OMISSION OR ANY INTENTIONAL ACT OR OMISSION BY THE EMS SCHOOL, ITS EMPLOYEES, AGENTS AND CONTRACTORS, ITS STUDENTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THE EMS SCHOOL OR ANYONE FOR WHOSE ACTS THE EMS SCHOOL MAY BE LIABLE OR DUE TO THE VIOLATION OF ANY ORDINANCE, REGULATION, STATUTE, OR OTHER LEGAL REQUIREMENT BY THE EMS SCHOOL, IT'S EMPLOYEES, AGENTS AND CONTRACTORS, ITS STUDENTS, OR ANY OF THEIR AGENTS AND EMPLOYEES, OR RESULTING FROM THE BREACH OR DEFAULT BY THE EMS SCHOOL, ITS EMPLOYEES, AGENTS, OR CONTRACTORS, ITS STUDENTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THE EMS SCHOOL OR ANYONE FOR WHOSE ACTS THE EMS SCHOOL MAY BE LIABLE BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF THE EMS SCHOOL, IT'S EMPLOYEES, AGENTS, ITS STUDENTS, OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THE EMS SCHOOL, ITS AGENTS, ITS STUDENTS OR CONTRACTORS OR ANYONE FOR WHOSE ACTS THE EMS SCHOOL MAY BE LIABLE. THIS INDEMNIFICATION EXCLUDES DAMAGES TO THE EXTENT CAUSED BY THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE "CITY INDEMNITIES".

B. INDEMNIFICATION FOR EMPLOYEE INJURY CLAIMS. WITHOUT LIMITING THE FOREGOING, AND TO THE FULLEST EXTENT PERMITTED BY LAW, EMS SCHOOL HEREBY INDEMNIFIES AND HOLDS HARMLESS THE CITY INDEMNITIEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, COSTS, AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES ARISING OUT OF OR RESULTING FROM BODILY INJURY TO, OR SICKNESS, DISEASE OR DEATH OF, ANY EMPLOYEE, AGENT, STUDENT, OR CONTRACTOR OF THE EMS SCHOOL OR IT'S CONTRACTORS WITH REGARD TO CLAIMS AGAINST ANY PARTY SEEKING INDEMNITY UNDER THIS AGREEMENT WHICH ARE MADE BY AN EMPLOYEE OF THE EMS SCHOOL, ITS AGENTS, STUDENTS, OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THE EMS SCHOOL, ITS AGENTS, STUDENTS, OR CONTRACTORS, OR ANYONE FOR WHOSE ACTS THE EMS SCHOOL, IT'S AGENTS, STUDENTS, OR CONTRACTORS MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT SHALL NOT BE LIMITED BY ANY LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE EMS SCHOOL, IT'S AGENTS, STUDENTS, OR CONTRACTORS OR ANY OTHER EMPLOYER UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER SIMILAR EMPLOYEE
BENEFIT ACTS. THE EMS SCHOOL SHALL PROCURE LIABILITY INSURANCE COVERING EMS SCHOOL'S OBLIGATIONS UNDER THIS SECTION.

C. IT IS AGREED WITH RESPECT TO ANY LEGAL LIMITATIONS NOW OR HEREAFTER IN EFFECT AND AFFECTING THE VALIDITY OR ENFORCEABILITY OF THE INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT OR THE ADDITIONAL INSURED REQUIREMENTS UNDER THE INSURANCE REQUIRED BY THIS AGREEMENT, SUCH LEGAL LIMITATIONS ARE MADE A PART OF THE CONTRACTUAL OBLIGATIONS AND SHALL OPERATE TO AMEND THE OBLIGATIONS TO THE MINIMUM EXTENT NECESSARY TO BRING THE PROVISION INTO CONFORMITY WITH THE REQUIREMENTS OF SUCH LIMITATIONS, AND AS SO MODIFIED, THE OBLIGATIONS SHALL CONTINUE IN FULL FORCE AND EFFECT. SHOULD ANY PROVISION OR ANY PART OF ANY PROVISION OF THIS AGREEMENT BE HELD INVALID, UNENFORCEABLE OR CONTRARY TO PUBLIC POLICY, LAW, STATUTE OR ORDINANCE, THEN THE REMAINDER OF THE PROVISION, PARAGRAPH, THIS SECTION AND/OR THIS AGREEMENT SHALL NOT BE AFFECTED THEREBY AND SHALL REMAIN VALID AND FULLY ENFORCEABLE.

D. THE INDEMNIFICATION OBLIGATIONS CONTAINED IN THIS AGREEMENT SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR A PERIOD OF FOUR (4) YEARS.

5.4 Notice. All notices required or permitted by this Agreement shall be in writing and be deemed received when deposited in the United States mail, postage prepaid, addressed to the following or such other person or address as the Parties may designate in writing, or by hand delivery or facsimile transmission to the address set forth below:

If intended for the City, to:  
Steven Deutsch, F5-CEO  
EMS Battalion Chief  
City of Irving | Irving Fire Department  
845 W. Irving Blvd., Irving, TX 75060  
P: 972-721-4653  
C: 972-877-8319  
F: 972-721-4699  
sdeutsch@cityofirving.org
5.5 **Amendment.** This Agreement may be amended by the mutual written agreement of the Parties to this Agreement.

5.6 **Laws Governing.** This Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in Dallas County, Texas. The Parties agree to submit to the personal and subject matter of said court.

5.7 **No Joint Agency.** Nothing in this Agreement shall be construed to create a relationship of partnership, joint venture, or agency by or between City and EMS School. Neither party shall be the agent of the other or have the authority to bind the other.

5.8 **Severability.** In the event that one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

5.9 **Waiver.** The failure of any party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights, and no waiver by any party, whether written or oral, expressed or implied, of any rights under or arising from the Agreement shall be binding on any subsequent occasion; and no concession by any party shall be treated as an implied modification of the Agreement unless specifically agreed in a writing signed by authorized representatives of both parties.

5.10 **Force Majeure.** Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, due to causes beyond its reasonable control, including but not limited to: acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstance of like character.

5.11 **Entire Agreement.** This Agreement embodies the complete understanding of the Parties hereto, superseding all oral or written previous and contemporaneous agreements between the Parties and relating to the matters in this Agreement.

5.12 **Authorization.** By executing this Agreement, each Party represents that it has full capacity and authority to grant all rights and assume all obligations that it has granted and assumed under this Agreement, and that this Agreement has been authorized by the governing body of the respective Party.
5.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitutes one and the same instrument.

5.12 Recitals. The recitals to this Agreement are incorporated herein.

EXECUTED this ____ day of ____________, 202__.

CITY OF IRVING, TEXAS

By: ________________________________

Name: Richard H. Stopfer
Title: Mayor

EXECUTED this ____ day of May, 202__

[NAME OF EMS SCHOOL]

By: ________________________________

Name: Sheila Elliott
Title: EMS Director
Resolution -- Renewing the Contract with Greener Pastures Landscaping, LLC, in the Total Estimated Amount of $495,203.80 for Mowing & Litter Control on TxDOT Rights of Way

Administrative Comments

1. This item is recommended by the Parks & Recreation Department.

2. Impact: Landscape maintenance services help to enhance the visual impression of the city by providing mowing and litter control on TxDOT Rights of Way I-635, Loop 12 and Hwy 114.

3. This renewal establishes the continuation of a contract to provide mowing and litter control on city rights of way and public properties. This is the first of two, two-year renewal options. The current contract expires on June 30, 2020.

4. Funding for Fiscal Year 2019-20 is available in the Parks & Recreation Department budget within the General Fund, while funding for Fiscal Years 2020-21 and 2021-22 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Estimated Expenditure</th>
<th>Fiscal Year(s)</th>
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<td>Greener Pastures Landscaping, LLC</td>
<td>7/1/20 – 6/30/22</td>
<td>$ 71,106.10</td>
<td>2019-20</td>
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<td>$ 247,601.90</td>
<td>2020-21</td>
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<td>$ 176,495.80</td>
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<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$ 495,203.80</strong></td>
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Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: No
Previous Action: 2019-237
Review Completed By: N/A
Council Action: Approved Award

Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties (Form 1295) Required: No
TGC 2270 Verification Form Required: No
Comments: Services provided by the vendor meet specifications and performance criteria; pricing remains the same. This is the first of two, two-year renewal options. These expenditures will be tracked using Contract #42000258-1.

ATTACHMENTS:

141D-19F Renewal Summary (PDF)
CURRENT YEAR FINANCIAL IMPACT:

10013002-620008  Budget: $68,606.10  Actual: $68,606.10
Various          Budget: $ 2,500.00  Actual: $2,500.00

Purchase orders will be issued as needed for annual contract.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:

Prepared: 6/3/2020 03:09 PM by Rashmi Kulkarni
Last Updated: 6/18/2020 04:38 PM by Rashmi Kulkarni
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby renews the contract with Greener Pastures Landscaping, LLC, in the estimated amount of $71,106.10 for the period of July 1, 2020, through September 30, 2020, in the estimated amount of $247,601.90 for the period of October 1, 2020, through September 30, 2021, and in the estimated amount of $176,495.80 for the period of October 1, 2021, through June 30, 2022, subject to funds being appropriated in Fiscal Years 2020-21 and 2021-22, for Mowing & Litter Control on TxDOT Rights of Way.

SECTION II. THAT funding for these expenditures is available in the Parks & Recreation Department budget within the General Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
City of Irving Response Summary  
ITB Name: Mowing & Litter Control on TxDot Rights of Way  
ITB Number: 141D-19F  
Due Date: April 16, 2019  
Darlene Humphries, Purchasing Manager  
972.721.3752  
Greener Pastures Landscaping LLC  
Due Date: April 16, 2019  
Darlene Humphries, Purchasing Manager  
972.721.3752  

Renewal Summary

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<th>Unit</th>
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<td>Warranty for Work Performed</td>
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**Total Price:** $247,601.90
Resolution -- Approving Amendment #1 to the Municipal Maintenance Agreement Between the City of Irving and the Texas Department of Transportation (TxDOT) for Partial Reimbursement for Mowing and Litter Control Along the Loop 12 and Interstate Highway 635 Corridor Areas

Administrative Comments
1. This item is recommended by the Parks and Recreation Department.
2. **Impact:** The proposed Amendment #1 to agreement will improve the appearance of the Loop 12 and Interstate Highway 635 rights of way areas.
3. The Texas Department of Transportation (TxDOT) proposes to reimburse the City for mowing and litter control services along Loop 12 and Interstate Highway 635, performed by the City's mowing maintenance contractor.
4. The City has an existing Municipal Maintenance Agreement in effect with the Texas Department of Transportation, which permits such maintenance on state rights of way within the City of Irving.
5. The agreement will provide partial funding by TxDOT for three annual mowing cycles and up to 12 litter control cycles.
6. Funding in the amount of $21,627.00 for the period of July 1, 2020, through June 30, 2023, is available in the Maintenance Agreement Fund budget within the General Fund, the balance of the contracted amount will be funded in the Maintenance Agreement Fund budget within the General Fund, subject to budget approval Fiscal Year 2020-21, Fiscal Year 2021-22, and Fiscal Year 2022-23, as shown in the chart below.

<table>
<thead>
<tr>
<th>Reimbursing Entity</th>
<th>Contract Term</th>
<th>Estimated Reimbursement</th>
<th>Fiscal Year(s)</th>
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<tr>
<td>Texas Department of Transportation</td>
<td>7/1/20 - 6/30/23</td>
<td>$21,627.00</td>
<td>2019-20</td>
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<td>2020-21</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$78,893.00</td>
<td>2021-22</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$57,265.00</td>
<td>2022-23</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$233,412.00</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**
The resolution be approved.

**ADDITIONAL COMMENTS:**

<table>
<thead>
<tr>
<th>Contract Required:</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review Completed By:</td>
<td>Carolyn Matthis</td>
</tr>
<tr>
<td>Previous Action:</td>
<td>None</td>
</tr>
<tr>
<td>Council Action:</td>
<td>None</td>
</tr>
<tr>
<td>Discretionary Contract Disclosure Form Required:</td>
<td>No</td>
</tr>
<tr>
<td>Certificate of Interested Parties (Form 1295) Required:</td>
<td>No</td>
</tr>
<tr>
<td>TGC 2270 Verification Form Required:</td>
<td>No</td>
</tr>
</tbody>
</table>
ATTACHMENTS:
MMA Irving Amend #1 Mowing Litter 2019 (Final) (PDF)

CURRENT YEAR FINANCIAL IMPACT:
10013002 620008 Budget: $18,408.81 Actual: $18,408.81
Purchase Order will be issued as needed for annual contract.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:
Prepared: 6/10/2020 05:20 PM by Darlene Humphries
Last Updated: 6/17/2020 03:59 PM by Carolyn Matthis
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves the attached Amendment Number 1 to the Municipal Maintenance Agreement between the City of Irving and the Texas Department of Transportation (TxDOT) whereby TxDOT will partially reimburse the City for mowing and litter control along the Loop 12 and Interstate Highway 635 corridor areas, and the Mayor is authorized to execute said agreement.

SECTION II. THAT funding for this expenditure is available in the maintenance agreements budget within the General Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
STATE OF TEXAS §
COUNTY OF TRAVIS §

AMENDMENT #1 TO MUNICIPAL MAINTENANCE AGREEMENT

WHEREAS, on the 3rd day of May, 2007, the Texas Department of Transportation, the "State", and the City of Irving, the "City" entered into a Municipal Maintenance Agreement intended to cover and provide for State participation in the maintenance of state routes within the City; and

WHEREAS, the State, under the aforementioned Agreement, provides mowing and litter clean up maintenance of certain state highways and roadways within the City, including Loop 12 and IH 635; and

WHEREAS, the State, conducts this mowing and litter clean up maintenance through its contractors; and

WHEREAS, the City desires to perform additional mowing and litter clean up maintenance on the aforementioned state routes; and

WHEREAS, the City and the State agree to amend the existing Municipal Maintenance Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements of the parties hereto to be by them respectively kept and performed, as hereinafter set forth, the City and State do mutually agree to the amendment as follows:

State's Responsibilities
Reimburse the City for mowing and litter clean up within the entire right-of-way.

Reimbursement shall be limited to 3 mowing cycles per year (in approximately May, August and November) The rate of reimbursement shall be up to current contract prices for mowing and litter costs for Dallas County. Reimbursement for mowing for the first year of the agreement will be $55.00/acre. Reimbursement for mowing for the second year of the agreement will be $60.00/acre. Reimbursement for the third year of the agreement will be $65.00/acre.

Reimbursement shall be limited to up to 12 litter cycles per year (on a monthly basis). The rate of reimbursement shall be up...
current contract prices for litter costs for Dallas County. The current contract price is $14.79/acre for litter clean up. Reimbursement may be further limited if the State adopts a statewide policy reducing the number of mowing cycles to less than three per year or the number of litter cycles to less than 12 per year.

At the end of the third year, the State will re-evaluate the current prices for both mowing and litter clean up and enter into a new agreement with the City.

If there is a State policy change to further reduce the State’s mowing or litter cycles, the State shall notify the City, in writing, within sixty (60) days of this change. If the State fails to notify the City as required under this paragraph, the State shall be responsible for payments to the City in accordance with the previously agreed upon reimbursement schedule.

City’s Responsibilities (Controlled Access)

1. Mow the entire right-of-way at locations indicated on the following table:

<table>
<thead>
<tr>
<th>Facility</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>IH 635 (Controlled Access)</td>
<td>153.773</td>
</tr>
<tr>
<td>Loop 12 (Controlled Access)</td>
<td>63.878</td>
</tr>
</tbody>
</table>

2. Perform litter clean up at the locations indicated on the following table:

<table>
<thead>
<tr>
<th>Facility</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>IH 635 (Controlled Access)</td>
<td>153.773</td>
</tr>
<tr>
<td>Loop 12 (Controlled Access)</td>
<td>63.878</td>
</tr>
</tbody>
</table>

3. Submit invoices and cancelled checks for mowing and litter clean up cycles at intervals as established above.

4. Reimbursement will not be made for portions of the roadway under construction or if it is taken off the state system.

The City agrees that for mowing and litter clean up, if performed by employees of the City, the City shall show proof of self-insurance. If mowing and/or litter clean-up is performed by a contractor(s) selected by the City through its selection process; the City shall require the contractor(s) to have in place, insurance as evidenced by the State’s Certificate of Insurance form. The city will also require any contractor(s) to agree to indemnify and save harmless the
state from all claims and liability due the contractor(s) materials or activities of itself, its agent, or employees, performed under the agreement with the city that are caused or may result from error, omission, or negligent act. Prior to any mowing or litter clean up by the City, such evidence of self-insurance or certificate of insurance shall be provided to the State.

**Termination**

This Amendment is expressly made subject to the rights granted to TxDOT to terminate this Amendment without cause upon notice and to the rights granted to The City to terminate this Amendment without cause upon notice after three (3) years and upon the exercise of any such right by either party, this Amendment will terminate. TxDOT or the City may terminate this Amendment upon notice at any time for a violation of the terms of this Amendment. The termination of this Amendment does not affect any other provisions of the existing Municipal Maintenance Agreement between the parties. If the City has entered into a contract with a third party to perform any services under this Amendment, this Amendment will continue in effect until the current term of the contract has expired.

In all other respects, the Agreement shall remain in force and effect without change.

**IN TESTIMONY WHEREOF**, the parties have hereto have caused this amendment to be executed in duplicate. The Amendment becomes effective when last executed.

**THE CITY OF IRVING**

By: _______________________
Title: _______________________
Date: _______________________

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, and established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

**APPROVED:**

By: _______________________
Mohammed K. Bur, P.E.
Dallas District Engineer
Texas Department of Transportation

Date: _______________________

Packet Pg. 140
Resolution -- Awarding a Contract to McMahon Contracting LP, in the Amount of $375,407.30 for the Kinwest Debris Interceptors Project

Administrative Comments

1. This item is recommended by the Capital Improvement Program Department. It supports Strategic Objective: 2.4 - Maintain and extend water, wastewater and storm water systems.

2. Impact: This project will address trash and litter washing under and across SH 635 and into Hackberry Creek. The project will improve water quality in Irving’s drainage system.

3. This project will place eleven trash baskets on a concrete drainage apron before the channel drains under Kinwest Parkway.

4. Bids were received from four (4) bidders. McMahon Contracting LP submitted the lowest responsive responsible bid of $375,407.30. This is (8.98%) above the project estimate.

5. Minority and/or Women-owned Business (M/WBE) participation in this award is 30%.

6. Funding in the amount of $375,407.30 is available within the Municipal Drainage Utility Non-Bond CIP Fund.

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Yes
Review Completed By: N/A
Previous Action: N/A
Council Action: N/A
Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties Form Required: Yes
TGC 2270 Verification Form Required: Yes

Bid notices were sent to 1,035 contractors. Of those, 224 were M/WBE.

On 06/08/2020, bids were received for the Kinwest Debris Interceptor Project. Purchasing has assigned ITB # 123D-20F for tracking purposes. The following is a tabulation of the bids received:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Base Bid</th>
<th>Calendar Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCMAHON CONTRACTING LP</td>
<td>$375,407.30</td>
<td>90</td>
</tr>
<tr>
<td>LARRETT, INC.</td>
<td>$414,575.00</td>
<td>90</td>
</tr>
<tr>
<td>DENNETT CONSTRUCTION, LC</td>
<td>$425,933.63</td>
<td>90</td>
</tr>
<tr>
<td>NORTH ROCK CONSTRUCTION, LLC.</td>
<td>$442,726.14</td>
<td>90</td>
</tr>
</tbody>
</table>

ATTACHMENTS:
CURRENT YEAR FINANCIAL IMPACT:

63CIP3007-52043601-700215  Budget: $375,407.30  Actual: $375,407.30
REQ:#12003977
Budget Adjustment/Transfer Required:  No

REVISION INFORMATION:

Prepared:  6/10/2020 02:59 PM by Maria Bailey
Last Updated:  6/19/2020 09:15 AM by Durenda Pena
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves and accepts the bid of MaMahon Contracting LP, in the amount of $375,407.30 for the Kinwest Debris Interceptor Project and authorizes the Mayor, upon receipt of all necessary documents from said company and upon approval of the City Attorney’s Office, to execute any necessary contract.

SECTION II. THAT funding for this expenditure is available within the Municipal Drainage Utility Non-Bond CIP Fund.

SECTION III. THAT this resolution shall take effect on or after its final date of passage, and it is accordingly so ordered.


_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

________________________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

________________________________________
Kuruvilla Oommen
City Attorney
Kinwest Debris Interceptors

Work Session

June 25, 2020
Project Overview

• Part of Municipal Drainage Utility Neighborhood Drainage Projects.

• Project includes:
  – 11 Trash Baskets
  – A new sloped headwall and 7 inch thick apron in front of the existing 5-9’X5’ box culverts under Kinwest Parkway.
  – A 4’ wide walkway behind and attached to the wing walls to allow safe access for maintenance crews down to the trash baskets.
  – 585 SY of 8” reinforced concrete pavement for an access drive down to the headwall.

• Will improve water quality by removing trash and debris washing under SH 635 and into Hackberry Creek.

• Contractor required to complete 100% of all work within 90 days from written NTP with the project
Project Details

- Project includes:
  - 11 Trash Baskets
  - A new sloped headwall and 7 inch thick apron in front of the existing 5-9’X5’ box culverts under Kinwest Parkway.
  - A 4’ wide walkway behind and attached to the wing walls to allow safe access for maintenance crews down to the trash baskets.
  - 585 SY of 8” reinforced concrete pavement for an access drive down to the headwall.
Project Bid

- Bid opening conducted on June 8, 2020
- Received 4 bids between $375,000 and $442,000
- Lowest responsive and responsible bidder is McMahon Contracting LP.
  - McMahon’s bid was $375,407.30 (8.98%) above Engineer’s Estimate
- Recommend award on June 25 City Council Agenda
- Funding:
  - $375,407.30 Municipal Drainage Utility Non-Bond CIP Fund
Projects Constructed By McMahon

- Delaware Creek at Oakdale Rd. Channel Lining Repairs & WW Improvements
Discussion
Resolution -- Awarding a Contract to SYB Construction Company, Inc. in the Amount of $1,433,949.00 for the Parkside Avenue Water & Wastewater Improvements Project

Administrative Comments

1. This item is recommended by the Capital Improvement Program Department. It supports Strategic Objective 2.4 – Maintain and extend water, wastewater and storm water systems.

2. Impact: This work is part of the priority replacements for the Water Utilities Department and will replace a portion of the transmission water main and wastewater mains along Parkside Avenue from Brown Drive to Irby Lane.

3. This project impacts approximately 16 residential properties and 21 commercial properties and will improve water and wastewater systems.

4. Bids were received from two (2) bidders and an additional two (2) bidders were declared non-responsive for not properly submitting their project experience records as clearly stated in the solicitation. SYB Construction Company, Inc. submitted the lowest responsive responsible bid of $1,433,949.00. This is $491,427.00 (25.52%) below the funding allocated for this project.

5. Minority and/or Women-owned Business (M/WBE) participation in this award is 100%.

6. Funding in the amount of $1,433,949.00 is available within the Water and Sewer System Non-Bond CIP Fund.

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Yes Review Completed By: N/A
Previous Action: N/A Council Action: N/A
Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties (Form 1295) Required: Yes
TGC 2270 Verification Form Required: Yes

Bid notices were sent to 1,305 contractors. Of those, 313 were M/WBE.

On 05/22/2020, bids were received for the Parkside Avenue Water & Wastewater Improvements Project. Purchasing has assigned ITB # 124D-20F for tracking purposes. The following is a tabulation of the bids received:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Base Bid</th>
<th>Calendar Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>SYB CONSTRUCTION COMPANY, INC.</td>
<td>$1,433,949.00</td>
<td>210</td>
</tr>
</tbody>
</table>
FLOW-LINE CONSTRUCTION, INC. $1,989,271.00 210
CANARY CONSTRUCTION NON-RESPONSIVE
ATKINS BROS. EQUIP. CO., INC. NON-RESPONSIVE

ATTACHMENTS:
Parkside Ave W-WW Bid Tab With EOPCC (PDF)
Parkside Ave Wtr & WW Improvements ELMO (PDF)
06-25-2020 WS Parkside W & WW Improvements (PDF)

CURRENT YEAR FINANCIAL IMPACT:
50206012-700200-41CIP20027 Budget: $ 176,067.92 Actual: $ 176,067.92
50206014-700210-41CIP20027 Budget: $1,257,881.08 Actual: $1,257,881.08
REQ#12003976
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:
Prepared: 5/14/2020 09:00 AM by Maria Bailey
Last Updated: 6/19/2020 08:39 AM by Dean James Roggia
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves and accepts the bid of SYB Construction Company, Inc. in the amount of $1,433,949.00, for the Parkside Avenue Water and Wastewater Improvements Project and awards the contract to said company in said amount, and authorizes the Mayor, upon receipt of all necessary documents from said company and upon approval of the City Attorney’s Office, to execute any necessary contract.

SECTION II. THAT funding for this expenditure is available within the Water and Sewer System Non-Bond CIP Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

______________________________
Kuruvilla Oommen
City Attorney
<table>
<thead>
<tr>
<th>Item Description</th>
<th>Unit</th>
<th>Price</th>
<th>Total</th>
<th>Company, Inc.</th>
<th>Company, Inc.</th>
<th>Company, Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remove Existing Tree Identified For Removal On Plans (All Types &amp; Sizes)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 EA 1,500.00 $</td>
<td></td>
<td>4,500.00$</td>
<td>800.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2,400.00 $</td>
<td></td>
<td>3,000.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Install 5-Foot Standard Curb Inlet (Remove &amp; Replace)</td>
<td></td>
<td>3,500.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 EA 3,500.00 $</td>
<td></td>
<td>3,500.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Install 5-Foot Standard Curb Inlet (Remove &amp; Replace)</td>
<td></td>
<td>2,500.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 EA 3,000.00 $</td>
<td></td>
<td>3,000.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6-in Reinforced Concrete Pavement with 2-in Asphalt Overlay (Remove &amp; Replace)</td>
<td></td>
<td>105.00 $</td>
<td>14,490.00$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>138 SY 105.00 $</td>
<td></td>
<td>12,144.00$</td>
<td>105.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14,490.00$</td>
<td></td>
<td>14,490.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-in PVC Wastewater Pipe (SDR-26 ASTM D-2241, Pressure Rated)</td>
<td></td>
<td>140.00 $</td>
<td>34,440.00$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>246 LF 140.00 $</td>
<td></td>
<td>16,482.00$</td>
<td>67.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27,060.00$</td>
<td></td>
<td>27,060.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>06-in PVC Wastewater Pipe (SDR-35 ASTM D-3034)</td>
<td></td>
<td>100.00 $</td>
<td>2,400.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24 LF 100.00 $</td>
<td></td>
<td>1,200.00$</td>
<td>50.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1,800.00$</td>
<td></td>
<td>1,800.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bore for 10-in PVC Pipe (24-in Steel Encasement Required, Min T=0.312)</td>
<td></td>
<td>400.00 $</td>
<td>73,200.00$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>183 LF 400.00 $</td>
<td></td>
<td>101,748.00$</td>
<td>670.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>122,610.00$</td>
<td></td>
<td>122,610.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remove &amp; Replace 6-ft Wood Fence Including Gate To Match Existing In Kind (All</td>
<td></td>
<td>1,800.00 $</td>
<td>46.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Types, New Material)</td>
<td></td>
<td>460.00 $</td>
<td>30.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 LF 75.00 $</td>
<td></td>
<td>300.00 $</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trench Safety Sheeting &amp; Shoring (Wastewater)</td>
<td></td>
<td>2.00 $</td>
<td>4,316.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2,158 LF 2.00 $</td>
<td></td>
<td>2,158.00 $</td>
<td>1.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8,632.00$</td>
<td></td>
<td>8,632.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Install Standard 4 Foot Diameter Manhole (8-ft. Deep or Less, Full Wrap)</td>
<td></td>
<td>6,200.00 $</td>
<td>93,000.00$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15 EA 6,200.00 $</td>
<td></td>
<td>72,375.00$</td>
<td>4,825.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>105,000.00$</td>
<td></td>
<td>105,000.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Install Standard 4 Foot Diameter Manhole (8-ft. Deep or Less)</td>
<td></td>
<td>5,900.00 $</td>
<td>17,700.00$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 EA 5,900.00 $</td>
<td></td>
<td>9,725.00$</td>
<td>3,575.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15,000.00$</td>
<td></td>
<td>15,000.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-in thru 12-in Trenching, Embedment &amp; Backfilling for Wastewater (Improved)</td>
<td></td>
<td>20.00 $</td>
<td>4,520.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>226 LF 20.00 $</td>
<td></td>
<td>4,746.00$</td>
<td>21.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9,718.00$</td>
<td></td>
<td>9,718.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reinforced Concrete Barrier-Free Ramp (All Types)</td>
<td></td>
<td>2,900.00 $</td>
<td>11,600.00$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 EA 2,900.00 $</td>
<td></td>
<td>8,400.00$</td>
<td>210.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8,400.00$</td>
<td></td>
<td>8,400.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wet Connection To 20-in RCCP Main</td>
<td></td>
<td>1,800.00 $</td>
<td>3,600.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 EA 1,800.00 $</td>
<td></td>
<td>3,600.00$</td>
<td>10,500.00 $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21,000.00$</td>
<td></td>
<td>21,000.00$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Install Standard 4 Foot Diameter Manhole (8-ft. Deep or Less)</td>
<td></td>
<td>6,400.00 $</td>
<td>93,000.00$</td>
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<tr>
<td>3 EA 6,400.00 $</td>
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<td>19,050.00$</td>
<td>3,575.00 $</td>
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<td>15,000.00$</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Install Standard 4 Foot Diameter Manhole (8-ft. Deep)</td>
<td></td>
<td>5,500.00 $</td>
<td>8,400.00 $</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>12 EA 5,500.00 $</td>
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<td>10,500.00$</td>
<td>730.00 $</td>
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<tr>
<td>5,240.00$</td>
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<td>5,240.00$</td>
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</tr>
</tbody>
</table>

**TOTAL ALL WATER BOND COSTS** $147,234.40$ $176,067.92 $ 201,937.76 $
Parkside Avenue Water & Wastewater Improvements

Work Session

June 25, 2020
Project Overview

- Part of Water Utilities annual water and wastewater replacement funding
- Project includes:
  - ±111 LF of 20” water main by open cut
  - ±2,341 LF of 4” to 10” wastewater main by open cut
  - ±50 LF of 15”-36” RCP storm sewer main by open cut
  - ±3,300 SY of reinforced concrete pavement replacement
- Will improve water & wastewater service for 16 residential and 21 commercial properties
- Pavement trench repairs will be performed along Parkside Ave and Norma Drive
- Contractor required to complete 100% of all work in Phase 1 within 75 days from written NTP with the project (LD’s apply) as this work impacts a commercial property.
Location Map

LEGEND
- PROP. IMPROVEMENTS IN CITY ROW
- PROP. IMPROVEMENTS IN EASEMENT
- PROP. IMPROVEMENTS IN DART/TRE ROW

PARKSIDE AVE
WATER & WASTEWATER IMPROVEMENTS
Project Bid

- Bid opening conducted on May 22, 2020
- Received 4 bids between $1.43 and $2.90 million
- Lowest responsive and responsible bidder is SYB Construction Co., Inc.
  - SYB’s bid was $491,427.00 (25.52%) below Engineer’s Estimate
- Recommend award on June 25 City Council Agenda
- Funding:
  - $1,433,949.00 Water & Sewer System Non-Bond CIP Fund
2019-2020 Projects Completed By SYB Ahead Of / On Schedule & Under Budget

- West Park & Lane Street W & WW Improvements
- Valley Ranch Emergency WW Repairs
- Cartwright Street W & WW Improvements
- Promenade Court/Pkwy Utility & Paving Reconstruction
- Rochelle-Brockbank-Vassar-Scotland W & WW Improvements
- Bradford Alley WW Improvements
- Steeplechase Drive W & WW Improvements
- River Oaks, Camelia, Fair Ct & Lawrence W Improvements
Projects Under Construction By SYB

• Betsy Lane WW Interceptor Improvements
• Oakdale-Rindie W & WW Improvements
• Bear Creek Aerial Crossing WW Rehab
• 2020 Misc. Drainage Improvements Section 1
Discussion
Resolution -- Approving the Acquisition of a Public Right of Way Easement Located at 1316 E. Irving Blvd in the Amount of $19,177.36

Administrative Comments
1. This item is recommended by the Capital Improvement Program Department and Traffic and Transportation Department. It supports Strategic Objective 2.4 - Maintain and extend water, wastewater and storm water systems.

2. **Impact:** This project is part of the Road to the Future Program. The requested acquisition will allow paving, drainage, water and wastewater installation along Glenmore Street, Shepherd Street, and Irving Blvd (SH 356). The work to be performed under this contract is to rebuild both of the existing barrow ditch roads being approximately 1,675 square feet, near 1316 E. Irving Blvd, owned by JWH Real Estate Investments LLC. The negotiated amount for this acquisition is the appraised value of $19,177.36.

3. Funding in the amount of $19,177.36 is available within the General Fund Non-Bond CIP.

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

- **Contract Required:** Yes
- **Previous Action:** N/A
- **Review Completed By:** Dean Roggia
- **Council Action:** N/A
- **Discretionary Contract Disclosure Form Required:** No
- **Certificate of Interested Parties (Form 1295) Required:** Yes
- **TGC 2270 Verification Form Required:** No
- **Comments:**

ATTACHMENTS:

- 1316 E. Irving Blvd ELMO (PDF)
- Sales Contract for 1316 E Irving Blvd (PDF)
- 1295 for 1316 E Irving Blvd (PDF)
- Easement 1316 E Irving Blvd (PDF)

CURRENT YEAR FINANCIAL IMPACT:

- **Budget:** $19,177.36
- **Actual:** $19,177.36
- **Budget Transfer Required:** No

REVISION INFORMATION:

- **Prepared:** 5/8/2020 03:25 PM by Maria Bailey
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves the attached Sales Contract for the acquisition of a 1,675 square foot public right of way easement at 1316 E. Irving Blvd., in the amount of $19,177.36, and the Mayor is authorized to execute said contract and any related conveyance documents.

SECTION II. THAT funding for this expenditure is available within the General Fund Non-Bond CIP.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
SALES CONTRACT

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS §

THAT we, the undersigned, hereinafter called the "Seller" whether one or more, hereby agree to sell to the City of Irving, Texas, a municipal corporation situated in Dallas County, Texas, hereinafter called "Purchaser", for:

PUBLIC RIGHT OF WAY EASEMENT

All that certain tract, piece or parcel of land, lying and being situated in the County of Dallas, State of Texas, described in EXHIBIT "A" attached hereto and made for a more particular description of said property, upon the following terms and conditions, to-wit:

1. The consideration to be paid to Seller by Purchaser is as follows:
   1,675 square feet (0.0385 ac.) of property valued at $7.00 per sq. ft.,
   At 50% value, as rounded……………………………………………………… $ 5,863.00
   Cost to Cure…………………………………………………………………………… $13,314.36
   TOTAL COMPENSATION………………………………………………………….. $19,177.36

2. Seller will convey good and marketable title to the property areas. Prior to closing and before any purchase money is paid, any owner who is a Trust must submit a copy of the Trust Agreement identifying the true owner of the property to the Irving City Council in compliance with Sec. 2252.092, Tex. Govt. Code. The City Council must pass a resolution acknowledging receipt of the Trust Document and approving the sale of the property.

3. Purchaser, at Purchaser's expense and option, will be responsible to obtain a Title Insurance Policy from a Title Company of their choice Community National Title 14800 Quorum Drive, Ste. 150 Dallas, Texas 75254 Attn: Leslie Smith 972-528-6071). Any Seller requested exceptions to Title Insurance must be approved by the City Attorney of Irving.

4. Consideration to be paid upon the proper execution and delivery of the deed and closing.

The foregoing consideration to be paid to Seller shall be considered full compensation for said property and for any damages that may be claimed or asserted by virtue of the establishment and construction of the improvements the City of Irving shall construct, establish or erect.

EXECUTED this 2 day of April, 2020.

JWH Real Estate Investments, LLC, a Texas limited liability company:

[Signature]
Loree Holt Anderson, Member

[Signature]
Kris Allen Holt, Member

[Signature]
Bruce Dwain Holt, Member

ACCEPTED BY
CITY OF IRVING, TEXAS

BY: ______________
RICHARD H. STOPFER, MAYOR
SALES CONTRACT

STATE OF TEXAS  §  KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS  §

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   1,675 square feet (0.0385 ac.) of property valued at $7.00 per sq. ft.,
   At 50% value, as rounded..........................................................$5,863.00
   Cost to Cure..................................................................................$13,314.36
   TOTAL COMPENSATION.................................................................$19,177.36

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The foregoing consideration to be paid to Seller shall be considered full compensation for said property and for any damages that may be claimed or asserted by virtue of the establishment and construction of the improvements the City of Irving shall construct, establish or erect.

EXECUTED this 2 day of April, 2020.

JWH Real Estate Investments, LLC, a Texas limited liability company:

Loree Holt Anderson, Member

Kriss Allen Holt, Member

Bruce Dwain Holt, Member

ACCEPTED BY
CITY OF IRVING, TEXAS

BY:  RICHARD H. STOPFER, MAYOR
SALES CONTRACT

STATE OF TEXAS §
COUNTY OF DALLAS §

THAT we, the undersigned, hereinafter called the "Seller" whether one or more, hereby agree to sell to the City of Irving, Texas, a municipal corporation situated in Dallas County, Texas, hereinafter called "Purchaser", for:

PUBLIC RIGHT OF WAY EASEMENT

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1. The consideration to be paid to Seller by Purchaser is as follows:

   1,675 square feet (0.0385 ac.) of property valued at $7.00 per sq. ft.,
   At 50% value, as rounded.................................................................................$ 5,863.00
   Cost to Cure........................................................................................................$13,314.36
   TOTAL COMPENSATION.....................................................................................$19,177.36

2. Seller will convey good and marketable title to the property areas. Prior to closing and before any purchase money is paid, any owner who is a Trust must submit a copy of the Trust Agreement identifying the true owner of the property to the Irving City Council in compliance with Sec. 2252.092, Tex. Govt. Code. The City Council must pass a resolution acknowledging receipt of the Trust Document and approving the sale of the property.

3. Purchaser, at Purchaser's expense and option, will be responsible to obtain a Title Insurance Policy from a Title Company of their choice Community National Title 14800 Quorum Drive, Ste. 150 Dallas, Texas 75254 Attn: Leslie Smith 972-328-6071). Any Seller requested exceptions to Title Insurance must be approved by the City Attorney of Irving.

4. Consideration to be paid upon the proper execution and delivery of the deed and closing.

The foregoing consideration to be paid to Seller shall be considered full compensation for said property and for any damages that may be claimed or asserted by virtue of the establishment and construction of the improvements the City of Irving shall construct, establish or erect.

EXECUTED this _______ day of ____________________________, 2020.

JWH Real Estate Investments, LLC, a Texas limited liability company:

[Signature]
Loree Holt Anderson, Member

[Signature]
Kriss Allen Holt, Member

[Signature]
Bruce Dwain Holt, Member

ACCEPTED BY
CITY OF IRVING, TEXAS

BY: __________________________
RICHARD H. STOPFER, MAYOR
EXHIBIT “A”
1,675 SQUARE FOOT TRACT
Part of Block C of East Irving Addition
Stephen P. Montgomery Survey, Abstract Number 889
City of Irving, Dallas County, Texas

BEING a 1,675 square foot tract of land situated in the Stephen P. Montgomery Survey, Abstract Number 889, in the City of Irving, Dallas County, Texas, being part of Block C of East Irving Addition, an addition to the City of Irving, Texas, according to the plat recorded in Volume 12, Page 179, Map Records of Dallas County, Texas, and being part of that certain tract of land described in the Warranty Deed to James W. Holt and Laura N. Holt recorded in Volume 93056, Page 2665, Deed Records of Dallas County, Texas, said 1,675 square foot tract being more particularly described as follows:

BEGINNING at a mag nail set in asphalt at the north cutback corner at the intersection of the south right-of-way line of Irving Boulevard, a variable width right-of-way, with the east right-of-way line of Shepherd Street, a 50 foot right-of-way according to said plat of East Irving Addition;

THENCE South 60 degrees 24 minutes 02 seconds East, along the south right-of-way line of said Irving Boulevard, a distance of 51.05 feet to a mag nail set in asphalt for corner;

THENCE South 63 degrees 45 minutes 12 seconds West, departing the south right-of-way line of said Irving Boulevard and crossing said Block C, a distance of 54.60 feet to a mag nail set in asphalt for corner;

THENCE North 88 degrees 26 minutes 29 seconds West, crossing said Block C, a distance of 10.00 feet to a mag nail set in asphalt for corner in the east right-of-way line of aforesaid Shepherd Street;

THENCE North 01 degrees 33 minutes 31 seconds East, along the east right-of-way line of said Shepherd Street, a distance of 41.52 feet to a mag nail set in asphalt for corner;

THENCE North 60 degrees 34 minutes 45 seconds East, along the east right-of-way line of said Shepherd Street, a distance of 15.44 feet to the POINT OF BEGINNING, containing 1,675 square feet of land.

All bearings are based on State Plane Coordinates, Texas North Central Zone 4202, North American Datum of 1983.
EXHIBIT "A"
1,675 SQUARE FOOT TRACT
Part of Block C of East Irving Addition
Stephen P. Montgomery Survey, Abstract Number 889
City of Irving, Dallas County, Texas

This description is accompanied by a survey plat of even date.

I, Christopher Maman, hereby certify that the above description was prepared from an actual survey performed on the ground under my supervision.

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

City of Irving
Capital Improvement Program
Texas Registered Survey Firm No. 10174800
825 W. Irving Boulevard
Irving, Texas 75060
Phone: 972.721.2611

10/25/2019
Date
IRVING BOULEVARD
(VARIABLE WIDTH RIGHT-OF-WAY)

EXHIBIT "A"

 Part of Lot 15
 Part of Lot 16
 Part of Lot 17
 Block B
 EAST IRVING ADDITION
 Vol. 12, Pg. 179, M.R.D.C.T.

 Hamid Nikbahr
 Instrument No. 201100282395
 O.P.R.D.C.T.

 Lot Line
 Lot Line
 Lot Line

 George Sauceda & Jimmy Choat
 Instrument No. 201700327019
 O.R.P.D.C.T.

 Lot 14

 SEPHEN P. MONTGOMERY SURVEY
 ABSTRACT NO. 889

 LEGEND

 P.O.C. POINT OF COMMENCING
 P.O.B. POINT OF BEGINNING
 IR IRON ROD
 MNS MAG NAIL SET IN ASPHALT
 O.R.P.D.C.T. OFFICIAL PUBLIC RECORDS
 OF DALLAS COUNTY, TEXAS
 D.R.D.C.T. DEED RECORDS OF DALLAS
 COUNTY, TEXAS
 M.R.D.C.T. MAP RECORDS OF DALLAS
 COUNTY, TEXAS

 Note: Bearings are based on State Plane Coordinates,
 Texas North Central Zone 4202, North American Datum
 of 1983, on grid coordinate values.

 1,675 SQUARE FOOT TRACT
 SITUATED IN THE STEPHEN P. MONTGOMERY SURVEY,
 ABSTRACT NO. 889, IN THE CITY OF IRVING, DALLAS
 COUNTY, TEXAS, BEING PART OF BLOCK C OF EAST
 IRVING ADDITION, AN ADDITION TO THE CITY OF IRVING,
 TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME
 12, PAGE 179, MAP RECORDS OF DALLAS COUNTY, TEXAS.

 CITY OF IRVING
 Capital Improvement Program
 823 West Irving Boulevard
 Irving, Texas 75030
 Phone: 972.721.2611
 www.cityofirving.org
 Texas Reg. Survey Firm No. 10174600

 Christopher Maman
 Registered Professional Land Surveyor
 Texas No. 5532

 10/25/2019

 I hereby certify that this plat represents the
 facts found at the time of the survey shown
 hereon as performed under my supervision
 on the ground.

 Christopher Maman
 Registered Professional Land Surveyor
 Texas No. 5532

 Attachment: Sales Contract for 1316 E Irving Blvd (11004 : 41 Acquisition of Property at 1316 E Irving Blvd)
CERTIFICATE OF INTERESTED PARTIES

<table>
<thead>
<tr>
<th>Name of Interested Party</th>
<th>City, State, Country (place of business)</th>
<th>Nature of Interest (check applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson, Loree</td>
<td>Farmers Branch, TX United States</td>
<td>X</td>
</tr>
<tr>
<td>Holt, Bruce</td>
<td>Wortham, TX United States</td>
<td>X</td>
</tr>
<tr>
<td>Holt, Kriss</td>
<td>Carrollton, TX United States</td>
<td>X</td>
</tr>
</tbody>
</table>

5 Check only if there is NO Interested Party.  □

6 UNSWORN DECLARATION

My name is Loree Anderson and my date of birth is 11-4-54.
My address is 2644 Mont View Farmers Branch, TX 75234, U.S.

I declare under penalty of perjury that the foregoing is true and correct.
Executed in Dallas County, State of Texas on the 28 day of April, 2020.

Signature of authorized agent of contracting business entity

Forms provided by Texas Ethics Commission www.ethics.state.tx.us Version V1.1.3a6aaaf7d
PUBLIC RIGHT OF WAY EASEMENT

STATE OF TEXAS §
COUNTY OF DALLAS §

THAT JWH Real Estate Investments, LLC, a Texas limited liability company ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration to the Grantor paid by the City of Irving, a Texas municipal corporation, its successors and assigns ("Grantee"), the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and does hereby GRANT, SELL and CONVEY unto Grantee, its successors and assigns, a perpetual public right of way easement (the "Easement") for the purposes more fully set forth below, in, over, and across that certain real property described in Exhibit "A" attached hereto and made a part hereof for all purposes (the "Easement Property").

The Easement shall be for the public use and forever benefit all public purposes including, but not limited to, all street purposes and other municipal purposes and the right of the Grantee and its assigns to lay, install, operate, repair, replace, remove, and reconstruct any and all streets, public utilities, including but not limited to, water lines, sanitary sewer, drainage, and storm sewer lines and curbs, gas lines, telephone poles and lines, telecommunications, electrical power lines and appurtenances ("Public Improvements"). The Easement is further hereby granted and reserved for the mutual use and accommodation of the Grantee and all public utilities desiring to use or using the same for Public Improvements.

Grantee shall have the right to remove and keep removed all or part of any residence, building, fences, trees, shrubs or other improvements, growths or obstructions which may in any way endanger or interfere with the construction, maintenance, operation or efficiency of all or any part of the Public Improvements on the Easement Property. Grantee and all public utilities shall at all times have the full right of ingress and egress to and from and upon the Easement Property for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of the respective Public Improvements without the permission of anyone.

TO HAVE AND TO HOLD the above described Easement, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever; and Grantor does hereby bind itself, its heirs, executors, administrators, successors, and assigns to warrant and forever defend all and singular the said premises unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Signatures on next page.
EXECUTED this 2 day of April, 2020.

GRANTOR(S): JWH Real Estate Investments, LLC, a Texas liability company

by: Loree Holt Anderson, Member

Kriss Allen Holt, Member

Bruce Dwain Holt, Member

GRANTEE: CITY OF IRVING, TEXAS
A Municipal Corporation

BY:

Richard H. Stopfer, Mayor

ATTEST: APPROVED AS TO FORM:

Shanae Jennings,
City Secretary

Kuruvilla Oommen
City Attorney
ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared, Loree Holt Anderson, Member, of JWH Real Estate Investments, LLC, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ___, A.D. 2020.

Notarional Seal

JUDY ANN CASAREZ
My Notary ID # 12968464
Expires February 5, 2022

Notary Public in and For Dallas County, Texas
EXECUTED this 2 day of April, 2020.

GRANTOR(S): JWH Real Estate Investments, LLC, a Texas liability company

by:
Loree Holt Anderson, Member

Kriss Allen Holt, Member

Bruce Dwain Holt, Member

GRANTEE: CITY OF IRVING, TEXAS
A Municipal Corporation

BY:

Richard H. Stopfer, Mayor

ATTEST:

Shanae Jennings.
City Secretary

APPROVED AS TO FORM:

Kuruvilla Oommen
City Attorney
ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared, Kriss Allen Holt, Member, of JWH Real Estate Investments, LLC, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 2 day of __________, A.D. 2020.

Notarial Seal

[Signature]

Notary Public In and For Dallas County, Texas

[Stamp]
EXECUTED this ________ day of _______________________, 2020.

GRANTOR(S): JWH Real Estate Investments, LLC, a Texas liability company

by: __________________________
    Loree Holt Anderson, Member

    Kriss Allen Holt, Member
    [Signature]
    Bruce Dwain Holt, Member

GRANTEE: CITY OF IRVING, TEXAS

A Municipal Corporation

BY: __________________________
    Richard H. Stopfer, Mayor

ATTEST: __________________________

APPROVED AS TO FORM: __________________________

Shanae Jennings,  
City Secretary

Kuruvilla Oommen  
City Attorney
ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF WORTHAM §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared, Bruce Dwain Holt, Member, of JWH Real Estate Investments, LLC, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 2 day of

April, A.D. 2020.

Notarial Seal

Notary Public in and for Dallas County,
Texas

After Recording Return To:

City of Irving
Real Estate Services Dept, 2nd Floor
825 W. Irving Blvd.
Irving, Texas 75060
Exhibit "A"

(To be attached)
EXHIBIT "A"
1,675 SQUARE FOOT TRACT
Part of Block C of East Irving Addition
Stephen P. Montgomery Survey, Abstract Number 889
City of Irving, Dallas County, Texas

BEING a 1,675 square foot tract of land situated in the Stephen P. Montgomery Survey, Abstract Number 889, in the City of Irving, Dallas County, Texas, being part of Block C of East Irving Addition, an addition to the City of Irving, Texas, according to the plat recorded in Volume 12, Page 179, Map Records of Dallas County, Texas, and being part of that certain tract of land described in the Warranty Deed to James W. Holt and Laura N. Holt recorded in Volume 93056, Page 2665, Deed Records of Dallas County, Texas, said 1,675 square foot tract being more particularly described as follows:

BEGINNING at a mag nail set in asphalt at the north cutback corner at the intersection of the south right-of-way line of Irving Boulevard, a variable width right-of-way, with the east right-of-way line of Shepherd Street, a 50 foot right-of-way according to said plat of East Irving Addition;

THENCE South 60 degrees 24 minutes 02 seconds East, along the south right-of-way line of said Irving Boulevard, a distance of 51.05 feet to a mag nail set in asphalt for corner;

THENCE South 63 degrees 45 minutes 12 seconds West, departing the south right-of-way line of said Irving Boulevard and crossing said Block C, a distance of 54.60 feet to a mag nail set in asphalt for corner;

THENCE North 88 degrees 26 minutes 29 seconds West, crossing said Block C, a distance of 10.00 feet to a mag nail set in asphalt for corner in the east right-of-way line of aforesaid Shepherd Street;

THENCE North 01 degrees 33 minutes 31 seconds East, along the east right-of-way line of said Shepherd Street, a distance of 41.52 feet to a mag nail set in asphalt for corner;

THENCE North 60 degrees 34 minutes 45 seconds East, along the east right-of-way line of said Shepherd Street, a distance of 15.44 feet to the POINT OF BEGINNING, containing 1,675 square feet of land.

All bearings are based on State Plane Coordinates, Texas North Central Zone 4202, North American Datum of 1983.
EXHIBIT "A"
1,675 SQUARE FOOT TRACT
Part of Block C of East Irving Addition
Stephen P. Montgomery Survey, Abstract Number 889
City of Irving, Dallas County, Texas

This description is accompanied by a survey plat of even date.

I, Christopher Maman, hereby certify that the above description was prepared from an actual survey performed on the ground under my supervision.

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

City of Irving
Capital Improvement Program
Texas Registered Survey Firm No. 10174800
825 W. Irving Boulevard
Irving, Texas 75060
Phone: 972-721.2611
EXHIBIT "A"

IRVING BOULEVARD
(VARIABLE WIDTH RIGHT-OF-WAY)

Block B
EAST IRVING ADDITION
Vol. 12, Pg. 179, M.R.D.C.T.

Hamid Nikkabi
Instrument No. 201100262395
O.P.R.D.C.T.

Part of Lot 16
Part of Lot 17

Lot Line

Lot Line

Lot 14

Lot 15

George Sosnowski
& Jimmy Chisholm
Instrument 20100327019
O.P.R.D.C.T.

Portion of Lot 16

Portion of Lot 17

Block C
EAST IRVING ADDITION
Vol. 12, Pg. 179
M.R.D.C.T.

James W. Holt &
Laura N. Holt
Vol. 93056, Pg. 2685
D.R.D.C.T.

LEGEND

P.O.C. POINT OF COMMENCING
P.O.B. POINT OF BEGINNING
IR IRON ROD
MNS MAC NAIL SET IN ASPHALT
O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS

D.R.D.C.T. DEED RECORDS OF DALLAS

COUNTY, TEXAS
M.R.D.C.T. MAP RECORDS OF DALLAS

COUNTY, TEXAS

Note: Bearings are based on State Plane Coordinates,
Texas North Central Zone 4202, North American Datum
of 1983, on grid coordinate values.

I hereby certify that this plat represents the
facts found at the time of the survey shown
hereon as performed under my supervision
on the ground.

Christopher Maman
Registered Professional Land Surveyor
Texas No. 5532

1,675 SQUARE FOOT TRACT
SITUATED IN THE STEPHEN P. MONTGOMERY SURVEY,
ABSTRACT NO. 889, IN THE CITY OF IRVING, DALLAS
COUNTY, TEXAS, BEING PART OF BLOCK C OF EAST
IRVING ADDITION, AN ADDITION TO THE CITY OF IRVING,
TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME
12, PAGE 179, MAP RECORDS OF DALLAS COUNTY, TEXAS.
Resolution -- Approving the Acquisition of a Public Right of Way Easement and Real Property in Fee Simple for the Cedar Drive Roadway Expansion Project in the Amount of $8,850.00, and Acknowledging Receipt of the Trust Agreement Identifying the True Owner of the Property to be Purchased by the City of Irving in Accordance with Section 2252.092, Texas Government Code - Located at 512 Cedar Drive - Williamjon Bleeker Patton - Trustee, Property Owner

Administrative Comments
1. This item is recommended by the Capital Improvement Program Department and Traffic and Transportation Department. It supports Strategic Objective 2.4 - Maintain and extend water, wastewater and storm water systems.

2. Impact: This project is part of the Road to the Future Program. The requested acquisition will support construction for paving and utility improvement projects along Cedar Drive. This easement will allow for relocation of power poles at 512 Cedar Drive, owned in Trust by Williamjon Bleeker Patton as Trustee. The negotiated amount for this acquisition is the appraised value of $8,850.00.

3. This acquisition includes a right-of-way and 625 square feet of land and fee.

4. Funding in the amount of $8,850.00 is available within the General Fund Non-Bond CIP.

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Yes
Previous Action: N/A
Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties (Form 1295) Required: No
TGC 2270 Verification Form Required: No
Comments:

ATTACHMENTS:

Sales Contract for 512 Cedar Drive (PDF)
Easement 512 Cedar Dr (PDF)
Warranty Deed 512 Cedar Dr (PDF)
CURRENT YEAR FINANCIAL IMPACT:

Budget: $8,850.00        Actual:   $8,850.00
40014100-700003-41CIP12011
Budget Transfer Required: No

REVISION INFORMATION:

Prepared: 5/8/2020 04:51 PM by Maria Bailey
Last Updated: 6/19/2020 08:22 AM by Durenda Pena
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11009)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby acknowledges receipt of the trust agreement which identifies the true owner of the property in this acquisition, in accordance with Section 2252.092, Texas Government Code.

SECTION II. THAT the City Council hereby approves the attached Sales Contract for the acquisition of a 625 square foot public right of way easement and 625 square feet of real property in fee simple, from Williamjon Bleeker Patton - Trustee, at 512 Cedar Drive in the amount of $8,850.00, and the Mayor is authorized to execute said contract and any related conveyance documents.

SECTION III. THAT funding for this expenditure is available in the General Fund Non-Bond CIP.

SECTION IV. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
SALES CONTRACT

STATE OF TEXAS §
COUNTY OF DALLAS §

THAT we, the undersigned, hereinafter called the “Seller” whether one or more, hereby agree to sell to the City of Irving, Texas, a municipal corporation situated in Dallas County, Texas, hereinafter called “Purchaser”, for:

PUBLIC RIGHT OF WAY EASEMENT AND WARRANTY DEED

All that certain tract, piece or parcel of land, lying and being situated in the County of Dallas, State of Texas, described in EXHIBIT “A” and EXHIBIT “B” attached hereto and made for a more particular description of said property, upon the following terms and conditions, to-wit:

1. 625 square feet of property valued at $7.25 per sq. ft.,
   as rounded. ...........................................................................................................$4,531.00
   and 625 square feet of property valued at $7.25 at 65% easement value,
   as rounded. ...........................................................................................................$2,945.00
   + Improvements ..................................................................................................$1,374.00

TOTAL COMPENSATION ........................................................................................$8,850.00

2. City agrees to restore grass turf disturbed by construction using appropriate methods upon completion of project. The owner grants permission for the City of Irving, its contractor, agents or assigns to enter the property for the purpose of restoring any improvements disturbed during construction.

3. At the time of construction, anything within the right of way that has not been removed will be considered abandoned and the city will remove and dispose of it at City's discretion without any further compensation to the owner.

4. Seller will convey good and marketable title to the easement and deed areas. Prior to closing and before any purchase money is paid, any owner who is a Trust must submit a copy of the Trust Agreement identifying the true owner of the property to the Irving City Council in compliance with Sec. 2252.092, Tex. Govt. Code. The City Council must pass a resolution acknowledging receipt of the Trust Document and approving the sale of the property.

5. Purchaser, at Purchaser's expense and option, will be responsible to obtain a Title Insurance Policy from a Title Company of their choice Community National Title 14800 Quorum Drive, Ste. 150 Dallas, Texas 75254 Attn: Leslie Smith 972-528-6071. Any Seller requested exceptions to Title Insurance must be approved by the City Attorney of Irving.

6. Consideration to be paid upon the proper execution and delivery of the easement, deed and closing.

The foregoing consideration to be paid to Seller shall be considered full compensation for said property and for any damages that may be claimed or asserted by virtue of the establishment and construction of the improvements the City of Irving shall construct, establish or erect.

EXECUTED this 18 day of February, 2020.

Williamson Blecker Patton as Trustee of the Testamentary Trust for the benefit of Austin William Niles Patton pursuant to the Will of LaDonna Kay Vaughan probated as muniment of title under Cause No. PR-15-00278-2

ACCEPTED BY
CITY OF IRVING, TEXAS

BY: ____________________________________________
    RICHARD H. STOPFER, MAYOR
EXHIBIT “A”
625 SQUARE FOOT TRACT
Part of LaDonna K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

BEING a 625 square foot tract of land situated in the Marie Romeraux Survey, Abstract Number 1231, in the City of Irving, Dallas County, Texas, being part of that certain tract of land described in the Warranty Deed with Vendor’s Lien to LaDonna K. Vaughan recorded in Volume 99113, Page 1873, Deed Records of Dallas County, Texas, said 625 square foot tract being more particularly described as follows:

BEGINNING at the southwest corner of said Vaughan tract, said corner lying in the east right-of-way line of Cedar Drive (a variable width right-of-way), from which a found 1/2” iron rod bears South 49 degrees 49 minutes 46 seconds West a distance of 0.91 feet;

THENCE North 00 degrees 40 minutes 48 seconds West, along the east right-of-way line of said Cedar Drive, a distance of 125.00 feet to the southwest corner of that certain tract of land described in General Warranty Deed with Vendor’s Lien to Carlos H. Alvarado recorded in Instrument Number 201600121814, Official Public Records of Dallas County, Texas;

THENCE North 89 degrees 19 minutes 12 seconds East, along the south line of said Alvarado tract, a distance of 5.00 feet to a 1/2” iron rod with yellow plastic cap stamped “Irving CIP” set for corner;

THENCE South 00 degrees 40 minutes 48 seconds East, departing the south line of said Alvarado tract and crossing said Vaughan tract, a distance of 125.00 feet to a 1/2” iron rod with yellow plastic cap stamped “Irving CIP” set at the northwest corner of that certain tract of land described in Cash Warranty Deed to Gordon S. Burton recorded in Volume 87213, Page 1656, Deed Records of Dallas County, Texas;

THENCE South 89 degrees 19 minutes 12 seconds West, along the east right-of-way line of said Cedar Drive, a distance of 5.00 feet to the POINT OF BEGINNING, containing 625 square feet of land.

All bearings are based on State Plane Coordinates, Texas North Central Zone 4202, North American Datum of 1983
EXHIBIT "A"
625 SQUARE FOOT TRACT
Part of LaDonna K. Vaughan tract
Marie Romerou Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

This description is accompanied by a survey plat of even date.

I, Christopher Maman, hereby certify that the above description was prepared from an actual survey performed on the ground under my supervision.

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

1/31/2019

City of Irving
Capital Improvement Program
Texas Registered Survey Firm No. 10174800
825 W. Irving Boulevard
Irving, Texas 75060
Phone: 972.721.2611
LEGEND

P.O.B.  POINT OF BEGINNING
IR  IRON ROD
CM  IRON ROD WITH CAP
IP  IRON PIPE
CM  CONTROLLING MONUMENT
D.R.D.C.T.  DEED RECORDS OF DALLAS COUNTY, TEXAS
O.P.R.D.C.T.  OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS

Notes:
1. Bearings are based on State Plane Coordinates, Texas North Central Zone 4002, North American Datum of 1983, on grid coordinate values.
2. The bearing and distance between the controlling monuments shown hereon is N00°36'57"W 232.61'.

Christopher Mamman
Registered Professional Land Surveyor
Texas No. 5532

I hereby certify that this plat represents the facts found at the time of the survey shown hereon as performed on the ground under my supervision.

1/31/2019

625 SQUARE FOOT TRACT
SITUATED IN THE MARIE ROMEREAUX SURVEY, ABSTRACT NO. 1231, IN THE CITY OF IRVING, DALLAS COUNTY, TEXAS, BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN WARRANTY DEED WITH VENDOR'S Lien TO LAODA K. VAUGHAN RECORDED IN VOLUME 99113, PAGE 1873, DEED RECORDS OF DALLAS COUNTY, TEXAS.
EXHIBIT "B"
625 SQUARE FOOT TRACT
Part of LaDona K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

BEING a 625 square foot tract of land situated in the Marie Romeraux Survey, Abstract Number 1231, in the City of Irving, Dallas County, Texas, being part of that certain tract of land described in the Warranty Deed with Vendor's Lien to LaDona K. Vaughan recorded in Volume 99113, Page 1873, Deed Records of Dallas County, Texas, said 625 square foot tract being more particularly described as follows:

COMMENCING at the southwest corner of said Vaughan tract, said corner lying in the east right-of-way line of Cedar Drive (a variable width right-of-way), from which a found 1/2" iron rod bears South 49 degrees 49 minutes 46 seconds West a distance of 0.91 feet;

THENCE North 89 degrees 19 minutes 12 seconds East, along the east right-of-way line of said Cedar Drive, a distance of 5.00 feet to a 1/2" iron rod with yellow plastic cap stamped "Irving CIP" set at the northwest corner of that certain tract of land described in Cash Warranty Deed to Gordon S. Burton recorded in Volume 87213, Page 1656, Deed Records of Dallas County, Texas, said corner being the POINT OF BEGINNING;

THENCE North 00 degrees 40 minutes 48 seconds West, crossing said Vaughan tract, a distance of 125.00 feet to a 1/2" iron rod with yellow plastic cap stamped "Irving CIP" set in the south line of that certain tract of land described in General Warranty Deed with Vendor's Lien to Carlos H. Alvarado recorded in Instrument Number 201600121814, Official Public Records of Dallas County, Texas;

THENCE North 00 degrees 19 minutes 12 seconds East, along the south line of said Alvarado tract, a distance of 5.00 feet to a point for corner;

THENCE South 00 degrees 40 minutes 48 seconds East, departing the south line of said Alvarado tract and crossing said Vaughan tract, a distance of 125.00 feet to a point for corner in the north line of said Burton tract;

THENCE South 89 degrees 19 minutes 12 seconds West, along the north line of said Burton tract, a distance of 5.00 feet to the POINT OF BEGINNING, containing 625 square feet of land.

All bearings are based on State Plane Coordinates, Texas North Central Zone 4202, North American Datum of 1983

Page 1 of 3
EXHIBIT “B”
625 SQUARE FOOT TRACT
Part of LaDona K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

This description is accompanied by a survey plat of even date.

I, Christopher Maman, hereby certify that the above description was prepared from an actual survey performed on the ground under my supervision.

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

City of Irving
Capital Improvement Program
Texas Registered Survey Firm No. 10174800
825 W. Irving Boulevard
Irving, Texas 75060
Phone: 972.721.2611

Date: 1/31/2019
Inocencio S. Oliva and Maria E. Oliva
Instrument No. 2009G0215595
O.R.D.C.T.

Maria D. Munoz
Instrument No. 2016G0011609
O.R.D.C.T.

Angel E. Dzul
Instrument No. 2011G0305667
O.R.D.C.T.

LEGEND
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCING
IR IRON ROD
CIR IRON ROD WITH CAP
IP IRON PIPE
(CM) CONTROLLING MONUMENT
D.R.D.C.T. DEED RECORDS OF DALLAS COUNTY, TEXAS
O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS

625 SQUARE FOOT TRACT
SITUATED IN THE MARIE ROMERAUX SURVEY, ABSTRACT NO. 1231, IN THE CITY OF IRVING, DALLAS COUNTY, TEXAS, BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN WARRANTY DEED WITH VENDOR'S LIEN TO LADONA K. VAUGHAN RECORDED IN VOLUME 99113, PAGE 1873, DEED RECORDS OF DALLAS COUNTY, TEXAS

CITY OF IRVING
Capital Improvement Program
625 West Irving Boulevard
Irving, Texas 75060
Phone: 972.721.2611
www.cityofirving.org
Texas Reg. Survey Firm No. 1004800

Packet Pg. 207
PUBLIC RIGHT OF WAY EASEMENT

STATE OF TEXAS §

COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS:

THAT Williamjon Bleeker Patton as Trustee of the Testamentary Trust for the benefit of Austin William Niles Patton pursuant to the Will of LaDonna Kay Vaughan probated as muniment of title under Cause No. PR-15-00278-2, ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration to the Grantor paid by the City of Irving, a Texas municipal corporation, its successors and assigns ("Grantee"), the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and does hereby GRANT, SELL and CONVEY unto Grantee, its successors and assigns, a perpetual public right of way easement (the "Easement") for the purposes more fully set forth below, in, over, and across that certain real property described in Exhibit "B" attached hereto and made a part hereof for all purposes (the "Easement Property").

The Easement shall be for the public use and forever benefit all public purposes including, but not limited to, all street purposes and other municipal purposes and the right of the Grantee and its assigns to lay, install, operate, repair, replace, remove, and reconstruct any and all streets, public utilities, including but not limited to, water lines, sanitary sewer, drainage, and storm sewer lines and canals, gas lines, telephone poles and lines, telecommunications, electrical power lines and appurtenances ("Public Improvements"). The Easement is further hereby granted and reserved for the mutual use and accommodation of the Grantee and all public utilities desiring to use or using the same for Public Improvements.

Grantee shall have the right to remove and keep removed all or part of any residence, building, fences, trees, shrubs or other improvements, growths or obstructions which may in any way endanger or interfere with the construction, maintenance, operation or efficiency of all or any part of the Public Improvements on the Easement Property. Grantee and all public utilities shall at all times have the full right of ingress and egress to and from and upon the Easement Property for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of the respective Public Improvements without the permission of anyone.

TO HAVE AND TO HOLD the above described Easement, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever; and Grantor does hereby bind itself, its heirs, executors, administrators, successors, and assigns to warrant and forever defend all and singular the said premises unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Signatures on next page.
EXECUTED this ______day of ________________________, 2020.

GRANTOR(S): Williamjon Bleeker Patton as Trustee of the Testamentary Trust for the benefit of Austin William Niles Patton pursuant to the Will of LaDonna Kay Vaughan probated as muniment of title under Cause No. PR-15-00278-2

Williamjon Bleeker Patton, Trustee

GRANTEE: CITY OF IRVING, TEXAS
A Municipal Corporation

BY:

______________________________
Richard H. Stopfer, Mayor

ATTEST: APPROVED AS TO FORM:

______________________________  ________________________________
Shanae Jennings, Kuruvilla Oommen
City Secretary City Attorney

Packet Pg. 210
MAYOR’S ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Richard H. Stopfer, Mayor of the City of Irving, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said City of Irving, Texas, a municipal corporation, that he was duly authorized to perform the same by appropriate resolution or ordinance of the City Council of the City of Irving and that he executed the same as the act of the said City for purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of ____________, A.D. 2020.

______________________________
Notary Public In and For Dallas County, Texas

My Commission Expires:

_______________________________________________________

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Williamjon Bleeker Patton, Trustee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 18 day of ____________, A.D. 2020.

Notarial Seal

______________________________
Notary Public In and For Dallas County, Texas
After Recording Return To:

City of Irving
Real Estate Services Dept, 2nd Floor
825 W. Irving Blvd.
Irving, Texas 75060
EXHIBIT “B”
625 SQUARE FOOT TRACT
Part of LaDonna K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

BEING a 625 square foot tract of land situated in the Marie Romeraux Survey, Abstract Number 1231, in the City of Irving, Dallas County, Texas, being part of that certain tract of land described in the Warranty Deed with Vendor’s Lien to LaDonna K. Vaughan recorded in Volume 99113, Page 1873, Deed Records of Dallas County, Texas, said 625 square foot tract being more particularly described as follows:

COMMENCING at the southwest corner of said Vaughan tract, said corner lying in the east right-of-way line of Cedar Drive (a variable width right-of-way), from which a found 1/2" iron rod bears South 49 degrees 49 minutes 46 seconds West a distance of 0.91 feet;

THENCE North 89 degrees 19 minutes 12 seconds East, along the east right-of-way line of said Cedar Drive, a distance of 5.00 feet to a 1/2" iron rod with yellow plastic cap stamped “Irving CIP” set at the northwest corner of that certain tract of land described in Cash Warranty Deed to Gordon S. Burton recorded in Volume 87213, Page 1656, Deed Records of Dallas County, Texas, said corner being the POINT OF BEGINNING;

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All bearings are based on State Plane Coordinates, Texas North Central Zone 4202, North American Datum of 1983

Page 1 of 3
EXHIBIT “B”
625 SQUARE FOOT TRACT
Part of LaDona K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

This description is accompanied by a survey plat of even date.

I, Christopher Maman, hereby certify that the above description was prepared from an actual survey performed on the ground under my supervision.

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

Date

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

City of Irving
Capital Improvement Program
Texas Registered Survey Firm No. 10174800
825 W. Irving Boulevard
Irving, Texas 75060
Phone: 972.721.2611
EXHIBIT “B”
625 SQUARE FOOT TRACT
Part of LaDonna K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

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THENCE North 89 degrees 19 minutes 12 seconds East, along the south line of said Alvarado tract, a distance of 5.00 feet to a point for corner;

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EXHIBIT "B"
625 SQUARE FOOT TRACT
Part of LaDona K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

This description is accompanied by a survey plat of even date.

I, Christopher Maman, hereby certify that the above description was prepared from an actual survey performed on the ground under my supervision.

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

City of Irving
Capital Improvement Program
Texas Registered Survey Firm No. 10174800
825 W. Irving Boulevard
Irving, Texas 75060
Phone: 972.721.2611
EXHIBIT “B” TO DEED

PERMITTED EXCEPTIONS

a) Easement as shown in instrument from M. A. Lively to Texas Power & Light Co. filed in Volume 1391, Page 594, Deed Records of Dallas County, Texas.
WARRANTY DEED

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

THAT, Williamjon Bleeker Patton as Trustee of the Testamentary Trust for the benefit of Austin William Niles Patton pursuant to the Will of LaDonna Kay Vaughan probated as muniment of title under Cause No. PR-15-00278-2, (the “Grantor”), for and in consideration of the sum of $10.00 cash in hand paid by The City of Irving, Texas municipal corporation, (“Grantee”), whose address is 825 W. Irving Boulevard, Irving, Texas 75060, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does GRANT, BARGAIN, SELL and CONVEY unto Grantee, that certain tract of real property situated in Dallas County, Texas, and described in Exhibit “A” attached hereto and made a part hereof for all purposes (the “Land”) and all buildings, fixtures and other improvements located on the Land, if any, together with all and singular the rights, privileges, hereditaments, and appurtenances pertaining to such real property (collectively, the “Property”).

For the same consideration, Grantor has GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does GRANT, BARGAIN, SELL and CONVEY unto Grantee, without warranty, express or implied, any and all rights, titles, powers, privileges, easements, licenses, rights-of-way and interests, if any, of Grantor, either at law or in equity, in possession or in expectancy (i) in and to any real estate lying in the streets, highways, roads, alleys, rights-of-way in existence as of the date of this Deed abutting the Land (provided that if Grantor or an affiliate of Grantor owns property across from the Land and abutting any such street, highway, road, alley, right-of-way or sidewalk, then such rights, titles, powers, privileges, easements, licenses, rights of way and interests therein shall extend only to the midpoint of any such street, highway, road, alley, right-of-way or sidewalk; however, in no event shall this proviso limit Grantee’s right to use any street, road or highway), (ii) in and to any strips or gores of real estate adjoining the Land (provided as to (i) and (ii) that if Grantor or an affiliate of Grantor owns property across from the Land and abutting any such adjacent roads, alleys, easements, streets and rights-of-way and strips and gores, then such right, title, and interest therein shall extend only to the midpoint of any such adjacent roads, alleys, easements, streets, rights-of-way and strips and gores), and (iii) appurtenant or incidental to any of the foregoing.

This conveyance is being made by Grantor and accepted by Grantee subject to all easements, restrictions, rights, reservations, encumbrances and other matters set forth in Exhibit “B”, attached hereto and made a part hereof for all purposes (collectively, the “Permitted Exceptions”), but only to the extent such Permitted Exceptions are valid and existing as of the date hereof.
TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, together with, all and singular, the rights and appurtenances thereto in anywise belonging, to Grantee and Grantee's successors and assigns forever; and subject only to the Permitted Exceptions, Grantor does hereby bind Grantor and Grantor's successors and assigns to warrant and forever defend, all and singular, the Property unto the Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

EXECUTED as of February 18, 2020

GRANTOR:

[Signature]
Williamjon Bleeke Patton, Trustee

STATE OF TEXAS §

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority on this day personally appeared Williamjon Bleeke Patton, Trustee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged and swore to me that he executed the same for the purposes and the consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 18 day of February, 2020.

[Signature]
Notary Public for the State of Texas

My Commission Expires: 1/31/2023

After Recording, Return to:
City of Irving
Attn: Real estate Services
825 W. Irving Blvd.
Irving, TX 75060
GRANTEE: CITY OF IRVING, TEXAS

A Municipal Corporation

BY:

__________________________
Richard H. Stopfer, Mayor

ATTEST:

__________________________
Shanae Jennings,
City Secretary

APPROVED AS TO FORM:

__________________________
Kuruvilla Oommen
City Attorney

MAYOR'S ACKNOWLEDGMENT

THE STATE OF TEXAS  §

COUNTY OF DALLAS  §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Richard H. Stopfer, Mayor of the City of Irving, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said City of Irving, Texas, a municipal corporation, that he was duly authorized to perform the same by appropriate resolution or ordinance of the City Council of the City of Irving and that he executed the same as the act of the said City for purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of___________, A.D. 2020.

______________________________
Notary Public In and For Dallas County, Texas

My Commission Expires:
EXHIBIT "A"
625 SQUARE FOOT TRACT
Part of LaDonna K. Vaughan tract
Marie Romerex Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

BEING a 625 square foot tract of land situated in the Marie Romeraux Survey, Abstract Number 1231, in the City of Irving, Dallas County, Texas, being part of that certain tract of land described in the Warranty Deed with Vendor's Lien to LaDonna K. Vaughan recorded in Volume 99113, Page 1873, Deed Records of Dallas County, Texas, said 625 square foot tract being more particularly described as follows:

BEGINNING at the southwest corner of said Vaughan tract, said corner lying in the east right-of-way line of Cedar Drive (a variable width right-of-way), from which a found 1/2" iron rod bears South 49 degrees 49 minutes 46 seconds West a distance of 0.91 feet;

THENCE North 00 degrees 40 minutes 48 seconds West, along the east right-of-way line of said Cedar Drive, a distance of 125.00 feet to the southwest corner of that certain tract of land described in General Warranty Deed with Vendor's Lien to Carlos H. Alvarado recorded in Instrument Number 201600121814, Official Public Records of Dallas County, Texas;

THENCE North 89 degrees 19 minutes 12 seconds East, along the south line of said Alvarado tract, a distance of 5.00 feet to a 1/2" iron rod with yellow plastic cap stamped "Irving CIP" set for corner;

THENCE South 00 degrees 40 minutes 48 seconds East, departing the south line of said Alvarado tract and crossing said Vaughan tract, a distance of 125.00 feet to a 1/2" iron rod with yellow plastic cap stamped "Irving CIP" set at the northwest corner of that certain tract of land described in Cash Warranty Deed to Gordon S. Burton recorded in Volume 87213, Page 1656, Deed Records of Dallas County, Texas;

THENCE South 89 degrees 19 minutes 12 seconds West, along the east right-of-way line of said Cedar Drive, a distance of 5.00 feet to the POINT OF BEGINNING, containing 625 square feet of land.

All bearings are based on State Plane Coordinates, Texas North Central Zone 4202, North American Datum of 1983
EXHIBIT “A”
625 SQUARE FOOT TRACT
Part of LaDona K. Vaughan tract
Marie Romeraux Survey, Abstract Number 1231
City of Irving, Dallas County, Texas

This description is accompanied by a survey plat of even date.

I, Christopher Maman, hereby certify that the above description was prepared from an actual survey performed on the ground under my supervision.

Christopher Maman
Registered Professional Land Surveyor
Texas Registration No. 5532

City of Irving
Capital Improvement Program
Texas Registered Survey Firm No. 10174800
825 W. Irving Boulevard
Irving, Texas 75060
Phone: 972.721.2611

1/31/2019
Attachment: Warranty Deed 512 Cedar Dr (11009 : 41 Acquisition of Property at 512 Cedar Drive)
Resolution -- Approving Addendum No. 2 to the Engineering Design Services Agreement with Civil Associates, Inc. for Design of the Conflans Road Extension Project in an Amount Not to Exceed $222,874.22

Administrative Comments

1. This item is recommended by the Traffic and Transportation Department.

2. **Impact**: The purpose of this addendum is to adjust the budget for the Conflans Project thereby allowing additional U.S. Army Corp. of Engineers 404 permitting under the Nationwide Permit, additional surveying, Quality Level “A” Subsurface Utility Engineering, and additional engineering work for bridge design, roadway design (retaining walls), and drainage design from schematics modified from the original scope of work.

3. This project was approved for Surface Transportation Block Grant (STBG) Funding. The federal government, through the Texas Department of Transportation (TxDOT), will provide 80% of the funding, with the City of Irving being responsible for the remaining 20% of the total cost.

4. This Resolution does not include construction phase services and right-of-way and easement acquisition.

5. Funding in the amount of $222,874.22 is available within the Street Improvement Bond Fund 40104201 700010.

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

**Contract Required**: Yes  
**Review Completed By**: Zachary Noblitt

**Previous Action**: RES-2014-438; AA5352  
**Council Action**: Approval

**Discretionary Contract Disclosure Form Required**: N/A  
**Certificate of Interested Parties (Form 1295) Required**: N/A  
**TGC 2270 Verification Form Required**: N/A

ATTACHMENTS:

- 20200603_Conflans_Addendum 2 (PDF)
- ConFlans_161_Valley_View (JPG)
- 2020 06 25 CC Update Conflans Road (002) (PDF)
CURRENT YEAR FINANCIAL IMPACT:

Funding Code: 40104201 700010
Budget: $222,874.22       Actual: $222,874.22

REVISION INFORMATION:

Last Updated: 6/17/2020 10:20 AM by Zachary Noblitt
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves the attached Addendum No. 2 to the Engineering Design Services Agreement between the City of Irving and Civil Associates, Inc. for additional engineering design services in an amount not to exceed $222,874.22 for the Conflans Road Extension Project, and the Mayor is authorized to execute said agreement.

SECTION II. THAT funding for this expenditure is available in the Street Improvement Bond Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


RICHARD H. STOPFER
MAYOR

ATTEST:

Shanae Jennings
City Secretary

APPROVED AS TO FORM:

Kuruvilla Oommen
City Attorney
ADDENDUM NO. 2

TO AGREEMENT FOR ENGINEERING DESIGN SERVICES BETWEEN THE CITY OF IRVING (OWNER) AND CIVIL ASSOCIATES, INC. (ENGINEER) FOR THE DESIGN OF THE CONFANS ROAD EXTENSION FROM STATE HIGHWAY 161 TO VALLEY VIEW LANE

DATED DECEMBER 11, 2014

I. This Addendum No. 2 authorizes the ENGINEER to provide additional services as follows:

1. Prepare Section 404 Permitting under Nationwide Permit (NWP) 14 - Linear Transportation Projects Preconstruction Notification (PCN) at one water crossing from the proposed Confans Road Project;
2. Additional surveying and an Quality Level “A” Subsurface Utility Engineering with sub-consultant; and
3. Additional engineering work for bridge design, roadway design (retaining walls), and drainage design from schematics modified from the original scope of work;

Lump Sum Fee (Not To Exceed) $222,874.22

II. This Addendum No. 2 shall become part of the December 11, 2014, Engineering Services Agreement between the OWNER and the ENGINEER and shall modify the provisions of the Agreement by replacing and amending, respectively, Section VI, “The Engineer’s Compensation,” Subparagraph “C” and Section XII, “Time of Completion” as follows:

Section VI

C. It is agreed by both the OWNER and the ENGINEER that the fees paid under this “Agreement for Engineering Design Services” for each phase of engineering shall not exceed the following budgeted amounts without prior written approval signed by both Parties. This fee shall be the only amounts due from OWNER, and ENGINEER shall not be reimbursed for expenses in addition to the fee.

ENGINEERING FEES:

Basic Engineering Services:
A. Alignment Study Phase: $22,034.00
B. Preliminary Design Phase: $388,457.99
C. Intermediate Design Phase: $298,193.28
D. Final Design Phase: $437,727.32
E. Construction Phase: $521,265.75

Construction Phase budget is based on an 18-month timeline.

Combined Basic Engineering Services: $1,667,678.34

Authorized Special Services:
- Surveying (During Alignment Study)
Descriptive instruments for 4 parcels at $4,506.15 each: $18,024.60
Design Surveying $60,885.00
Stake parcel corners along roadway after construction $1,980.00
Stake Centerline for Utility Coordination $4,400.00
Section 404 Permitting $24,987.22

- Subsurface Utility Engineering
  Quality Service Level D, C & B: $9,900.00
  Quality Service Level A $42,585.00

- Geotechnical
  Geotechnical Investigations and Report $161,150.00
  Geotechnical Construction Phase Materials Engineering,
  Testing, and Observation Services (CMET) $275,000.00
  • Earthwork observation and testing any MSE wall backfill installation
  • Foundation installation observation and testing for bridge elements
  • Concrete testing and related reinforcing steel placement observation
    for pavement, drainage structures, and all bridge related elements

- Cultural Resources
  Historical and Archeological Investigations $16,514.76

Design Phase (Resolution Number 1): $1,486,839.17
Construction Phase (Resolution Number 2): $796,265.75
BUDGETED TOTAL: $2,283,104.92

The BUDGETED TOTAL (including Alignment Study, Basic Engineering Services, and Special Services) is a maximum of $2,283,104.92 and shall not be exceeded without prior written approval signed by both Parties.

Section XII
TIME OF COMPLETION

The prompt completion of this PROJECT is critical and time is of the essence. Unnecessary delays to the PROJECT shall be grounds for dismissal of the ENGINEER and the termination of this contract without any or further liability to the OWNER other than a prorated payment for necessary and timely work done on the PROJECT to the time of termination. ENGINEER proposes to complete the ALIGNMENT STUDY, PRELIMINARY DESIGN PHASE, INTERMEDIATE DESIGN PHASE, and FINAL DESIGN PHASE for the entire PROJECT within 2,920 calendar days of the date of the City Council resolution approving the AGREEMENT. This time frame, shall not, except for cause, be exceeded by ENGINEER.

ENGINEER shall pay OWNER the sum of $200.00 per day for each and every working day of unexcused delay in performing its services within the time frame stated in this Section.
III. Except as amended hereby, all other requirements, terms, and conditions of the original Agreement for Engineering Design Services shall remain in full force and effect.

Executed in three counterparts (each of which is an original) on behalf of ENGINEER and on behalf of the OWNER by its Mayor (thereunto duly authorized) this _____ day of __________, 2020.

OWNER:
CITY OF IRVING

By: __________________________
Richard H. Stopfer, Mayor

Attest: _________________________
Shanae Jennings
City Secretary

ENGINEER:
CIVIL ASSOCIATES, INC.

By: __________________________

Attest: _________________________

APPROVED AS TO FORM:

______________________________
Kuruvilla Oommen, City Attorney
Conflans Road
Project Update
City Council
June 25, 2020
Study Area Conflans Road Project

From SH 161 / PGBT
To Valley View Lane

Connects Conflans at SH 161 to FAA Blvd at Valley View Lane

Bridge over Bear Creek
Update

- Oncor Power Line relocation project complete

- Right-of-Way Acquisition is in progress
  - Four (4) parcels needed
    o 1 of 4 will go to Eminent Domain (future agenda)
    o Cannot be reimbursed by Federal Government for acquired ROW until schematic is approved

- Change Order:
  - US Army Corps of Engineers is requiring a modified drainage study
    o DART Bridge
    o USACOE Regulations Update
Oncor Utility Line Adjustment
Questions
Resolution -- Approving an Amended and Restated Parking Agreement with Provident Group-Irving Properties, LLC Relating to the Irving Convention Center Headquarters Hotel

Administrative Comments

1. This item is recommended by the City Manager’s Office. It supports Strategic Objective 3.4 – “Complete signature projects.”

2. **Impact:** This resolution approves an Amended and Restated Parking Agreement with Provident Group–Irving Properties, LLC (Provident) for the Parking Facility at the Irving Convention Center Headquarters Hotel.

3. On January 12, 2017, the City Council approved RES-2017-5 for a Parking Agreement with Provident relating to the Parking Facility at the Irving Convention Center Headquarters Hotel. The Agreement reserves up to 300 spaces within the Parking Facility for Hotel use for which Provident pays the City a monthly parking fee equal to $20,625 per month that is indexed annually to the Consumer Price Index (CPI).

4. The Parking Facility is operated by the Irving Convention and Visitors Bureau (ICVB).

5. The proposed Amended and Restated Parking Agreement includes the following amendments that address issues raised by the Hotel operator and the City. It also better reflects the day-to-day operations of the Parking Facility using the capabilities of an access system.

   a. The definition of Hotel Guests has been changed to Hotel Invitees and includes all guests of the hotel, including daytime guests of the hotel facilities and hotel employees.

   b. The 300 spaces reserved for Hotel Invitees will be monitored by the Access System and may be anywhere within the parking structure. Parking fees paid by Hotel Invitees will be retained by the Hotel.

   c. In the event Hotel Invitees occupy spaces in excess of the 300 reserved for the Hotel, Provident will pay the City the then current hourly rate charged by the City for each parking spot in use for each hour that the parking spot is used.

   d. The Hotel may from time to time due to demand from an event in the general area, authorize the general public to occupy a portion of the 300 parking spaces reserved for the Hotel. When this occurs, the Hotel will retain 90% of the Hourly Payment parking fee for any of the 300 reserved spaces occupied by the general public.

   e. The period during which Provident is required to make monthly payments to the City for use of the parking garage is agreed to have commenced on August 1, 2019. Revenue from these payments is deposited in the ICVB account, and is used by the ICVB to pay for the Parking Facility maintenance and operations.
f. The Damages to Automobiles provision has been amended in a manner agreeable to both parties, to reflect that Hotel invitees are not signing releases when entering the parking facility.

**Recommendation**

The resolution be approved.

**ADDITIONAL COMMENTS:**

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<td>Approval of Parking Agreement</td>
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<td>Approval of First Amended and Restated MDA</td>
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**Discretionary Contract Disclosure Form Required:** No

**Certificate of Interested Parties Form Required:** Yes

**TGC 2270 Verification Form Required:** Yes

**ATTACHMENTS:**

- RES - Amended and Restated Parking Agreement  (PDF)
- A&R Parking Agreement - Form TGC 2270  (PDF)

**CURRENT YEAR FINANCIAL IMPACT:**

N/A

**REVISION INFORMATION:**

Last Updated: 6/16/2020 02:28 PM by Cynthia Castro
WHEREAS, the City Council on January 12, 2017 adopted Resolution 2017-5; approving a Parking Agreement with Provident Group-Irving Properties, LLC (“PGIP”)

WHEREAS, the City and PGIP desire to amend the Parking Agreement with PGIP to state that PGIP is authorized to use up to 300 parking spaces in the Parking Facility for use by all Hotel Invitees of the hotel, including overnight and daytime guests of the hotel facilities and hotel employees, and to make other changes that better reflect the day-to-day operations of the Parking Facility using the capabilities of the access system;

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

SECTION I. THAT the findings set forth in the recitals of this resolution are hereby found to be true and correct.

SECTION II. THAT the City Council hereby approves the attached amended and restated parking agreement between the City of Irving and Provident Group-Irving Properties LLC, a Texas limited liability company, whose sole member is Provident Resources Group Inc., a Georgia nonprofit corporation, and an entity exempt from federal income tax under Section 501(a) of the Internal Revenue Code (“Code”), as a nonprofit organization under Section 501(c)(3) of the Code, for the use of up to 300 parking spaces for a monthly parking fee provided therein, and the Mayor is authorized to execute said agreement.

SECTION III. THAT no funding is appropriated by this resolution.

SECTION IV. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
AMENDED AND RESTATED PARKING AGREEMENT

This AMENDED AND RESTATED PARKING AGREEMENT (this "Agreement") is entered into effective as of the ___ day of ____________, 2020, by and between THE CITY OF IRVING, TEXAS, a Texas municipal corporation and home-rule city of the State of Texas principally situated in Dallas County, Texas ("City"), and PROVIDENT GROUP-IRVING PROPERTIES LLC, a Texas limited liability company ("Provident").

WHEREAS, City owns certain land (the "Land") in Irving, Texas as more particularly described in the attached Exhibit A; and

WHEREAS, the development and expansion of commerce and the diversification of the economy within the State of Texas and the City is paramount to the continued economic development of the City; and

WHEREAS, the City has constructed a full-service convention center in the Las Colinas urban center; and

WHEREAS, City issued a request for proposals 091D 15F (the "RFP") for the planning, design, construction, and commissioning of a full-service, upper-upscale hotel and related public meeting space and parking garage and related public infrastructure and facilities (the "Project") that will function as the convention center headquarters hotel in support of the City's Convention Center (the "Center"); and

WHEREAS, the City has determined that the construction of a hotel to accompany the Center will increase the City’s ad valorem tax base, result in increased receipts from the City’s sales tax and hotel occupancy tax, enhance the operations of the convention center, increase revenues available to the City for City operations including the convention center operations; and

WHEREAS, to further promote tourism, the Center and the convention industry, the expansion of commerce and the diversification of the economy within the State of Texas and the community, the City, Garfield Public/Private LLC (the "Developer") and Provident, whose sole member is Provident Resources Group Inc., a Georgia nonprofit corporation, and an entity exempt from federal income tax under Section 501(a) of the Internal Revenue Code ("Code"), as a nonprofit organization under Section 501(c)(3) of the Code ("Provident"), Public Finance Authority of Wisconsin and Preston Hollow Capital, LLC have entered into that certain Amended and Restated Development Agreement (the "Development Agreement") dated December 8, 2016 for the development and construction of certain improvements on the Land, on behalf of the City, which includes the design, development, and construction of (i) an approximately 840-space parking facility (the "Parking Facility") and (ii) an approximately 350-room upper upscale multistory full-service hotel, on behalf of Provident (the "Hotel") on the Hotel Site (as defined in the Development Agreement), which Hotel Site has been leased to Provident by the City pursuant to a Ground Lease and License Agreement dated __________, 2016 (the "Ground Lease"); and

WHEREAS, City considers the ownership and operation of the Center with the accompanying Hotel to be a legitimate government burden. The City cannot undertake the development, ownership and operation of the Hotel at this time, and has requested that Provident
develop and operate the Hotel for the benefit of the Center, the City and its residents for the purposes set forth above, and in order to lessen the burdens of the City regarding the operation of the Center, promotion of economic development and job creation for the residents of the City, and the generation of revenues to pay for City services provided to its residents. The development by Provident of the Hotel relieves the citizens of the City from the tax burden which would have been incurred if the City had issued municipal bonds for the development of the Hotel; and

WHEREAS, as an important component of the operation of the Center and the Hotel, the City and Provident desire to enter into this agreement whereby as contemplated in the Development Agreement, Provident is authorized to use up to 300 parking spaces in the Parking Facility for use by all guests (whether or not an overnight guests) and employees of the Hotel (the “Hotel Invitees”) and City desires to reserve such spaces within the Parking Facility in accordance with the terms set forth herein;

WHEREAS, the City and Provident entered into a parking agreement dated January 12, 2017 and desire to amend certain terms and conditions and desire to enter into this Agreement; and

NOW, THEREFORE, for and in consideration of the sum of $10.00 and other good and valuable consideration, the receipt and sufficiency of which is acknowledged and confessed, City and Provident agree as follows:

AGREEMENT

I. LEASED PARKING SPACES

A. During the Operating Term (as defined in the Ground Lease) and any effectively exercised Renewal Period (as defined herein), City reserves in favor of Provident, for use only by its designated Hotel Invitees so long as they are Hotel Invitees in the Hotel, provided such designation is not in violation of the terms and provisions of this Agreement, the use of up to 300 parking spaces in the Parking Facility on a daily basis on the terms and conditions set forth in this Agreement. Provident will implement an access system (the “Access System”) that will allow Hotel Invitees ingress to and egress from the Parking Facility through a license plate recognition feature through the Access System. Provident shall grant Hotel Invitees access to up to three hundred (300) reserved parking spaces located in the Parking Facility (“Reserved Parking Spaces”), these Reserved Parking Spaces are unmarked and the Access System keeps track of the number of spaces used. If at any time the Access System allows for more than 300 Hotel Invitees into the Parking Facility Provident shall pay the then current hourly rate charged by the City for each parking spot in use for each hour that the parking spot is used (“Hourly Payment”). This Hourly Payment shall be paid to the City in the same manner as the Parking Fee as described below in Section II.

B. Members of the public may park in any remaining parking spaces in the Parking Facility on a first come-first served basis provided they pay the then current daily rate charged by the City. The Access System must be compatible with the City’s existing parking system for its
Convention Center Facilities and the City must approve the Access System used for the Reserved Parking Spaces.

C. Hotel may desire to authorize the general public to park in a portion of the Reserved Parking Spaces due to the demand from an event in the general area. The Hotel shall notify the General Manager of the Irving Convention Center prior to the event to confirm availability of a certain number of the Reserved Parking Spaces. If any Reserved Parking Spaces are used the Hotel shall be entitled to retain ninety percent (90%) of the Hourly Payment.

II. PARKING FEE

A. Throughout the Original Term and any Renewal Period, Provident shall pay City a monthly parking fee equal to $20,625 per month (which is equal to a daily rate of $2.50 per space based on a 30-day month) (the “Parking Fee”), such Parking Fee shall be automatically increased each year during the Original Term and any Renewal Period by the percentage increase in the Consumer Price Index for All Urban Consumers, All Items, for the market area that includes the Hotel, as published by the Bureau of Labor Statistics of the United States Department of Labor, using the years 1982-84 as a base of 100, or if such index is discontinued, the most comparable index published by any federal governmental authority on which the duties in connection with such index shall devolve or such other official index as agreed by the Parties, (the “Index”) from the Effective Date to the first day of each year during the Original Term and any Renewal Period; provided that the Parking Fee shall never decrease.

B. The Parking Fee shall be due and payable monthly, in arrears, without demand, notice, deduction or setoff, no later than the fifth (5th) day of each month commence on August 1, 2019, and continue for each month thereafter until the expiration of the Original Term or Renewal Period of this Agreement, as applicable. In the event the Parking Fee is not received within ten (10) days after the date on which such amount is due, Provident shall pay additionally an administrative late charge of five percent (5%) of the amount past due, plus the amount of any attorneys’ fees which may be incurred by City in connection therewith for each such late payment. From the period of August 1, 2019 until January 27, 2020 there shall be no late charges assessed. Provident shall also pay an administrative charge of Fifty and No/100 Dollars ($50.00) for each check returned unpaid for any reason.

C. The monthly Parking Fee shall be paid and delivered to City at the following address (or such other address as City may designate in writing delivered to Provident):

825 W. Irving Blvd.
Irving, Texas 75060
Attn: City Manager

The Parking Fee is due and payable each month regardless of whether Provident or any Hotel Guest actually utilizes the Reserved Parking Spaces and constitutes a fair payment for the use of such Reserved Parking Spaces for Hotel parking. Payment of the Parking Fee relieves any burden on the City due to nonuse of the Reserved Parking Spaces.
D. Provident, not the individual "Hotel Invitee," will pay the Parking Fee for the Reserved Spaces to City. City will not bill individual Hotel Invitees.

E. The City shall maintain and operate the Parking Facility at the City’s cost and expense, in good working order condition (including repairs, maintenance and capital improvements); however, the Provident shall be responsible for all costs associated with the maintenance, upkeep, upgrade, and replacement of the Access System. Charges associated with the Access System ("Charges") will be billed by City or their parking operator to Provident monthly, and shall be immediately due and payable.

F. For so long as this Parking Agreement remains in effect and except for costs that City has specifically agreed to pay pursuant to the express terms of this Parking Agreement, City shall not be required to make any expenditure, incur any obligation or incur any liability of any kind whatsoever in connection with this Parking Agreement.

G. **Appointment of Provident Representative.** Provident hereby designates Steve E. Hicks, Donovan O. Hicks and Debra Lockwood (each acting individually) to be the Representative (together with its successors and assigns, the “Representative”), who shall be authorized to act on behalf of Provident under this Agreement. Provident shall give not less than ten (10) business days’ signed written notice to City of any succession or replacement Provident Representative, and such notice shall advise City of any qualifications of such new Provident Representative which are not already described herein. With respect to any such action, decision or determination to be taken or made by Provident under this Agreement, the Provident Representative shall take such action or make such decision or determination or shall notify the City in writing of the person(s) responsible for such action, decision or determination and shall forward any communications and documentation to such person(s) for response or action. Any written approval, decision, confirmation or determination hereunder by the Provident Representative shall be binding on Provident.

**III. INSURANCE**

A. During the Term, Provident shall maintain: (i) Commercial General Liability insurance ("CGL Insurance") with limits of liability not less than $1,000,000 per occurrence with a general aggregate of not less than $2,000,000 covering liability arising from the Parking Facility, its operations, independent contractors, product-completed operations, personal injury, and advertising injury, and also shall include a contractual liability endorsement that insures Provident’s assumed liability under this Agreement; (ii) Business Auto Liability insurance ("BAL Insurance") with limits of liability not less than $1,000,000 per occurrence covering bodily injury, including death, and property damage for liability arising from use of Provident’s owned, non-owned, and hired vehicles; (iii) Workers’ Compensation insurance ("WC Insurance") in accordance with all federal and state statutory requirements and Employers’ Liability insurance ("EL Insurance") in an amount of not less than $1,000,000 per accident for bodily injury and $1,000,000 per employee/aggregate for disease; and (iv) Umbrella Liability insurance ("Umbrella Liability Insurance") with limits of liability of not less than $5,000,000 per occurrence that applies on a "following form" basis and is in excess of the underlying CGL Insurance, BAL Insurance, and EL Insurance limits of liability with the Umbrella Liability.
Insurance policy listing the CGL Insurance, BAL Insurance, and EL Insurance policies on its schedule of underlying Insurance (collectively, “Casualty Insurance”).

B. Provident hereby waives and releases City of and from any and all rights of recovery, claims, actions, or causes of action against City, its parking operator, employees, officers, directors, subsidiaries, affiliates, agents, or representatives, to the extent covered by Casualty Insurance. Each Casualty Insurance policy must be endorsed to reflect the insurer’s acceptance of this waiver of subrogation. The above waiver of subrogation applies whether or not there are any deductibles or self-insured retentions and in the absence of any CP Insurance.

C. For each Casualty Insurance policy, except WC Insurance, EL Insurance, and BAL Insurance, Provident shall name City, its parking operator, employees, officers, directors, subsidiaries, affiliates, agents, and representatives, as additional insureds. In addition, the Casualty Insurance policies must be endorsed to be primary and non-contributory, rather than excess, with respect to their additional insured status. If a Casualty Insurance policy does not contain a standard ISO separation of insureds provision, it must be endorsed to provide cross-liability coverage. Further, the Casualty Insurance policies must not have any cross suits exclusion, or any similar exclusion that excludes coverage for claims brought by one insured under the policy against another insured under the policy.

D. All insurance policies required by this Section 8 (i) must be issued by insurance companies having an “A” rating or better by Standard and Poor’s, and if not rated by Standard & Poor’s, then a rating of “A” by A.M. Best Provident, and (ii) may be satisfied by a primary policy or combination of primary and umbrella policies. The insurance provisions in this Section 8 set forth the minimum amounts and scopes of coverage to be maintained by Provident and are not to be construed in any way as a limitation on Provident’s liability under this Agreement.

E. Provident shall not self-insure any of its obligations under this Agreement; provided, however, that Provident may elect not to provide WC Insurance, but only for those employments that are not compulsory according to applicable law in the jurisdiction where the Property are located. The responsibility to fund any financial obligation for the election to not insure or any deductibles shall be assumed by, for the account of, and at the sole risk of Provident. The application of coverage within the election not to provide WC Insurance and/or any deductibles shall be deemed covered in accordance with the policy forms set forth in this Section III.

F. Provident shall furnish Certificate(s) of Insurance evidencing all of the above-described insurance policies, waivers of subrogation, additional insured obligations, and separation of insured provision prior to or upon execution of this Agreement and annually not later than ten (10) business days after the expiration of each policy. All policies shall provide that not less than thirty (30) days’ prior written notice of cancellation, material modification, reduction in coverage, or non-renewal shall be given to the City.

G. If Provident fails to procure any of the insurance required under this Article III, or fails to maintain the same in full force and effect continuously during the Term, then City shall have the right to obtain such insurance, and Provident shall reimburse City upon demand for all costs and expenses of obtaining such insurance.
H. City shall, as a reimbursable operating cost under Section II.A., keep the Parking Facility insured against "all risk" of loss for full replacement cost coverage to include direct loss by fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, boiler and machinery, and flood. City shall be named as the insured.

IV. ASSIGNMENT AND SUBLETTING

Provident shall not assign or sublet, in whole or in part, Provident's right to use the Reserved Parking Spaces without the prior written consent of City which may be withheld in City's sole discretion; provided that, Provident may, without City's prior consent, but upon prior written notice to City, assign in whole Provident's rights hereunder if the assignment is made in conjunction with Provident's a transfer of its interest in the Hotel and assignment of the Ground Lease, which transfer and assignment are permitted under the Ground Lease, and such assignee of the Ground Lease assumes in writing, in a form reasonably acceptable to City, all obligations or Provident hereunder. Delegation of certain rights and obligations by Provident to its hotel operator shall not be considered an assignment or subletting hereunder.

V. OBLIGATIONS OF CITY

A. Operator. Provident acknowledges that the Parking Facility will not be operated by City but by a parking operator who shall have exclusive control of the Parking Facility. The sole obligation of City is to make the Reserved Parking Spaces available, but the terms and conditions of Provident's use of the Parking Facility are subject to the rules and regulations for such use which may from time to time be established by the parking operator. A violation of the parking rules and regulations (copies of which will be posted in the Parking Facility) will be a violation of the terms of this Agreement, and will permit City to cancel the privilege of a particular Hotel Guest to use the Parking Facility.

B. License. The right of an individual to have access to the Parking Facility and use the Reserved Parking Spaces is a license which may be withdrawn at any time and without notice should such licensee fail to conform and follow the rules and regulations established by the parking operator from time to time. City and the parking operator reserve the right to reject any individual parking holder for any reason.

C. Maintenance and Security. During the term of this Agreement, City, at its sole cost and expense, shall maintain, or cause to be maintained, the Parking Facility as determined in City's reasonable judgment. THE CITY HAS NO OBLIGATION TO PROVIDE ANY SECURITY SERVICES TO THE PARKING FACILITY. PROVIDENT, ANY COMPANIES, SUBCOMPANIES AND HOTEL INVITEES' USE OF THE PARKING FACILITY IS AT THEIR SOLE RISK.

D. Access. City shall provide Hotel Invitees access to the Reserved Parking Spaces twenty-four (24) hours a day, three hundred sixty-five (365) days per year; provided, however, and notwithstanding the foregoing, the Parking Facility may be closed for (i) maintenance and repairs with no less than fifteen (15) days' advance notice to hotel operator, or (ii) due to inclement conditions with written notice to hotel operator and parking operator as soon as practicable. The initial hotel operator is Westin Operator LLC, a Delaware limited liability company.
Compliance with Laws. City shall comply with all laws, statutes, ordinances, court rulings, regulations, public or private restrictions, and requirements now or hereafter adopted by any governmental or other authority or similar body, affecting the Parking Facility or this Agreement upon written notice of any violation thereof.

E. Annual Appropriation. All obligations, if any, payable by the City under this Agreement, are and shall be payable, if at all, solely from funds subject to appropriation by the City Council in the annual budget and the City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas.

VI. TERM AND TERMINATION

A. Term. This Agreement shall begin on the date of Substantial Completion (the “Commencement Date”) and shall continue for thirty (30) years (the “Original Term”), unless sooner terminated by either party pursuant to the terms of this Agreement. Provident, at its option, shall extend the term of this Agreement for one (1) renewal period, for a term of thirty (30) years (the “Renewal Period”), by serving written notice thereof upon City (the “Renewal Notice”); provided that (a) the Ground Lease is in full force and effect and has been effectively renewed for the corresponding Renewal Term (as defined in the Ground Lease) thereunder, and (b) no Provident default then exists and remains uncured on the date of exercise or on the date of commencement of the Renewal Period. The Renewal Notice must be delivered by Provident in a manner and time consistent with the renewal requirements described in Section 3.2 of the Ground Lease. If Provident fails to timely and effectively exercise either the Renewal Notice hereunder or the Renewal Term Option (as defined in the Ground Lease) on or before the date that is twelve (12) months prior to the expiration of the then-current Lease Term (as defined in the Ground Lease) (the “Option Exercise Period”), or if Provident purports to exercise a Renewal Term Option during an Option Exercise Period, but the conditions to exercise of such Renewal Term Option under the Ground Lease have not been satisfied on or before the exercise of such Renewal Term Option by Provident or the commencement of the Renewal Term, as applicable, all of Provident’s rights with respect to each Renewal Term Option and the Renewal Periods under this Agreement shall expire and terminate upon the Lease Expiration Date (as defined in the Ground Lease) in accordance with Section 3.1 under the Ground Lease. The Original Term, as extended by any applicable Renewal Periods, may be referred to herein as the “Term.” Any Renewal Notice by Provident to City pursuant to Section 3.2 of the Ground Lease shall constitute Renewal Notice under this Section.

B. Default Termination. City may terminate this Agreement upon written notice to Provident after the occurrence and continuance of one or more of the following events (“Events of Default”):

(i) the failure of Provident to pay the Parking Fee and/or the Charges or to make any other monetary payment required to be made by Provident hereunder when due and such failure shall continue for ten (10) days after written notice of such failure from City to Provident,
(ii) the failure by Provident to observe and perform any other provision of this Agreement and such failure continues for thirty (30) days after written notice of such failure from City to Provident, provided that if such failure cannot be cured within said thirty (30) day period, Provident shall not be in default hereunder so long as Provident commences curative action within such thirty (30) day period and is diligently pursuing such cure, but such additional cure period shall not exceed ninety (90) calendar days, and

(iii) the occurrence of an “Event of Default” (as that term is defined in the Ground Lease) under the Ground Lease after the expiration of any cure period thereunder.

C. Rights of Mortgagee. The parties agree and acknowledge that any Event of Default by Provident under this Agreement will give rise to certain rights and remedies of any Leasehold Mortgagee (as defined in the Ground Lease) under the Ground Lease, including, without limitation, the notice and cure rights afforded to a Leasehold Mortgagee under the Ground Lease.

VII. COMPLIANCE WITH LAWS AND RULES

A. Provident shall comply, and shall cause Hotel Invitees to comply, with the rules and regulations applicable to use of the Parking Facility, as such rules may be amended from time to time, a copy of which will be delivered to Provident by City. If such rules and regulations are changed, amended, or modified, City shall promptly provide Provident with a copy of such changed, amended, or modified rules and regulations. City prohibits the parking of vehicles in areas designated as “RESERVED” or “TOW AWAY ZONE,” except as any Hotel Guest may be authorized to park in such areas. Any unauthorized vehicle parked in these areas will be towed at Provident’s expense.

B. NOTHING CONTAINED IN THIS AGREEMENT SHALL WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER APPLICABLE GOVERNMENTAL RULE OR IN ANY WAY WAIVE OR LIMIT ANY DEFENSES OF CITY OR ANY CITY INDEMNITEE UNDER GOVERNMENTAL RULE.

VIII. INDEMNITY

A. Damage to Automobiles. Provident releases City and City indemnitees from any liability, cost or expense related to any damage to any automobile which may be parked in the Parking Facility, EVEN IF THE DAMAGE OCCURRED AS A RESULT OF THE NEGLIGENCE IN WHOLE OR IN PART OF CITY. Provident releases and shall cause its Hotel Invitees to release any operator of the Parking Facility from any liability, cost or expense related to any damage to any automobile which may be parked in the Parking Facility, EXCLUDING THOSE CAUSED FROM THE NEGLIGENCE AND WILLFUL MISCONDUCT OF THE PARKING OPERATOR. This release includes a release from any and all direct damages as well as any liability for any indirect, special or consequential damages.

B. Injuries to Persons. Provident waives and releases and shall cause its Hotel Invitees to release City and City indemnitees from any liability cost or expense related to the death or injury to Provident (its agents employees and contractors) EVEN IF THE INJURY OR DEATH MAY HAVE OCCURRED AS A RESULT OF THE NEGLIGENCE, IN WHOLE OR IN PART, OF
CITY. Provident waives and releases and shall cause its Hotel Invitees to release parking operator from liability cost or expense related to the death or injury to Provident (its agents, employees and contractors) or its Hotel Invitees, EXCLUDING THOSE CAUSED BY THE NEGLIGENCE AND WILLFUL MISCONDUCT OF THE PARKING OPERATOR. This release and waiver includes a release and waiver from any and all direct damages as well as any liability for indirect, special or consequential damages. As a condition to allowing a Hotel Guest to enter the Parking Facility, Provident will secure from such Hotel Guest a written acknowledgment and consent to this release and waiver of liability for injury of death.

C. Agreement to Indemnify. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, PROVIDENT HEREBY AGREES AND COVENANTS TO INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AND ITS PARKING OPERATOR, AND THEIR AGENTS, EMPLOYEES, OFFICERS AND ALL LEGAL REPRESENTATIVES (CITY INDEMNITEE), FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITIES OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND REASONABLE ATTORNEYS’ FEES, FOR INJURY TO OR SICKNESS OR DEATH OF ANY PERSON, OR FOR LOSS OR DAMAGE TO ANY PROPERTY OR FOR ANY OTHER LOSS, LIABILITY OR DAMAGE, INCLUDING ANY CIVIL OR CRIMINAL FINES OR PENALTIES, DIRECTLY OR INDIRECTLY ARISING OR ALLEGED TO ARISE OUT OF OR ANY WAY INCIDENTAL TO (a) ANY USE, OCCUPANCY OR OPERATION OF THE PREMISES BY OR ON BEHALF OF PROVIDENT DURING THE AGREEMENT TERM, OR DURING ANY PERIOD OF TIME, IF ANY, BEFORE OR AFTER THE OPERATING TERM THAT PROVIDENT OR ITS RELATED PARTIES MAY HAVE POSSESSION OF THE HOTEL, (b) ANY BREACH OF THE TERMS AND CONDITIONS OF THIS AGREEMENT OR ANY FAILURE BY PROVIDENT TO PAY OR PERFORM ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT TO ANY THIRD PARTY, OR (c) ANY ACT OR OMISSION OF PROVIDENT, ITS EMPLOYEES, AGENTS, OFFICERS OR LEGAL REPRESENTATIVES IN CONNECTION WITH THIS AGREEMENT. THIS INDEMNITY INCLUDES PROVIDENT’S AGREEMENT TO PAY ALL COSTS AND EXPENSES OF DEFENSE, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS’ FEES, INCURRED BY THE CITY OR ANY CITY INDEMNITEE. THIS INDEMNITY SHALL APPLY WITHOUT LIMITATION TO ANY LIABILITIES IMPOSED ON ANY PARTY INDEMNIFIED HEREUNDER AS A RESULT OF ANY STATUTE, RULE, REGULATION OR THEORY OF STRICT LIABILITY. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS’ COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. ALTHOUGH PROVIDENT HAS CAUSED CITY AND CITY INDEMNITEE, TO BE NAMED AS LOSS PAYEES, ADDITIONAL INSUREDS UNDER PROVIDENT’S INSURANCE POLICIES, PROVIDENT’S LIABILITY UNDER THIS INDEMNIFICATION PROVISION SHALL NOT BE LIMITED TO THE LIABILITY LIMITS SET FORTH IN SUCH POLICIES.

D. Immunity retained. The City and Provident hereby acknowledge and agree that City is entering this Agreement pursuant to its governmental function and that nothing contained in this Agreement shall be construed as constituting a waiver of the City’s governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law.
E. **Limited Waiver of Immunity.** Notwithstanding anything to the contrary herein, the City and Provident hereby acknowledge and agree that to the extent this Agreement is subject to the provisions of Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the City’s immunity from suit is waived only as set forth in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE.

Should a court of competent jurisdiction determine the City’s immunity from suit is waived in any manner other than as provided in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the City and Provident hereby acknowledge and agree that in a suit against the City for breach of this Agreement:

(a) the total amount of money awarded is limited to actual damages in an amount not to exceed the balance due and owed by City under this Agreement;

(b) the recovery of damages against City may not include consequential damages or exemplary damages;

(c) Provident may not recover attorney’s fees; and

(d) Provident is not entitled to specific performance or injunctive relief against the City.

F. **Liability.** Without waiving the City’s immunity from suit or liability, which is expressly reserved, the liability of each party hereto is limited to such party’s interest in the Parking Facility and the project of which the Parking Facility is a part, and no employee, director, trustee, member, or officer of either party shall be personally liable hereunder. Provident Resources Group Inc. as the sole member of Provident shall have no liability hereunder and shall have no obligation to contribute funds to Provident under or pursuant to this Agreement.

IX. WAIVER

To the fullest extent permitted by law, Provident, on behalf of itself and all the Hotel Invitees, hereby waives any and all claims against City, and hereby releases City from and against any and all claims and liabilities arising out of, or in connection with, (i) the use of the Reserved Parking Spaces by Provident or any of the Hotel Invitees, or (ii) any other act or omission of Provident or any of the Hotel Invitees.

X. ADDITIONAL PARKING SPACES

Should Provident desire parking spaces in addition to the Reserved Parking Spaces, Provident shall provide written notice to City of Provident’s desire for additional parking spaces for special events at the Hotel (as opposed to the region, generally), and if available, a specific number of Reserved Parking Spaces desired. If the City agrees to the additional spaces, the Hotel will have priority of the agreed upon spaces over any other competing interest. Upon Provident providing to City and the City’s third party parking operator, if applicable, written notice of its desire to reserve Additional Spaces (defined below), City shall respond with its written notice of the parking spaces available (as determined by City). In the event parking spaces are available sufficient to fulfill Provident’s request, City shall provide Provident the
option to reserve additional parking spaces (collectively the “Additional Spaces”) which are available in the Parking Facility. The Additional Spaces shall be reserved on the same terms and conditions then in effect under this Agreement; provided, however, the length of the reservation for such Additional Spaces shall be on a day-to-day basis terminable by either party hereto upon thirty (30) days’ written notice to the other party hereto.

XII. MISCELLANEOUS

A. **No Broker.** Provident represents and warrants to City that it has not been represented by any broker or agent in connection with the negotiation or execution of this document. City represents and warrants to Provident that it has not been represented by any broker or agent in connection with the negotiation or execution of this document. Provident shall indemnify and hold harmless City from and against all claims (including costs of defense and investigation) of any broker or agent claiming by, through, or under Provident in connection with this Agreement.

B. **Estoppel Certificate.** City shall, within fifteen (15) days of the written request of any Provident deliver a commercially reasonable estoppel certificate consisting of commercially reasonable statements which statements shall include, but not be limited to, the following: this Agreement is in full force and effect, Provident is not in default under this Agreement, and such other statements as Provident may reasonably require and City may reasonably approve. If City is unable to make any of the statements contained in the estoppel certificate because the same is untrue, City shall state the specific reason why such statement is untrue.

C. **Whole Agreement.** This Agreement contains all covenants, stipulations and provisions agreed upon by the parties. No agent of either party to this Agreement has authority to alter or change its terms and neither party is bound by any statement or representation not in conformity with this Agreement.

D. **Notices.** For purposes of providing notice under this Agreement:

If to City: The City of Irving
825 W. Irving Blvd.
Irving, Texas 75060
Attn: City Manager
With a copy to: The City of Irving
825 W. Irving Blvd.
Irving, Texas 75060
Attn: City Attorney

With a copy to: Irving Convention and Visitors Bureau
500 West Las Colinas Blvd.
Irving, Texas 75039
Attention: Maura Gast

With a copy to: ASM Global
500 West Las Colinas Blvd.
Irving, Texas 75039
Attention: General Manager

With a copy to: Bracewell LLP
1445 Ross Avenue, Suite 3800
Dallas, Texas 75202
Attention: K. Brock Bailey

If to Provident:
Provident Group-Irving Properties LLC
5565 Bankers Avenue
Baton Rouge, LA 70808
Attention: Chief Executive Officer

With a copy to: Fishman Haygood, LLP
100 North St., Suite 800
Baton Rouge, LA 70802
Attention: Louis S. Quinn Jr., Esq.

With a copy to: Preston Hollow Capitol LLC
1717 Main St., Suite 3900
Dallas, TX 75201
Attention: John Dinan

With a copy to: Westin Operator LLC
c/o Marriott International, Inc.
10400 Fernwood Road
Bethesda, Maryland 20817
Attention: Law Department 52/923 - Hotel Operations

With a copy to: Westin Operator LLC
c/o Marriott International, Inc.
10400 Fernwood Road  
Bethesda, Maryland 20817  
Attention: Senior Vice President, Finance &  
Accounting Dept. 51/918.04

E. **Severability.** If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable.

F. **Choice of Law.** This Agreement is subject to the laws of the State of Texas. Venue for any litigation relating to this Agreement is Dallas County, Texas.

G. **Captions.** Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section or subsection in this Agreement.

H. **Waiver.** If either party fails to require the other to perform a covenant or agreement of this Agreement, that failure does not prevent the party from later enforcing that covenant or agreement and all other covenants or agreements. If either party waives the other’s breach of a covenant or agreement, that waiver does not waive a later breach of this Agreement.

I. **Survival.** Provident and City shall remain obligated under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

J. **Waiver of Jury Trial.** Provident hereby expressly, knowingly, voluntarily and intentionally waives any rights it may have to a trial by jury with respect to any litigation based hereon, or arising out of, under or in connection with this Agreement or any course of conduct, course of dealing, statements (whether verbal or written), or actions of either of the parties to this Agreement. This provision is a material inducement to the parties executing this Agreement.

*(Signature Page Attached)*
IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the Effective Date.

CITY:

CITY OF IRVING, a Texas municipal corporation and home-rule city of the State of Texas principally situated in Dallas

By:______________________________
    Richard Stopfer, Mayor

PROVIDENT GROUP-IRVING PROPERTIES LLC:

By: Provident Resources Group, Inc., a Georgia nonprofit corporation, its sole member

By:______________________________
    Name: Steve E. Hicks,
    Title: Chairman and CEO
EXHIBIT A

Land Description

DESCRIPTION OF PROPERTY SURVEYED

DESCRIPTION, of a 7.025 acre tract of land situated in the McKinney & Williams Survey, Abstract No. 1056, Dallas County, Texas; said tract being part of Lot 2, Block A, Irving Convention Center Addition, an addition to the City of Irving, Texas according to the plat recorded in Instrument No. 20080313272 of the Official Public Records of Dallas County, Texas; said tract also being part of that tract of land described in Special Warranty Deed to City of Irving, Texas recorded in Volume 2001214, Page 5844 and part of that tract of land described in Special Warranty Deed to City of Irving, Texas recorded in Volume 2001214, Page 3947 both of the Deed Records of Dallas County, Texas; said 7.025 acre tract more particularly described as follows;

BEGINNING, at a "+" cut in concrete found in the east right-of-way line of State Highway No. 114 (John Carpenter Freeway) (a variable width right-of-way); said point being the southwest corner of Lot 1, Block A, said Irving Convention Center Addition;

THENCE, departing the said east line of State Highway No. 114 and along the south line of said Lot 1, Block A, the following seven (7) calls:

North 89 degrees, 53 minutes, 34 seconds East, a distance of 406.34 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set for the beginning of a tangent curve to the left;

In an easterly direction, along said curve to the left, having a central angle of 32 degrees, 44 minutes, 41 seconds, a radius of 74.04 feet, a chord bearing and distance of North 73 degrees, 31 minutes, 13 seconds East, 41.74 feet, an arc distance of 42.31 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set at the beginning of a reverse curve to the right;

In an easterly direction, along said curve to the right, having a central angle of 32 degrees, 51 minutes, 07 seconds, a radius of 125.96 feet, a chord bearing and distance of North 73 degrees, 34 minutes, 26 seconds East, 71.24 feet, an arc distance of 72.22 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set at the end of said curve;

Due East, a distance of 272.53 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set at the beginning of a tangent curve to the right;

In an easterly direction, along said curve to the right, having a central angle of 23 degrees, 58 minutes, 26 seconds, a radius of 35.96 feet, a chord bearing and distance of South 78 degrees, 00 minutes, 47 seconds East, 14.94 feet, an arc distance of 15.05 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set at the end of said curve to the right;

A-1
South 66 degrees, 01 minutes, 34 seconds East, a distance of 67.88 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set at the beginning of a tangent curve to the right;

In an southeasterly direction, along said curve to the right, having a central angle of 60 degrees, 23 minutes, 13 seconds, a radius of 35.96 feet, a chord bearing and distance of South 35 degrees, 49 minutes, 58 seconds East, 36.17 feet, an arc distance of 37.90 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set in the west line of Las Colinas Boulevard (a variable width right-of-way);

THENCE, South 23 degrees, 58 minutes, 26 seconds West, departing the said south line of Lot 1, Block 1 and along the said west line of Las Colinas Boulevard, a distance of 363.91 feet to a point for corner;

THENCE, Due west, departing the said west line of Las Colinas Boulevard, a distance of 739.91 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set for corner in the said east line of State Highway No. 114;

THENCE, along the said east line of State Highway No. 114, the following three (3) calls:

North 00 degrees, 15 minutes, 59 seconds West, a distance of 26.84 feet to a 1/2-inch iron rod with "PACHECO KOCH" cap set for angle point;

North 01 degrees, 35 minutes, 39 seconds East, a distance of 226.66 feet to a "+" cut in concrete set in a private drive for angle point;

North 01 degrees, 51 minutes, 22 seconds West, a distance of 106.42 feet to the POINT OF BEGINNING;

CONTAINING: 306,012 square feet or 7.025 acres of land, more or less.
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270

Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY: __________________________

Print Name: Steve E. Hicks  
Title: Chairman and CEO

Company Name: PROVIDENT GROUP - IRVING PROPERTIES LLC  
By: Provident Resources Group, Inc., a Georgia nonprofit corporation, its sole member

Date Signed: June 18, 2020

NOTARIZATION

THE STATE OF LOUISIANA  
PARISH OF EAST BATON ROUGE  
COUNTY OF ________________  

BEFORE ME, the undersigned notary public on this day personally appeared Steve E. Hicks, on behalf of Provident Resources Group, Inc. (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBscribed before me on the 18th day of June, 2020.

RHABER W. ROBERTSON  
Notary Public  
Notary ID No. 138861  
East Baton Rouge Parish, Louisiana

My commission is for life.

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract #__________  
LSR #__________
Resolution -- Approving a Professional Services Agreement between the City of Irving and Weaver and Tidwell, L.L.P., in the Estimated Annual Amount of $199,500.00 for Professional Auditing Services Relating to Fiscal Years 2019-20, 2020-21, and 2021-22 and in the Estimated Annual Amount of $45,000.00 for As-Needed Compliance Audit Project Assistance

Administrative Comments

1. This item is recommended by the Financial Services Department.
2. **Impact:** Providing audited financial statements is required by City Charter and is necessary to meet bond covenants and provide financial information to the public. The additional as-needed services included as part of this contract will allow agreed-upon procedures for services related to the Entertainment Center and internal contract compliance projects.
3. Weaver & Tidwell, LLP ("Weaver") is a Texas-based firm which has been serving Texas clients for over 65 years. The team assigned to the City of Irving has extensive specific governmental audit experience and has performed well.
4. This item establishes a contract for the continuation of providing professional auditing services. The city’s previous agreement with Weaver, which expires on June 30, 2020, was awarded to the firm scoring the highest points through a request for proposal process. Due to the city’s implementation of the financial portion of the Tyler Munis enterprise resource planning platform on October 1, 2019 and the planned implementation of the human resources/payroll portion in January 2021, it is to the city’s advantage to remain with the same audit firm for the next three years. Weaver has agreed to hold pricing as established for the Fiscal Year 2019 audit for the three year term, as well as for two, one-year renewal options should the city decide to exercise them.
5. In addition, this agreement includes additional professional services for:
   - Testing compliance with contracts and assisting with other compliance audit projects for which a specific scope of work will be developed as needed in the estimated annual amount of $20,000.00
   - Testing compliance of contracts related to the Entertainment Center, upon receiving specific direction from the city with regard to the particular compliance to be tested in the estimated annual amount of $25,000.00
6. Funding for Fiscal Year 2019-20 is available in the Non-Departmental Budget within the General Fund, while funding for Fiscal Years 2020-21 through 2022-23 is subject to budget appropriation.
### Vendor Services Contract Term

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**Recommendation**

The resolution be approved.

### ADDITIONAL COMMENTS:

- **Contract Required**: Yes  
  **Review Completed By**: Christina N. Weber
- **Previous Action**: None  
  **Council Action**: None
- **Discretionary Contract Disclosure Form Required**: Yes
- **Certificate of Interested Parties (Form 1295) Required**: Yes
- **TGC 2270 Verification Form Required**: Yes

**Comments**: Services provided by the firm meet specifications and performance criteria; pricing remains as awarded under the previous agreement. The agreement term is for three years with two, one-year renewal options. Expenditures associated with this agreement will be tracked using Contract # 42000481-2.

### ATTACHMENTS:

- Weaver Professional Services Agreement  (PDF)
- Weaver Professional Services Agreement Certificate  (PDF)
- Weaver TGC 2270 (PDF)
- Weaver TGC 2270 Certificate  (PDF)
- Discretionary Contract Disclosure Form Signed (PDF)
- City of Irving Contract Compliance Engagement Letter (PDF)
- City of Irving Entertainment Venue Contract Compliance Engagement Letter (PDF)
- City of Irving TCEQ AUP - Final EL  (PDF)
- City of Irving Final EL  (PDF)
- City of Irving Debt Coverage AUP - Final EL  (PDF)
- City of Irving DFW Revenue Sharing AUP - Final EL  (PDF)
CURRENT YEAR FINANCIAL IMPACT:

10011301-640021  Budget: $25,000.00  Actual: $25,000.00
Purchase orders will be issued as needed.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:
Prepared: 6/9/2020 01:27 PM by Darlene Humphries
Last Updated: 6/18/2020 12:13 PM by Darlene Humphries
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves the attached professional services agreement between the City of Irving and Weaver & Tidwell, L.L.P., for Professional Auditing Services relating to Fiscal Years 2019-20, 2020-2021, and 2021-22, with the city’s payment for services for each year to be in the total estimated amount of $199,500.00 annually, subject to funds being appropriated in Fiscal Years 2020-2021, 2021-22, and 2022-23, and to provide as-needed compliance audit project assistance in the estimated amount of $25,000.00 for the period of July 1, 2020, through September 30, 2020, in the estimated amount of $45,000.00 for the period of October 1, 2020, through September 30, 2021, in the estimated amount of $45,000.00 for the period of October 1, 2021, through September 30, 2022, and in the estimated amount of $20,000.00 for the period of October 1, 2022, through June 30, 2023, subject to funds being appropriated in Fiscal Years 2020-2021, 2021-22, and 2022-23, and the Mayor is authorized to execute said agreement and any additional required documents.

SECTION II. THAT funding for these expenditures is available in the Non-Departmental Budget within the General Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

______________________________
Kuruvilla Oommen
City Attorney
Professional Services Agreement

THIS AGREEMENT is entered into as of the 25th day of June, 2020, by and between the City of Irving, Texas, a municipal corporation located in Dallas County, Texas, and incorporated as a home rule city under the Constitution of the State of Texas, hereinafter referred to as "CITY," and Weaver and Tidwell, L.L.P, hereinafter referred to as "AUDITOR."

WITNESSETH:

In consideration of the premises and mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Services
   The AUDITOR shall perform the services set out in Exhibit "A" which is incorporated herein as though fully set out, with the services described in such document hereinafter referred to as the "Services." If there is any conflict the terms set out in Exhibit "A" shall control.

2. Compensation and Reimbursement

   2.1. CITY shall pay AUDITOR a fee not to exceed two hundred nineteen thousand five hundred and no/100 Dollars ($219,500.00) annually, for the Services as specified in Exhibit "A."

   2.2. AUDITOR shall submit invoices monthly, as the work progresses. CITY shall then pay the AUDITOR the total amount of the statement which is validly due within thirty (30) days, with the final monthly installment being paid upon satisfactory completion of the project. All payments made under this Agreement shall be made from currently available funds.

   2.3. AUDITOR must give written notice that the Services have been completed or substantially completed, and CITY shall make a final inspection of the Services, and if the Services are found to be completed or substantially completed in accordance with this Agreement, CITY shall, upon the receipt of invoice, pay AUDITOR within thirty (30) days the balance due AUDITOR under the terms of this Agreement.

   2.4. In the event CITY should request additional services not set forth in Exhibit "A," AUDITOR and CITY shall agree on the compensation for those services prior to performance by AUDITOR. Performance of these additional services may be within or without the term of the contract set forth in Section 5 of this Agreement. Under no circumstances will AUDITOR perform additional services without prior written authorization from CITY.

3. Confidential Relationship and Media Coverage

   3.1 CITY may from time to time communicate to AUDITOR certain information to enable AUDITOR to effectively perform the Services. AUDITOR shall treat all such information as confidential, whether or not so identified, and shall not disclose any part thereof without the prior written consent of CITY, except as may be required by law or during a legally required peer review. AUDITOR shall limit the use and circulation of such information, even within its own
organization, to the extent necessary to perform the Services. The foregoing obligations of this Section 3, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information, (ii) is, through no fault of AUDITOR, hereafter disclosed in publicly available sources of information, (iii) is now in the possession of AUDITOR without any obligation of confidentiality, or (iv) has been or is hereafter rightfully disclosed to AUDITOR by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

3.2 AUDITOR shall not disclose any reports, recommendations, conclusions, or other results of the Services, the existence of, or the subject matter of this contract without the prior written consent of CITY, except as may be required by law or during a legally required peer review.

3.3 In its performance hereunder, AUDITOR shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm, or corporation.

3.4 AUDITOR will not provide any public statements, press releases, articles, writings or materials to the any media outlet, including but not limited to, newspapers, social media, websites, blogs, magazines, or TV stations, which refers to the CITY, or any of the services provided by AUDITOR to CITY, under this Agreement without the prior written authorization of the CITY. Requests for prior written approval of such releases, public statements, articles, writings or materials shall be directed to the CITY’s Director of Corporate Communications. This provision is intended to survive the expiration or termination of the Agreement.

4. Proprietary Rights

4.1 Except for those materials the AUDITOR is required to retain ownership of pursuant to the Texas Rules of Professional Conduct (including those described in 22 Tex. Admin. Code § 501.76(b)), the work product of the Services, and any writings, discoveries, inventions, and innovations or data resulting from the Services, shall be promptly communicated to, and be the property of CITY.

4.2 As instruments of service, all documents, including original drawings, estimates, and notes shall be available for use by AUDITOR named herein.

5. Term

5.1 This Agreement shall commence on June 25, 2020 and terminate on June 24, 2023 (the “Initial Term”). The City may terminate this Agreement upon ten (10) days written notice to the AUDITOR. In the event this Agreement terminates prior to the completion of the Services for reasons other than for cause, payment shall be made for services performed through the effective termination date including reimbursable expenses then due. This payment shall be the CITY’s sole obligation to the AUDITOR. In addition, upon termination or expiration of this Agreement, AUDITOR shall return to CITY any and all equipment, documents, or materials, and all copies made thereof, which AUDITOR received from, and/or developed for CITY for the purposes of this Agreement.
5.2 Upon the expiration of the Initial Term or the expiration of the immediately preceding renewal term (hereinafter defined), CITY and AUDITOR may mutually agree in writing to extend this Agreement for two (2) additional periods of twelve (12) months each (collectively, the "Renewal Terms"). All Renewal Terms shall be subject to all of the same terms and conditions of this Agreement and shall be subject to the annual appropriation of funds by the CITY.

6. **Right to Audit**

The CITY, at its own expense, shall have the right at all reasonable times during normal business hours and upon at least twenty-four (24) hours advance notice, to audit, to examine, and to make copies of or extracts from the books of account and records maintained by AUDITOR with respect to the Services. If such audit shall disclose overpayment by CITY to AUDITOR, written notice of such overpayment shall be provided to AUDITOR and the amount of overpayment shall be promptly reimbursed by AUDITOR to the CITY. In the event any such overpayment is not paid within ten (10) days after receipt of such notice, the unpaid amount of such overpayment shall bear interest at the rate of one percent (1%) per month from the date of such notice until paid.

7. **Indemnification**

AUDITOR (THE "INDEMNIFYING PARTY"), SHALL AT ITS SOLE COST INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY’S OFFICERS, AGENTS, COUNCIL MEMBERS, EMPLOYEES, ATTORNEYS AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE "CITY INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES) MADE BY ANY THIRD-PARTY, TO THE EXTENT ARISING FROM OR RELATED TO THE SERVICES PROVIDED BY AUDITOR PURSUANT TO THIS AGREEMENT AND CAUSED BY THE AUDITOR (COLLECTIVELY, "INDEMNIFIED CLAIMS"), REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY AUDITOR OR THE CITY. THE INDEMNIFICATIONS IN THIS AGREEMENT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF CONTRACT, BREACH OF WARRANTY, VIOLATION OF STATUTE OR COMMON LAW, VIOLATIONS OF THE STATE OR FEDERAL CONSTITUTIONS, OR ANY OTHER CONDUCT WHATSOEVER OF THE CITY INDEMNIFIED PARTIES. AUDITOR SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT. THIS INDEMNIFICATION IS NOT INTENDED TO APPLY TO CLAIMS MADE AGAINST THE CITY INDEMNIFIED PARTIES RESULTING FROM NEGLIGENT ACTS OF CITY EMPLOYEES COVERED UNDER SECTION 101.021 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE.

The parties hereby acknowledge and agree that CITY is entering this Agreement pursuant to its governmental function and that nothing contained in this Agreement shall be construed as constituting a waiver of the CITY’S governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law. Notwithstanding anything to the contrary herein, the parties hereby acknowledge and agree that to the extent this Agreement is subject to the provisions of Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the CITY’S immunity...
from suit is waived only as set forth in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practices and Remedies Code ("CPRC"), including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

8. **Insurance**

8.1 **AUDITOR** at their own expense shall procure and maintain for the duration of the proposed contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the AUDITOR, their agents, representatives, employees, or subcontractors. Said insurance shall be in type(s) and minimum(s) listed below:

A. **Workers' Compensation and Employers' Liability**

Workers' Compensation Insurance with statutory limits as required by the Labor Code of the State of Texas and Employers' Liability Insurance with minimum limits of $100,000 per each accident, $500,000 disease policy limit, and $100,000 occupational disease per employee.

Workers' Compensation coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage Agreements which meet the statutory requirements of the Texas Labor Code and shall apply to all employees of the contractor providing services under the proposed contract. Sole Proprietors may request a waiver of this requirement if they have no employees. If services under this contract will not be performed on City property, the AUDITOR may submit a written request for exemption from this requirement.

B. **Commercial General Liability**

Commercial General Liability Insurance with a minimum limit of $1,000,000 per occurrence for bodily injury, personal injury, and property damage. Aggregate Policy minimum limit of $1,000,000 will include coverage for, but is not limited to, Premises-Operations, Broad Form Contractual Liability, Broad Form Property Damage, Products and Completed Operations, Personal Injury, and Independent Contractors and Contractual Liability. Coverage under this policy shall be on an "occurrence" basis.

C. **Business Automobile Liability Insurance**

Automobile Liability Insurance with a minimum of $500,000 Combined Single Limit. Coverage shall include all owned, hired, and non-owned vehicles used in performance of the proposed contract. The combined coverage limits of this insurance shall include bodily injury (including death) and property damage. If services performed under this contract will not require the use of vehicle(s), AUDITOR may request in writing, exemption from this requirement.

D. **Professional Liability**

Professional Liability Insurance for the rendering of or failure to render professional services with minimum limit of $1,000,000 per occurrence. Aggregate Policy minimum limit is $1,000,000. A "claims made" policy is acceptable coverage which must be maintained
during the course of the project and up to three (3) years after completion and acceptance of the project by the City. Coverage including any renewals shall have the same retroactive date that is applicable to the policy.

8.2 General Provisions for all Insurance Coverage

A. SCOPE – These provisions apply to all contracted AUDITORS unless specifically exempted in the proposed contract. Coverage shall state that the AUDITOR’s insurance shall apply separately to each insured against whose claim is made, or suit is brought, except to the limits of the insured’s liability.

B. COVERAGE APPLICATION – AUDITOR’s insurance with an Additional Insureds requirement must be primary as respect to the City, its officers, employees, elected officials, appointees, and volunteers and noncontributory with any other insurance, including self-insurance, maintained by the CITY for its benefit. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the CITY.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS – Any deductibles or self-insured retentions must be disclosed to the CITY. The CITY reserves the right to review the insurance obtained by the AUDITOR, in comparison to the requirements specified in this section.

D. ADDITIONAL INSURED – The City of Irving, including its officers, officials, employees, Boards and Commissions, and volunteers shall be named as an additional insured by endorsement to the coverage listed herein, excluding Workers’ Compensation, Employers’ Liability, and Professional Liability (for which a waiver of subrogation is required to be issued in favor of the CITY), with regard to the insured’s activities as required by written contract. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, and all premiums arising from the coverage herein shall be the responsibility of the insured.

E. COVERAGE CONTINUATION AND CANCELLATION – In the event any insurance policy shown on the certificate(s) of insurance has an expiration date prior to the completion of the contract, the AUDITOR shall furnish the CITY proof of identical continued coverage no later than thirty (30) days prior to the expiration date shown on the certificate. Failure to maintain continuous coverage during the term of the proposed contract, or failure to provide proof of coverage at any time during the term of the contract, may result in cessation of work and/or termination of the contract. Coverage shall not be canceled, non-renewed, or materially altered except after thirty (30) days prior written notice by certified mail (return receipt requested) to City Risk Manager, 825 W. Irving Blvd., Irving, Texas 75060.

F. SUBROGATION – AUDITOR must waive all rights of subrogation against the City of Irving for bodily injury (including death), property damage, or any other loss arising from work performed by the AUDITOR for the CITY.

G. RESPONSIBILITY – Approval, disapproval, or failure to act by the CITY regarding any insurance supplied by the AUDITOR or its subcontractors shall not relieve the AUDITOR of full responsibility or liability for damages and accidents as set forth in the contract documents.
H. ACCEPTABILITY – The CITY retains the right to approve the acceptability of insurers. As a general rule, the CITY will accept insurers authorized to transact business in the State of Texas with an A.M. Best rating of "A-VI," or better.

I. PAYMENT OF PREMIUMS – Companies issuing insurance policies shall have no recourse against the CITY for payment of any premiums or assessments for any deductibles which are the sole responsibility and liability of the AUDITOR.

J. PROOF OF INSURANCE – 1) AUDITOR must submit to the City of Irving proof of all insurance coverages required by the contract. 2) Proof of insurance shall be furnished to the City on the ACORD certificate form, provided the appropriate endorsements for Additional Insured and Amendment of Cancellation with 30-day notice are included. 3) If requested by the CITY, the AUDITOR must provide copy of the Declaration Page of the policy with all relevant policy endorsements, including endorsement showing City of Irving as additional insured, within fifteen (15) days of request. Copy must be signed by the AUDITOR and notarized. 4) Required proof of insurance must be provided by AUDITOR before the CITY will authorize any work to be performed under this proposed contract. 5) The CITY reserves the right to request a complete copy of all insurance policies at any time.

9. Notices

All notices and billings shall be in writing and sent to the following addresses:

To CITY: 
City of Irving  
Attn: Bret Starr  
PO Box 152288  
Irving, TX 75015-2288  

or  
bstarr@cityofirving.org

To AUDITOR: 
Sara Dempsey, CPA  
Partner  
Weaver and Tidwell, L.L.P.  
2300 N. Field Street, Suite 1000  
Dallas, Texas 75201

10. General

10.1 The terms and conditions of Sections 3, 4, 6, and 7 hereof shall survive the termination of this Agreement or completion of the Services, as the case may be.

10.2 AUDITOR shall perform the Services as an independent contractor and shall not be considered an employee of CITY for any purpose whatsoever, including, but not limited to, entitlement to CITY employee benefits. AUDITOR hereby expressly waives any claim or entitlement to such benefits.
10.3 AUDITOR shall not export, directly or indirectly, any technical data acquired from under this Agreement or any products utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other government approval without first obtaining such license or approval.

10.4 The waiver or failure of either party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement.

10.5 If any provision of this Agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. The remainder of the Agreement shall be valid and enforceable to the maximum extent possible.

10.6 This Agreement shall be governed by the laws of the State of Texas. Venue of any action arising from this Agreement shall be in Dallas County, Texas.

10.7 This Agreement may not be modified, altered or amended except by written instrument duly executed by both parties, except that a party may change its address for notices by providing written notice to the other party.

10.8 The above shall constitute the entire understanding between AUDITOR and CITY respecting the Services described herein. The terms and conditions of the purchase order shall have no effect upon this Agreement and shall be used for accounting purposes only.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

CITY OF IRVING, TEXAS

AUDITOR

Sara Dempsey
Partner
Weaver and Tidwell, L.L.P.

By: Sara Dempsey
Digitally signed by Sara Dempsey
Date: 2020.06.18 11:32:07 -05'00'

By: Richard H. Stopfer, Mayor

APPROVED AS TO FORM:

City Attorney's Office
EXHIBIT A
SCOPE OF SERVICES

I. Description of Work

For the consideration hereinafter agreed to be paid to AUDITOR by CITY, AUDITOR will conduct an independent audit of the funds and account groups of the CITY for the fiscal years ending September 30, 2020, 2021, 2022 with renewal options, at the City's choosing for 2023, and 2024, and other related services (hereinafter referred to as "Services"), as described in this Scope of Work and annual Engagement Letter(s) to be provided by AUDITOR for Audit and other related Services.

All documents referred to above are incorporated herein as if written word for word. In the case of conflict in the language of any of the documents listed above and this Contract, the following order of precedence will apply:

1. This Contract;
2. The applicable Engagement Letter(s);

AUDITOR shall conduct audits for the stated fiscal years in accordance with Generally Accepted Auditing Standards (GAAS) as set forth by the AICPA; standards for financial audits set forth in U.S. Government Auditing Standards; provisions of the Single Audit Act of 1996 and U.S. OMB Circular A-133 and State of Texas Single Audit Circular, as applicable; and examination for compliance with procedures established by charter, city ordinance, or, where applicable, state and federal laws and regulations, including the Texas Code of Criminal Procedures and pronouncements of GASB. AUDITOR will perform its services to the highest professional standards and in conformity with the terms expressly set forth as follows and in the Engagement Letter(s).
<table>
<thead>
<tr>
<th>KEY ACTIVITIES</th>
<th>PURPOSE</th>
<th>TIMING</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Set a mutually agreeable schedule&lt;br&gt;• Review previous audit reports&lt;br&gt;• Identify significant transaction cycles&lt;br&gt;• Identify major programs for single audit&lt;br&gt;• Identify areas of higher risk&lt;br&gt;• Evaluate fraud risks&lt;br&gt;• Request schedules for fieldwork</td>
<td>• Establish an audit structure that allocates both client and firm efforts appropriately&lt;br&gt;• Transition from previous auditor efficiently&lt;br&gt;• Provide sufficient lead time for client provided schedules&lt;br&gt;• Identify and assess risks for efficient planning</td>
<td>Detailed list of requested schedules: August 1 or ASAP upon appointment&lt;br&gt;Audit Plan: August 20</td>
</tr>
<tr>
<td>• Prepare preliminary audit schedules&lt;br&gt;• Assess internal controls over significant transaction classifications&lt;br&gt;• Test financial accounting controls over selected transaction classifications&lt;br&gt;• Test controls over compliance with major program requirements for single audit&lt;br&gt;• Perform preliminary substantive tests for certain areas (incl. confirmations where appropriate)</td>
<td>• Confirm the effectiveness of controls and make suggestions for improvement&lt;br&gt;• Identify risks based on internal control processes&lt;br&gt;• Create a refined, tightly focused, detailed audit plan</td>
<td>September 30</td>
</tr>
<tr>
<td>• Prepare audit work papers&lt;br&gt;• Perform substantive testing and data analysis of financial statement balances&lt;br&gt;• Accumulate financial statement disclosure information</td>
<td>• Ensure financial statements are appropriately stated&lt;br&gt;• Uncover data discrepancies that could indicate errors or irregularities</td>
<td>1st week in December through the 3rd week in January</td>
</tr>
<tr>
<td>• Perform final analytical reviews&lt;br&gt;• Review results and conclusions&lt;br&gt;• Perform quality-assurance review&lt;br&gt;• Discuss preliminary report and recommendations with management</td>
<td>• Establish confidence in the accuracy and thoroughness of the audit&lt;br&gt;• Ensure that management has a clear understanding of any issues or recommendations for improvement</td>
<td>Draft reports and management letter delivered by the 3rd week in January</td>
</tr>
<tr>
<td>• Prepare final reports, management letter and presentation&lt;br&gt;• Deliver final reports&lt;br&gt;• Make presentations to appropriate stakeholders as requested</td>
<td>• Ensure that appropriate stakeholders have a clear understanding of the audit results and recommendations&lt;br&gt;• Instill confidence in the public regarding the organization's financial practices and reports</td>
<td>Delivered by January 31</td>
</tr>
</tbody>
</table>
Based on the results of the audit, AUDITOR shall express opinions on the fair presentation of the City's basic financial statements (including government-wide financial statements, fund financial statements, proprietary fund financial statements and fiduciary fund financial statements) and an “in relation to” opinion on the accompanying supplementary information for conformity with generally accepted accounting principles. AUDITOR shall also perform specified procedures on the required supplementary information each year and report on the City’s internal control over financial reporting and on its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters for the year being audited, in accordance with GAGAS.

At the conclusion of the audit AUDITOR shall issue the following reports:

- A report on the fair presentation of the financial statements in conformity with generally accepted accounting principles
- A report on the internal control structure based on AUDITOR's understanding of the control structure and assessment of control risk
- A report on compliance with applicable laws and regulations
- A Single Audit Act report on internal controls related to compliance with applicable laws, regulations and agreements, particularly related to major programs and an opinion on compliance with laws, regulations, and provisions of contracts or grant agreements under the Single Audit Act Agreements of 1996 and OMB Circular A-133
- A letter in connection with the financial assurance report required by the Texas Commission on Environmental Quality under Subtitle D
- A letter describing the results of agreed-upon procedures pertaining to increased revenues generated as a result of the Dallas-Fort Worth Revenue Sharing Agreement among the cities of Irving, Dallas, and Fort Worth

AUDITOR shall communicate regularly with the City’s Finance Director and/or Audit & Finance Committee, as appropriate, regarding progress and findings, and shall make an immediate written report of any irregularities or illegal acts – or indications of illegal acts – that AUDITOR becomes aware of.

AUDITOR shall hold meetings on a regular basis to include, at a minimum, entrance conferences with the Audit & Finance Committee, Financial Services Director, and other appropriate personnel; regular progress conferences with the Financial Services Director and department personnel; a conference at the beginning of year-end field work; an exit conference with the Financial Services Director and department personnel to discuss significant findings and the draft reports; and an exit conference with the Financial Services Director and Finance & Audit Committee to present the final CAFR and management letter.

SPECIAL CONSIDERATIONS

GFOA Review
AUDITOR shall provide special assistance to help the City prepare a CAFR that meets GFOA requirements for its Certificate of Achievement for Excellence in Financial Reporting program.

Comfort Letters
In the event preparation of official statements in connection with the sale of debt securities which will contain the general purpose financial statements and AUDITOR’s report on them may be required, AUDITOR will issue “consent and citation of expertise” documents as the auditor and any necessary “comfort letters”.

EXHIBIT A
Department of Housing and Urban Development
AUDITOR understands that Department of Housing and Urban Development is the City’s cognizant agency for single audit purposes.

Reports
AUDITOR understands that the schedule of federal and state financial assistance and related auditor’s report, as well as the reports on the internal control structure and compliance are not to be included in the CAFR, but are to be issued separately. AUDITOR shall deliver fifteen (15) printed copies of all reports, including the single audit report and management letter, to the City.

Staff Training
AUDITOR shall offer at least two days of local government training for up to ten (10) people each year which may be counted as CPE hours for Texas-licensed CPAs.

Assistance with New Regulations
AUDITOR shall, upon any changes in single audit rules or the implementation of new GASB statements, discuss and assist with implementation, including transitional provisions and controls the City may need to put into place utilizing the following processes:

- Communication of new accounting, auditing, and/or regulatory standards that could affect the City in the subsequent year and recommendations for implementation of any necessary changes
- Communication of technical updates, pending regulations and requirements, evolving industry standards, and new best practices and consultation to ensure the City has the guidance and services necessary to meet changing needs.

Ongoing Consultations
AUDITOR shall be available to answer questions and advise City officials, management and Financial Services staff without additional cost to the City. Should the City require assistance that results in significant additional effort, AUDITOR shall discuss and subsequently provide an exact scope and associated costs, reaching agreement regarding fees, scope, and timing prior to beginning the additional work.

AUDITOR shall also be available to review data being maintained by the City for arbitrage calculations and calculation of related arbitrage rebate, if any.

Confirmation of Independence
AUDITOR shall provide the City with written notice of any professional relationships involving the City, its elected officials, or Financial Services Department employees entered into during the period of this agreement.

Record Retention
AUDITOR shall retain all working papers and reports, at AUDITOR’s own expense, for at least five years from the report date. All documents and working papers shall be made available, upon the City’s request, to authorized parties or their designees, including successor auditors. Otherwise, they shall be protected as confidential information.

Internal Compliance Audit Assistance
AUDITOR shall provide assistance on an as-needed basis to test internal compliance with the City’s stated policies and procedures for usage of contracts and agreements that the City has entered into.
with other entities for the purpose of reporting findings in regard to performance of said policies and procedures.

Entertainment Venue Audit Assistance
AUDITOR shall provide assistance on an as-needed basis to test compliance of contracts related to the Entertainment Venue, upon receiving specific direction from the city with regard to the particular compliance to be tested.

II. Term and Fees

This Contract shall commence on June 25, 2020 and will terminate on June 24, 2023, or the completion of items described herein, subject to the City exercising its option for the renewal terms, whichever occurs first. AUDITOR and CITY recognize that the continuation of this Contract after the close of any given fiscal year of CITY (September 30) shall be subject to the annual appropriation of funds by the Irving City Council.

Total payment to the AUDITOR will not exceed the amount specified below, for each fiscal period, unless conditions necessitate additional services that must be authorized in advance by resolution of the Irving City Council.

<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Audit Fee</td>
<td>$188,000</td>
</tr>
<tr>
<td>Bond Coverage Review</td>
<td>1,000</td>
</tr>
<tr>
<td>D-FW Revenue Sharing</td>
<td>1,500</td>
</tr>
<tr>
<td>TCEQ Letter</td>
<td>1,500</td>
</tr>
<tr>
<td>Single Audit</td>
<td>7,500</td>
</tr>
<tr>
<td>Internal Compliance Audit Assistance</td>
<td>20,000</td>
</tr>
<tr>
<td>Entertainment Venue Audit Assistance</td>
<td>25,000</td>
</tr>
</tbody>
</table>

**TOTAL** $244,500

AUDITOR'S charges for services are not to exceed similar charges of AUDITOR for comparable services to other clients. AUDITOR will submit monthly billings for services rendered in accordance with the Proposal. No interest shall ever be due on late payments. Payments to AUDITOR will be in the amount shown by the monthly statement and other documentation submitted and shall be subject to the approval of the Finance Director. CITY shall not be liable under this Contract for any services which are unsatisfactory or which have not been approved by CITY.

AUDITOR will not be entitled to reimbursement for expenses incurred in performance of this Contract unless AUDITOR has obtained the prior written approval of the Finance Director.

For services not included in this Contract, it is agreed between CITY and AUDITOR that a separate agreement shall be entered into to cover such additional services.
Any and all charges made to CITY other than those specified in this Contract shall be fully explained in a signed written document delivered to the Finance Director prior to incurring any charge or fee in excess of the amount stated in this Contract. Such written explanations shall include, but not be limited to:

A. nature of the additional charge
B. basis of such charge
C. hours
D. persons Involved
E. hourly rate
F. costs Incurred
G. a statement that the services provided were not included in the basic Contract

III. City's Responsibilities

CITY agrees to perform the following services:

A. City's accounting staff will prepare necessary "prepared by client" (PBC's) working papers normally required for the annual audit and will pull and reproduce documents necessary to the audit.
B. Provide adequate work space and physical facilities needed to complete services.
C. Basic data processing support and staff assistance.
D. Typing of confirmation letters and other needed correspondence.

IV. Audit Staff Requirements

AUDITOR agrees that the staff assigned to CITY'S audit shall contain at least two (2) persons with two (2) or more years of governmental auditing experience. These two (2) persons shall be at a senior or higher level. There shall be at least one (1) additional person that has completed a minimum of one (1) full year in governmental auditing. In addition, AUDITOR shall provide and maintain a staffing level of no less than three (3) persons during the main audit period commencing on or about December 1 through January 16.

V. Schedule

A. AUDITOR agrees to meet the following time deadlines for each fiscal period:

1. All working papers to be prepared by CITY must be submitted, by written list, to CITY on or before August 1 of each year, or for the first year, within 15 days of approval of this contract, together with adequate written explanatory detail as to the purpose of the working papers as well as the methodology to be used in preparing such working papers and agreed upon timing.
2. Preliminary audit work, conducted prior to yearend closing, may be scheduled by AUDITOR at a mutually agreeable time and date.

3. Year-end fieldwork must begin by first week in December.

4. Audit fieldwork must be completed by third week in January.


6. The Draft Management Letter shall be submitted no later than third week in January.

7. Copies of all working papers or schedules shall be maintained by the Contractor for the latter of five (5) years after acceptance by Council and all relevant federal and state agencies or the time period required by any funding sources.

B. The audit shall not be considered complete until the relevant federal and state agencies have approved the audit plan and accepted the Single Audit Report in writing.

VI. Auditor’s Liability

Acceptance by CITY of AUDITOR’S reports shall not constitute or be deemed a release of any responsibility and liability of AUDITOR, its employees, agents or associates for the accuracy and competency of their reports, information and other documents or services nor shall acceptance or approval be deemed to be the assumption of such responsibility by CITY for any defect, error or omission the documents prepared by AUDITOR, its employees, agents or associates.

VII. Nondiscrimination

As a condition of this Contract, AUDITOR covenants that AUDITOR will take all necessary actions to insure that, in connection with any work under this Contract, AUDITOR, and its associates, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, ancestry, place of birth or disability, either directly, indirectly or through contractual or other arrangements. In this regard, AUDITOR shall keep, retain and safeguard all records relating to this Contract or work performed thereunder for a minimum period of five (5) years from the final Contract completion, with full access allowed to authorized representatives of CITY, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.
VIII. Performance of Services

AUDITOR, its associates and employees, shall perform all services called for in this Contract. AUDITOR covenants and agrees that all of its associates and employees who work on the engagement shall be fully qualified to undertake same and competent to perform the services described in this Contract.
This dialog allows you to view the details of a certificate and its entire issuance chain. The details correspond to the selected entry. Multiple issuance chains are being displayed because none of the chains were issued by a trust anchor.

Show all certification paths found

Summary | Details | Revocation | Trust | Policies | Legal Notice

- Sara Dempsey <sara.dempsey@weaver.com>
  Weaver and Tidwell, LLP.
  Issued by: Sara Dempsey <sara.dempsey@weaver.com>
  Weaver and Tidwell, LLP.
  Valid from: 2018/10/09 14:01:51 -05'00'
  Valid to: 2023/10/09 14:01:51 -05'00'
  Intended usage: Digital Signature

Export...

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2020/06/18 11:32:07 -05'00'

OK
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270
Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY: Sara Dempsey
Print Name: Sara Dempsey Title: Partner
Company Name: Weaver and Tidwell, L.L.P.
Date Signed: June 18, 2020

NOTARIZATION

THE STATE OF ___________________ §
COUNTY OF ___________________ §

BEFORE ME, the undersigned notary public on this day personally appeared ________________, on behalf of ________________, (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the ______ day of __________, 20___.

NOTARY PUBLIC IN AND FOR THE STATE OF ____________________________

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract # 42000481-2

LSR #A20-0061
This dialog allows you to view the details of a certificate and its entire issuance chain. The details correspond to the selected entry. Multiple issuance chains are being displayed because none of the chains were issued by a trust anchor.

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</tr>
</thead>
<tbody>
<tr>
<td>Sara Dempsey <a href="mailto:sara.dempsey@weaver.com">sara.dempsey@weaver.com</a></td>
<td>Weaver and Tidwell, LLP.</td>
<td>Issued by: Sara Dempsey <a href="mailto:sara.dempsey@weaver.com">sara.dempsey@weaver.com</a></td>
<td>Weaver and Tidwell, LLP.</td>
<td>Valid from: 2018/10/09 14:01:51 -05'00'</td>
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<td>Intended usage: Digital Signature</td>
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SECTION I: BASIC GUIDELINES
The Irving Ethics Code requires individuals or entities who seek a contract with the City of Irving which is awarded on a basis other than competitive bidding, and which exceeds $100,000 in payments by the City, to file certain disclosures with the City. This form should be filed with any proposal by the individual or entity, with extra pages attached as needed to complete the responses. In the case of any change in the information, this form should be supplemented within five (5) days of such change or prior to any Council action, whichever is first.

SECTION II: PROJECT
A. Project Description: Professional Auditing Services, Contract #42000481-2
B. RFP or RFQ, Number and Date of Issuance: N/A

SECTION III: IDENTITY OF PARTIES AND SUBCONTRACTORS TO THE DISCRETIONARY CONTRACT
A. Individual Parties to the Contract
(Includes all natural persons who are parties, partners or subcontractors of the contract)

Name: 
Address: City: Zip: 
Email: Telephone: 

Name: 
Address: City: Zip: 
Email: Telephone: 

Name: 
Address: City: Zip: 
Email: Telephone: 

B. Entity Parties to the Discretionary Contract
(Includes all business entities such as corporations, partnerships, and limited liability companies, and also includes any subcontractors, parent and subsidiary corporations to the entity parties).

Name: Weaver and Tidwell, L.L.P.
Officer, Agent or other Contact: Sara Dempsey
Address: 2300 N Field St., Ste 1000 City: Dallas Zip: 75201
Email: sara.dempsey@weaver.com Telephone: 972.448.6958
C. Identity of all lobbyists, attorneys or other consultants to be utilized in seeking or executing the proposed discretionary contract with the City of Irving.

Name: ____________________________________________
Officer, Agent or other Contact: ________________________
Address: __________________________________________
City: __________________ Zip: ________________________
Email: ____________________________________________
Telephone: ________________________________________
   □ Lobbyist  □ Attorney  □ Consultant

Name: ____________________________________________
Officer, Agent or other Contact: ________________________
Address: __________________________________________
City: __________________ Zip: ________________________
Email: ____________________________________________
Telephone: ________________________________________
   □ Lobbyist  □ Attorney  □ Consultant

Name: ____________________________________________
Officer, Agent or other Contact: ________________________
Address: __________________________________________
City: __________________ Zip: ________________________
Email: ____________________________________________
Telephone: ________________________________________
   □ Lobbyist  □ Attorney  □ Consultant

SECTION IV: INDIVIDUAL, OFFICER, EMPLOYEE OR AGENT SIGNATURE

__________________________             Date: 6/17/20
Individual, Officer, Employee or Agent

Printed Name: Sara Dempsey  
Position: Partner
June 18, 2020

Mr. Chris Hillman, City Manager and
Members of City Council
City of Irving, Texas
825 W. Irving Blvd.
Irving, Texas 75060

Dear Mr. Hillman:

We are pleased to confirm our understanding of the services we are to provide for the City of Irving, Texas (the City). This letter will confirm the nature and basis for additional work outside of our audit contract related to testing compliance with contracts and assisting with internal audit projects.

Nature of Additional Charge

We agree to apply procedures specified and agreed to by the City. An example being, to test compliance with contracts and agreements that the City has entered into with other entities. These procedures will be applied for the purpose of reporting our findings in regards to the results of the procedures performed as compared to the contracts and agreements.

Basis of Additional Charge

The services described above were not included in the basic contract.

Persons Involved, Hourly Rates, Hours, and Fees

Ms. Sara Dempsey is the engagement partner for the services specified in this letter. Her responsibilities include supervising the services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the agreed-upon procedures report.

Persons involved in the additional engagement, along with their title and hourly rate are as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Rate per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sara Dempsey</td>
<td>Engagement Partner</td>
<td>$260.00</td>
</tr>
<tr>
<td>Claire Wootton</td>
<td>Audit Manager</td>
<td>$180.00</td>
</tr>
<tr>
<td>Jeff Wada</td>
<td>Audit Manager</td>
<td>$180.00</td>
</tr>
<tr>
<td>Jacqueline Diaz</td>
<td>Audit Senior Associate</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

Our fees are based on the amount of time required at various levels of responsibility. The hours and fee for this contract are estimated to be 115 hours and $20,000. If the nature and scope of procedures specified require additional time, we will provide additional information at that time.

Please sign and return a copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for this engagement. If you have any questions, please let us know.
City of Irving, Texas  
June 18, 2020

Page 2

We appreciate the opportunity to be of service to you and look forward to working with you and your staff.

Weaver and Tidwell, LLP.

WEAVER AND TIDWELL, LLP.

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of City of Irving by:

Signature:______________________________________________________________

Title:______________________________________________________________

Date:______________________________________________________________
June 18, 2020

Mr. Chris Hillman, City Manager and
Members of City Council
City of Irving, Texas
825 W. Irving Blvd.
Irving, Texas 75060

Dear Mr. Hillman:

We are pleased to confirm our understanding of the services we are to provide for the City of Irving, Texas (the City). This letter will confirm the nature and basis for additional work outside of our audit contract related to the Second Amended and Restated Entertainment Center Development Agreement, the Second Amended and Restated Entertainment Center Lease Agreement, and the First Amended and Restated Economic Development Incentive Agreement, and Chapter 16G – Irving Entertainment Center Project Admissions Tax of the Code of Ordinances, or any of their replacements.

Nature of Additional Charge

We agree to apply procedures specified and agreed to by the City to the funds expended by ARK Group of Irving, Inc. in accordance with 1) the Second Amended and Restated Entertainment Center Development Agreement between the City and ARK Group of Irving, Inc., dated October 22, 2015, as described in section 2.10(b), “Rights to Audit”, 2) the Second Amended and Restated Entertainment Center Lease Agreement, as described in section 6(i), “City Audit Rights”, and 3) the First Amended and Restated Economic Development Incentive Agreement, as described in section 8(d) “Rights to Audit”, and Chapter 16G – Irving Entertainment Center Project Admissions Tax of the Code of Ordinances, as described in 16-G. - Rules and regulations (the Agreements) and any other actions necessary to confirm compliance with the agreements. These procedures will be applied for the purpose of reporting our findings in regards to the results of the procedures performed as compared to the Agreements.

Basis of Additional Charge

The services described above were not included in the basic contract.

Persons Involved, Hourly Rates, Hours, and Fees

Ms. Sara Dempsey is the engagement partner for the services specified in this letter. Her responsibilities include supervising the services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the agreed-upon procedures report.
Persons involved in the additional engagement, along with their title and hourly rate are as follows:

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<tr>
<td>Alyssa Martin</td>
<td>Advisory Partner</td>
<td>$260.00</td>
</tr>
<tr>
<td>Brandon Tanous</td>
<td>Advisory Senior Manager</td>
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</tr>
<tr>
<td>Yoram Kappel</td>
<td>Advisory Senior Associate</td>
<td>$150.00</td>
</tr>
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Our fees are based on the amount of time required at various levels of responsibility. The hours and fee for this contract are estimated to be 140 hours and $25,000. If the nature and scope of procedures specified require additional time, we will provide additional information at that time.

Please sign and return a copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for this engagement. If you have any questions, please let us know.

We appreciate the opportunity to be of service to you and look forward to working with you and your staff.

*Weaver and Tidwell, L.L.P.*

WEAVER AND TIDWELL, LLP.

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of City of Irving by:

Signature:__________________________________________________________

Title:_____________________________________________________________

Date:_____________________________________________________________
May 28, 2020

Mr. Chris Hillman,
City Manager and Members of the City Council
City of Irving, Texas
825 W. Irving Blvd.
Irving, Texas 75060

We are pleased to confirm our understanding of the services we are to provide for City of Irving, Texas (the City).

We will perform the procedures included in Title 30 of the Texas Administrative Code, Chapter 37, which were agreed to by the Texas Commission on Environmental Quality and the City, solely to assist the users in evaluating management’s assertion about the City’s compliance with the financial test option concerning the sanitary landfill facility as of September 30, 2020. This agreed upon procedures engagement will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures specific above do not constitute an examination, we will not express an opinion on them. In addition, we have no obligation to perform any procedures beyond those detailed above.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of the City of Irving and the Texas Commission on Environmental Quality, and should not be used by anyone other than these specified parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

You are responsible for the presentation of the above matter in accordance with Title 30 of the Texas Administrative Code Chapter 37; and for selecting the criteria and determining that such criteria are appropriate for your purposes. You are responsible for assuming all management responsibilities and for overseeing the services we provide by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience. In addition, you are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for the results of such services.

In the unlikely event that circumstances occur which we in our sole discretion believe could create a conflict with either the ethical standards of our firm or the ethical standards of our profession in continuing our engagement, we may suspend our services until a satisfactory resolution can be achieved or we may resign from the engagement. We will notify you of such conflict as soon as practicable, and will discuss with you any possible means of resolving them prior to suspending our services.

Mrs. Sara Dempsey is the engagement partner and is responsible for supervising the engagement and signing the report on behalf of Weaver and Tidwell, LLP.
City of Irving, Texas  
May 28, 2020

Page 2

We estimate the fee should not exceed $1,500. That estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

WEAVER AND TIDWELL, L.L.P.

RESPONSE:

This letter correctly sets forth the understanding.

Acknowledged and agreed on behalf of City of Irving, Texas by:

Signature:___________________________________________________________

Title:______________________________________________________________

Date:______________________________________________________________
May 28, 2020

Mr. Chris Hillman,
City Manager and Members of the City Council
City of Irving, Texas
825 W. Irving Blvd.
Irving, Texas 75060

You have requested that we audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of City of Irving, Texas (the City), as of September 30, 2020, and for the year then ended, and the related notes to the financial statements, which collectively comprise the City’s basic financial statements as listed in the table of contents. In addition, we will audit the City’s compliance over major federal award programs for the period ended September 30, 2020. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter.

Accounting principles generally accepted in the United States of America require that management’s discussion and analysis and budgetary comparison information, among other items, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management’s responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by accounting principles generally accepted in the United States of America. This RSI will be subjected to certain limited procedures but will not be audited:

1. Management’s Discussion and Analysis
2. Budgetary Comparison Schedule- General Fund
3. Supplemental Benefit Plan- Schedule of Changes in Net Pension Liability and Related Ratios
4. Supplemental Benefit Plan- Schedule of Contributions
5. Firemen’s Relief and Retirement Fund- Schedule of Changes in Net Pension Liability and Related Ratios
6. Firemen’s Relief and Retirement Fund- Schedule of Contributions
7. Texas Municipal Retirement System- Schedule of Changes in Net Pension Liability and Related Ratios
8. Texas Municipal Retirement System- Schedule of Contributions
9. Retiree Health Plan- Schedule of Changes in OPEB Liability and Related Ratios
10. TMRS Supplemental Death Benefit- Schedule of Changes in OPEB Liability and Related Ratios
Supplementary information other than RSI will accompany the City’s basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

1. Schedule of Expenditures of Federal Awards
2. Combining and Individual Fund Financial Statements and Schedules

Also, the document we submit to you will include the following other additional information that will not be subjected to the auditing procedures applied in our audit of the financial statements:

1. Introductory Section
2. Statistical Section

**Audit Objectives**

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material aspects, in conformity with generally accepted accounting principles and to report on the fairness of the supplementary information referred to above when considered in relation to the financial statements as a whole. The objective also includes reporting on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with Government Auditing Standards; and internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add emphasis-of-matter, or other-matter paragraphs. If our opinions on the financial statements or compliance are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or withdraw from this engagement.

**Auditor Responsibilities**

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS), the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States of America; and the provisions of the Uniform Guidance. Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements.
The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS and Government Auditing Standards issued by the Comptroller General of the United States of America. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

In making our risk assessments, we consider internal control relevant to the City’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City’s internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City’s compliance with certain provisions of laws, regulations, contracts, and grants that could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions is not an objective of our audit, and accordingly, we will not express such an opinion.

Our audit of the City’s major federal award program(s) compliance will be conducted in accordance with the requirements of the Single Audit Act, as amended; and the provisions of the Uniform Guidance; and will include tests of accounting records, a determination of major programs in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such an opinion on major federal award program compliance and to render the required reports. We cannot provide assurance that an unmodified opinion on compliance will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or withdraw from the engagement.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the City has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major federal award programs. Our procedures will consist of determining major federal programs and performing the applicable procedures described in the U.S. Office of Management and Budget OMB Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the City’s major programs. The purpose of those procedures will be to express an opinion on the City’s compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.
Also, as required by the Uniform Guidance, we will perform tests of controls to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each of the City’s major federal award programs. However, our tests will be less in scope than would be necessary to render an opinion on these controls and, accordingly, no opinion will be expressed in our report.

Management’s Responsibilities

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

a. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;

b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to error fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements;

c. For safeguarding assets;

d. For identifying all federal awards expended during the period including federal awards and funding increments received prior to December 26, 2014, and those received in accordance with the Uniform Guidance generally received after December 26, 2014;

e. For preparing the schedule of expenses of federal awards (including notes and noncash assistance received) in accordance with the Uniform Guidance;

f. For the design, implementation, and maintenance of internal control over compliance;

g. For identifying and ensuring that the City complies with laws, regulations, grants, and contracts applicable to its activities and its federal award programs;

h. For following up and taking corrective action on reported audit findings from prior periods and preparing a summary schedule of prior audit findings;

i. For following up and taking corrective action on current year audit findings and preparing a corrective action plan for such findings;

j. For submitting the reporting package and data collection form to the appropriate parties;

k. For making the auditor aware of any significant vendor relationships where the vendor is responsible for program compliance;

l. To provide us with:

i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements, and relevant to federal award programs, such as records, documentation, and other matters;

ii. Additional information that we may request from management for the purpose of the audit; and

iii. Unrestricted access to persons within the City from whom we determine it necessary to obtain audit evidence.

m. For including the auditor’s report in any document containing financial statements that indicates that such financial statements have been audited by the City’s auditor;
n. For adjusting the financial statements to correct material misstatements and confirming to us in
the management representation letter that the effects of any uncorrected misstatements
aggregated by us during the current engagement and pertaining to the current year under audit
are immaterial, both individually and in the aggregate, to the financial statements as a whole;
o. For confirming your understanding of your responsibilities as defined in this letter to us in your
management representation letter;
p. With respect to any nonaudit/nonattest services we perform, for (a) making all management
decisions and performing all management functions; (b) assigning an individual with suitable skills,
knowledge, and experience to oversee the services; (c) evaluating the adequacy of the services
performed; (d) evaluating and accepting responsibility for the results of the services performed;
and (e) establishing and maintaining internal controls, including monitoring ongoing activities.
These nonaudit/nonattest services do not constitute an audit under Government Auditing
Standards and such services will not be conducted in accordance with Government Auditing
Standards. The entity has designated Ms. Regina Givens to oversee these services. Such services
will include:
  i. Prepare the Data Collection Form
q. With regard to the supplementary information referred to above: (a) for the preparation of the
supplementary information in accordance with the applicable criteria; (b) to provide us with the
appropriate written representations regarding supplementary information; (c) to include our
report on the supplementary information in any document that contains the supplementary
information and that indicates that we have reported on such supplementary information; and
(d) to present the supplementary information with the audited consolidated financial statements,
or if the supplementary information will not be presented with the audited consolidated financial
statements, to make the audited financial statements readily available to the intended users of
the supplementary information no later than the date of issuance by you of the supplementary
information and our report thereon.

During the course of our engagement, we will request information and explanations from management
regarding the City’s operations, internal controls, future plans, specific transactions and accounting
systems and procedures. At the conclusion of our engagement, we will require, as a precondition to the
issuance of our report, that management provide certain representations in a written representation
letter. The City agrees that as a condition of our engagement to perform an audit that management will,
to the best of its knowledge and belief, be truthful, accurate and complete in all representations made
to us during the course of the audit and in the written representation letter. The procedures we perform
in our engagement and the conclusions we reach as a basis for our report will be heavily influenced by
the written and oral representations that we receive from management. False or misleading
representations could cause us to expend unnecessary efforts in the audit; or, worse, could cause a
material error or a fraud to go undetected by our procedures. Thus, the City agrees that we will not be
liable for any damages or otherwise responsible for any misstatements in the City’s financial statements
that we may fail to detect as a result of false or misleading representations that are made to us by
management. Moreover, the City agrees to indemnify and hold us harmless from any claims and liabilities,
including reasonable attorneys’ fees, expert fees and costs of investigation and defense, arising out of or
related to this engagement if false or misleading representations are made to us by any member of the
City’s management.
City of Irving, Texas
May 28, 2020

Page 6

**Reporting**

We will issue a written report upon completion of our audit of the City’s basic financial statements. Our report will be addressed to the governing body of the Organization.

In accordance with the requirements of Government Auditing Standards, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance over financial reporting will not be an objective of the audit and, therefore, no such opinion will be expressed.

We will issue a report on compliance that will include an opinion or disclaimer of opinion regarding the City’s major federal award programs, and a report on internal controls over compliance that will report any significant deficiencies and material weaknesses identified; however, such report will not express an opinion on internal control.

**Other**

We understand that your employees will prepare all schedules and confirmations we request and will locate any documents or invoices selected by us for testing.

In the unlikely event that circumstances occur which we in our sole discretion believe could create a conflict with either the ethical standards of our firm or the ethical standards of our profession in continuing our engagement, we may suspend our services until a satisfactory resolution can be achieved or we may resign from the engagement. We will notify you of such conflict as soon as practicable, and will discuss with you any possible means of resolving them prior to suspending our services.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers’ proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

Mrs. Sara Dempsey is the engagement partner for the audit services specified in this letter. Her responsibilities include supervising our services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

We estimate that the fee for our financial statement audit will be $188,000 and our single audit will be $7,500. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. Our fee is based upon the complexity of the work to be performed and the tasks required.
The audit documentation for this engagement is the property of Weaver and Tidwell, LLP, and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulators and federal agencies and the U.S. Government Accountability Office pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of Weaver and Tidwell, LLP’s personnel. Furthermore, upon request, we may provide copies of selected audit documentation to these agencies and regulators. The regulators and agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies. We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

It is expected that prior to the conclusion of the engagement, sections of the Data Collection Form will be completed by our firm. The sections that we will complete summarize our audit findings by federal grant or contract. Management is responsible to submit the reporting package (defined as including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor’s reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. The instructions to the Data Collection Form require that the reporting package be an unlocked, unencrypted, text searchable portable document file (PDF) or else it will be rejected by the Federal Audit Clearinghouse. We will be available to assist management in creating the PDF if needed.

We will coordinate with you the electronic submission and certification upon the reporting package completion. If applicable, we will provide copies of our report for you to include with the reporting package if there is a need to submit the package to pass-through entities.

The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of our reports or nine months after the end of the audit period.

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

In accordance with the requirements of Government Auditing Standards, we have attached a copy of our latest external peer review report of our firm for your consideration and files.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements compliance over major federal award programs including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

WEAVER AND TIDWELL, LLP.
RESPONSE:

This letter correctly sets forth the understanding.

Acknowledged and agreed on behalf of City of Irving, Texas by:

Signature:________________________________________________________

Title:__________________________________________________________

Date:___________________________________________________________
Report on Firm’s System of Quality Control

October 16, 2019

To the Partners of Weaver and Tidwell, L.L.P.
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Weaver and Tidwell, L.L.P. (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2019. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm’s Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer’s Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm’s compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under Government Auditing Standards, including compliance audits under the Single Audit Act; audits of employee benefit plans, an audit performed under FDICIA, an audit of a broker-dealer, and examinations of service organizations [SOC 1 and SOC 2 engagements].

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.
Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Weaver and Tidwell, L.L.P. applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2019, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of pass, pass with deficiency(ies) or fail. Weaver and Tidwell, L.L.P. has received a peer review rating of pass.

Eide Bailly LLP
May 28, 2020

Mr. Chris Hillman,
City Manager and Members of the City Council
City of Irving
825 W. Irving Blvd.
Irving, Texas 75060

We are pleased to confirm our understanding of the services we are to provide for the City of Irving (the City). This letter will confirm the nature and limitations of the services we will provide and the various responsibilities and other terms of the engagement.

We agree to apply procedures relating to the City’s revenue debt coverage to comply with the City’s revenue debt coverage ordinance. These procedures will be applied for the purpose of ascertaining whether the City complies with revenue debt coverage ratios after the issuance of new revenue debt.

We will conduct our engagement in accordance with the attestation standards for agreed-upon procedures engagements of the American Institute of Certified Public Accountants. The City is responsible for the sufficiency of the agreed-upon procedures. Such procedures will be outlined in our report with related findings. We make no representation as to the sufficiency of those procedures for the purposes of the City or for any other purpose. The agreed-upon procedures are not designed to constitute an examination or review of the subject matter. Therefore, we will not express reasonable or limited assurance on the subject matter. We have no obligation to perform any procedures beyond those agreed to by the City. If, for any reason, we are unable to complete the procedures, we will not issue a report as a result of this engagement.

We will issue a written report upon completion of the performance of the agreed upon procedures.

In the unlikely event that circumstances occur which we in our sole discretion believe could create a conflict with either the ethical standards of our firm or the ethical standards of our profession in continuing our engagement, we may suspend our services until a satisfactory resolution can be achieved or we may resign from the engagement. We will notify you of such conflict as soon as practicable, and will discuss with you any possible means of resolving them prior to suspending our services.

During the course of the engagement, we may communicate with you or with your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

Ms. Sara Dempsey is the engagement partner for the services specified in this letter. Her responsibilities include supervising our services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the agreed-upon procedures report.

We estimate that the fee for our agreed-upon procedures engagement will be $1,000. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoice for this engagement will be rendered upon completion of the engagement. Fees for our services are due upon receipt of our invoice. Invoices will be paid and interest, if any, calculated in accordance with Tex. Gov't Code Chapter 22551.
Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our engagement including our respective responsibilities. If you have any questions, please let us know.

We appreciate the opportunity to be of service to you and look forward to working with you and your staff.

Weaver and Tidwell, LLP.
WEAVER AND TIDWELL, LLP.

RESPONSE:
This letter correctly sets forth the understanding.

Acknowledged and agreed on behalf of City of Irving, Texas by:

Signature:___________________________________________________________

Title:________________________________________________________________

Date:_________________________________________________________________
May 28, 2020

Mr. Chris Hillman,
City Manager and Members of the City Council
City of Irving, Texas
825 W. Irving Blvd.
Irving, Texas 75060

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide for the City of Irving, Texas (the “City”).

We will apply the agreed-upon procedures which the City has specified, listed in the attached schedule, to verify the amount of Increased Revenues and Additional Revenues reported by the City of Irving, Texas, for the year ended December 31, 2020. This engagement is solely to assist the Cities of Dallas, Irving, and Fort Worth in verifying the mathematical accuracy of the City of Irving’ calculation of Increased Revenues and to verify the amount of Additional Revenues received by the City. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attached schedule either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed in the attached schedule do not constitute an examination, we will not express an opinion on them. In addition, we have no obligation to perform any procedures beyond those listed in the attached schedule.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of the Cities of Dallas, Irving, and Fort Worth, and should not be used by anyone other than these specified parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

You are responsible for selecting the criteria and determining that such criteria are appropriate for your purposes. You are responsible for assuming all management responsibilities and for overseeing any nonattest services we provide by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience. In addition, you are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for the results of such services.

In the unlikely event that circumstances occur which we in our sole discretion believe could create a conflict with either the ethical standards of our firm or the ethical standards of our profession in continuing our engagement, we may suspend our services until a satisfactory resolution can be achieved or we may resign from the engagement. We will notify you of such conflict as soon as practicable, and will discuss with you any possible means of resolving them prior to suspending our services.

Mrs. Sara Dempsey is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.
City of Irving, Texas
May 28, 2020

Page 2

At the conclusion of our engagement, we will require a representation letter from management that, among other things, will confirm management’s responsibility for the presentation of the Increased Revenues and Additional Revenues generated for the year ended December 31, 2020 in accordance with the Interlocal Agreement between the City, the City of Dallas, Texas and the City of Fort Worth, Texas.

We estimate that the fee for our agreed-upon procedures engagement will be $1,500. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. Our fee is based upon the complexity of the work to be performed and the tasks required. Fees for our services are due upon receipt of our invoice.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

Weaver and Tidwell, LLP.

WEAVER AND TIDWELL, LLP.

RESPONSE:

This letter correctly sets forth the understanding of the City of Irving, Texas.

Officer signature: ________________________________

Title: ____________________________________________

Date: ____________________________________________
City of Irving, Texas
May 28, 2020

Page 3

Agreed Upon Procedures for the City of Irving, Texas (Irving)
As defined by the Interlocal Agreement between Irving, the City of Dallas, Texas and the City of Fort Worth, Texas

1. We will verify the mathematical accuracy of the calculation of “Increased Revenues”, as defined in section I (d) of the Interlocal Agreement, by the Chief Financial Officer of the City of Irving, Texas, for the year ended December 31, 2020.

2. We will verify the amount of “Additional Revenues” received, as defined in section I (e) of the Interlocal Agreement, by the City of Irving, Texas, to the monthly letters received from the State Comptroller showing the amount of local motor vehicle tax payments made during the year ended December 31, 2020.
Resolution -- Approving a Contract with Metro Fire Apparatus Specialist, Inc., in an Annual Amount Not to Exceed $50,000 for the Purchase of Fire Hose

Administrative Comments
1. This item is recommended by the Fire Department.
2. **Impact**: By purchasing this fire hose, the Fire Department will be able to replace aging hose while maintaining an essential component of firefighting.
3. This award establishes an annual contract for the purchase of fire hose. This award is for two years with two one-year renewal options.
4. Funding for Fiscal Year 2019-20 is available in the Fire Department budget within the General Fund and in the Infrastructure Fund, while funding for Fiscal Years 2020-21 and 2021-22 is subject to budget appropriation.
5. Because this annual contract runs from June 2020 through June 2022, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year’s additional purchases and the total contract award amount is not exceeded.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Est. Amt.</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metro Fire Apparatus</td>
<td>6/26/20 – 6/25/22</td>
<td>$50,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td>Specialist</td>
<td></td>
<td>$50,000.00</td>
<td>2020-21</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2021-22</td>
</tr>
<tr>
<td>TOTAL AMOUNT NOT EXCEED</td>
<td></td>
<td>$100,000.00</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**
The resolution be approved.

**ADDITIONAL COMMENTS:**
- **Contract Required**: No
- **Previous Action**: None
- **Council Action**: None
- **Review Completed By**: N/A
- **Discretionary Contract Disclosure Form Required**: No
- **Certificate of Interested Parties (Form 1295) Required**: Yes
- **TGC 2270 Verification Form Required**: Yes
- **Comments**: Purchasing sent solicitation notices for ITB #125J-20F to 292 vendors, 69 of
which were M/WBE or HUB vendors. Responses were received from four vendors. The lowest responsive, responsible bidder meets specification and is recommended for award. This award is for two years with two renewal options each for a one-year period. These as-needed expenditures will be tracked using Contract #42000479-2.

ATTACHMENTS:

125J-20F Response Summary (PDF)
TGC 2270 (PDF)

CURRENT YEAR FINANCIAL IMPACT:

<table>
<thead>
<tr>
<th>Item Code</th>
<th>Budget</th>
<th>Actual</th>
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<tbody>
<tr>
<td>10012503-600109</td>
<td>$23,530.00</td>
<td>$23,530.00</td>
</tr>
<tr>
<td>10012503-600165</td>
<td>$7,970.00</td>
<td>$7,970.00</td>
</tr>
<tr>
<td>40232500-700030</td>
<td>$18,500.00</td>
<td>$18,500.00</td>
</tr>
</tbody>
</table>

Purchase orders will be issued as needed for annual contract.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:

Prepared: 6/10/2020 04:59 PM by Jerry Perry
Last Updated: 6/19/2020 08:50 AM by Darlene Humphries
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves and accepts the bid from Metro Fire Apparatus Specialists, Inc., in an amount not to exceed $100,000.00 for the period of June 26, 2020 through June 25, 2022, subject to funds being appropriated in Fiscal Years 2020-21 and 2021-22, for the purchase of Fire Hose.

SECTION II. THAT funding for these expenditures is available in the Fire Department Budget within the General Fund and in the Infrastructure Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

Shanae Jennings
City Secretary

APPROVED AS TO FORM:

______________________________
Kuruvilla Oommen
City Attorney
## Fire Hose

**ITB Name:** Fire Hose  
**ITB Number:** 125J-20F  
**ITB Closing Date:** May 15, 2020  
**Jerry Perry, Purchasing Agent 972.721.3754**

<table>
<thead>
<tr>
<th>Line #</th>
<th>Description</th>
<th>Mfr</th>
<th>UOM</th>
<th>Unit Price</th>
<th>Unit Price</th>
<th>Unit Price</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hose 5 Storz x 50 PRO FLOW HP LDH (KEY Brand) High Pressure (600 PSI) Color</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$525.00</td>
<td>$384.46</td>
<td>$559.15</td>
<td>$559.05</td>
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</tr>
<tr>
<td>2</td>
<td>Hose 5 Storz x 100 PRO FLOW LDH (Key Brand) Color Yellow Serial # starting</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$558.00</td>
<td>$595.81</td>
<td>$592.59</td>
<td>$639.43</td>
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</tr>
<tr>
<td>3</td>
<td>Hose 5 Storz x 50 PRO FLOW LDH (Key Brand) Color Yellow Serial # starting</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$362.00</td>
<td>$384.46</td>
<td>$385.88</td>
<td>$404.26</td>
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<td>4</td>
<td>Hose 5 Storz x 25 PRO FLOW LDH (Key Brand) Color Yellow Serial # starting</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$265.00</td>
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<tr>
<td>5</td>
<td>Hose 3 x 50 2.5 NST Couplings BIG 10 (Key Brand) Color Orange Serial #</td>
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<td>$257.86</td>
<td>$246.85</td>
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<tr>
<td>6</td>
<td>Hose 2.5 x 50 2.5 NST Couplings COMBAT READY (Key Brand) Color Blue Serial</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$291.00</td>
<td>$287.99</td>
<td>$313.93</td>
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<tr>
<td>7</td>
<td>Hose 1.75 x 50 1.5 NST Couplings BIG 10 FDNY (Key Brand) Color Orange Serial</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$131.00</td>
<td>$136.91</td>
<td>$144.41</td>
<td>$137.53</td>
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</tr>
<tr>
<td>8</td>
<td>Hose 1.75 x 50 1.5 NST Couplings BIG 10 FDNY (Key Brand) Color Green Serial</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$131.00</td>
<td>$136.91</td>
<td>$144.41</td>
<td>$137.53</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>9</td>
<td>Hose 1.75 x 50 1.5 NST Couplings BIG 10 FDNY (Key Brand) Color Yellow Serial</td>
<td>KEY BRAND</td>
<td>EA</td>
<td>$131.00</td>
<td>$136.91</td>
<td>$144.41</td>
<td>$137.53</td>
</tr>
<tr>
<td></td>
<td># starting 20-001 (stamp both couplings)</td>
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</tbody>
</table>
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270
Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY: __________________________

Print Name: Craig N. Russell Title: President & Owner

Company Name: Metro Fire Apparatus Specialists, Inc.

Date Signed: 05/13/2020

THE STATE OF _____________ §
COUNTY OF _____________ §

BEFORE ME, the undersigned notary public on this day personally appeared ______________________, on behalf of ______________________ (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the _____ day of _____________, 20__.

NOTARY PUBLIC IN AND FOR THE STATE OF ______________________

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract #022J-20F

LSR #___________
For any Company that objects to and refuses to sign the above verification due to alleged infringement upon the Company’s First Amendment rights, please execute the following affidavit:

**AFFIDAVIT**

STATE OF ____________

COUNTY OF ____________

I, __________________________, after being duly sworn, hereby certify that I am qualified and authorized to make this affidavit, that I am the duly chosen, qualified and acting officer of the Company for the office shown below; and as such, I am familiar with the facts herein and I am duly authorized to execute and deliver this affidavit on behalf of the Company.

_________________________________________ (Company Name) objects to the verification required by Texas Government Code Section 2270.002 on the basis that it infringes upon Company’s constitutional rights guaranteed under the First Amendment of the United States Constitution and Company therefore refuses to execute said verification.

EXECUTED as of this _____ day of ____________, 20___.

By: __________________________
Name: __________________________
Title: __________________________
On behalf of: __________________________ (Company Name)

Subscribed and sworn to before me this ___ day of ____________, 20___.

Notary Public In and For the State of ____________

Contract #044J-19F

LSR # ____________
Resolution -- Approving and Accepting the Bid of Texas Fiberglass Pools, Inc., in the Total Estimated Amount of $136,300.00 for North Lake Natatorium Pool Fiberglass Surface Replacement for City of Irving

Administrative Comments
1. This item is recommended by the Parks & Recreation Department.
2. **Impact:** North Lake Natatorium pool interior shell surface replacement, refurbishment of bulkhead surface, replacement of lane line and turn target tiles, and initial period chemical balancing, maintenance, and start up will ensure that Parks & Recreation aquatic facilities are maintained to the highest safety, functional, and aesthetic standards for our customers.
3. Proposals were received from two bidders. Texas Fiberglass Pools, Inc., scored the highest points based on established best value bid criteria and is recommended for award of the base bid in the amount of $131,800.00. Alternate 2.5 is also recommended for award in the amount of $4,500.00 in order to provide all chemicals and maintenance required to rebalance the pool chemicals after the pool is refilled. No other alternate items are being awarded.
4. Funding in the total estimated amount of $136,300.00 is available in the Park Improvement Bond Fund and in the Parks & Recreation Department budget within the General Fund.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Project Description</th>
<th>Total Est. Amt.</th>
<th>Fund(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Fiberglass Pools, Inc.</td>
<td>North Lake Natatorium Pool Fiberglass Surface Replacement</td>
<td>$132,388.00</td>
<td>Park Improvement Bond</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$  3,912.00</td>
<td>General</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$136,300.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

- **Contract Required:** No
- **Review Completed By:** N/A
- **Previous Action:** None
- **Council Action:** None
- **Discretionary Contract Disclosure Form Required:** No
- **Certificate of Interested Parties (Form 1295) Required:** Yes
- **TGC 2270 Verification Form Required:** Yes
- **Comments:** Purchasing sent solicitation notices for ITB #132D-20F to 422 vendors of which 132 were M/WBE or HUB vendors. Two responses were received. The respondent scoring the highest points based on established best value bid criteria meets specifications and...
performance criteria and is being recommended for award. Pricing is reasonable and within budget.

ATTACHMENTS:
TFP TGC 2270  (PDF)
TFP Discr Contract Disclosure Form  (PDF)

CURRENT YEAR FINANCIAL IMPACT:

<table>
<thead>
<tr>
<th>Req #12003801</th>
<th>Budget: $132,388.00</th>
<th>Actual: $132,388.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>40123002-700015 - 30CIP19023-CONS-PK</td>
<td>Budget: $ 3,912.00</td>
<td>Actual: $ 3,912.00</td>
</tr>
<tr>
<td>10013006-620009</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Budget Transfer/Adjustment Required: No

REVISION INFORMATION:

Prepared: 5/20/2020 06:31 PM by Darlene Humphries
Last Updated: 6/19/2020 09:18 AM by Darlene Humphries
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves and accepts the bid of Texas Fiberglass Pools, Inc., in the total estimated amount of $136,300.00 for North Lake Natatorium Pool Fiberglass Surface Replacement for City of Irving.

SECTION II. THAT funding for this expenditure is available in the Park Improvement Bond Fund and in the Parks & Recreation Department budget within the General Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


______________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

______________________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

______________________________________
Kuruvilla Oommen
City Attorney
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270
Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY:

[Signature]

Print Name:

Alucena Torres

Title: treasurer

Company Name:

Texas Fiberglass Pools, Inc

Date Signed:

5/29/2020

NOTARIZATION

THE STATE OF Texas

COUNTY OF Dallas

BEFORE ME, the undersigned notary public on this day personally appeared

Alucena Torres, on behalf of Texas Fiberglass Pools, Inc (Company Name), who,

being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government

Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the 29th day of May, 2020

KEVIN R. GRANTHAM

Notary Public in and for the State of Texas

[Signature]

The following definitions apply to Texas Government Code Section 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise

taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations

specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory,

but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture,

limited partnership, limited liability partnership, or limited liability company, including a wholly owned

subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations

that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between

a government entity and a Company with 10 or more full-time employees, and (2) that has a value of

$100,000 or more to be paid wholly or partly from public funds, before the City can enter into the

contract.

Contract #132D-20F

LSR #_________
DISCRETIONARY CONTRACT DISCLOSURE FORM

SECTION I: BASIC GUIDELINES
The Irving Ethics Code requires individuals or entities who seek a contract with the City of Irving which is awarded on a basis other than competitive bidding, and which exceeds $100,000 in payments by the City, to file certain disclosures with the City. This form should be filed with any proposal by the individual or entity, with extra pages attached as needed to complete the responses. In the case of any change in the information, this form should be supplemented within five (5) days of such change or prior to any Council action, whichever is first.

SECTION II: PROJECT
A. Project Description: North Lake Natatorium pool fiberglass surface

B. RFP or RFQ, Number and Date of Issuance: ________________________________

SECTION III: IDENTITY OF PARTIES AND SUBCONTRACTORS TO THE DISCRETIONARY CONTRACT
A. Individual Parties to the Contract
(Includes all natural persons who are parties, partners or subcontractors of the contract)

Name: Texas Fiberglass Pools, Inc.
Address: 2301 Crown Point St, Dallas, TX 75229
Email: info@texasfiberglasspools.com
Telephone: 469-601-7785

Name: __________________________ City: _________ Zip: __________
Address: __________________________ City: _________ Zip: __________
Email: __________________________ Telephone: ________________

Name: __________________________ City: _________ Zip: __________
Address: __________________________ City: _________ Zip: __________
Email: __________________________ Telephone: ________________

B. Entity Parties to the Discretionary Contract
(Includes all business entities such as corporations, partnerships, and limited liability companies, and also includes any subcontractors, parent and subsidiary corporations to the entity parties)

Name: Texas Fiberglass Pools, Inc.
Officer, Agent or other Contact: Gabriel Chavez
Address: 2301 Crown Point St, Dallas, TX 75229
Email: info@texasfiberglasspools.com
Telephone: 469-601-7785
C. Identity of all lobbyists, attorneys or other consultants to be utilized in seeking or executing the proposed discretionary contract with the City of Irving.

Name: ____________________________
Officer, Agent or other Contact: ____________________________
Address: ____________________________ City: __________ Zip: ________
Email: ____________________________ Telephone: __________
  □ Lobbyist    □ Attorney    □ Consultant

Name: ____________________________
Officer, Agent or other Contact: ____________________________
Address: ____________________________ City: __________ Zip: ________
Email: ____________________________ Telephone: __________
Name: ____________________________
  □ Lobbyist    □ Attorney    □ Consultant

Name: ____________________________
Officer, Agent or other Contact: ____________________________
Address: ____________________________ City: __________ Zip: ________
Email: ____________________________ Telephone: __________
Name: ____________________________
  □ Lobbyist    □ Attorney    □ Consultant

SECTION IV: INDIVIDUAL, OFFICER, EMPLOYEE OR AGENT SIGNATURE

[Signature]
Individual, Officer, Employee or Agent

Date: 5/28/2020

Printed Name: Azucena Torres

Position: Treasurer
Resolution -- Approving a Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and McMillan James Equipment Company, LLC in the Total Estimated Amount of $290,000.00 for Service and Repairs of Pumping Systems and Equipment through The Interlocal Purchasing System (TIPS) Program Administered by the Region VIII Education Service Center

Administrative Comments
1. This item is recommended by the Parks & Recreation and Capital Improvement Program departments.

2. Impact: Establishment of a Vendor/Member Contract between the City of Irving and McMillan James Equipment Company, LLC, for utilization of TIPS Contract No. 200201 for service and repair of pumping systems and equipment which expires on April 30, 2022, will allow the city to procure these goods and services under the best possible terms and conditions for the city.

3. Approval of this contract supports service and repairs of various park facility pumping systems and the Dectron units located at Heritage Senior Center. Utilization of this contract will enable both departments to respond in a timely and efficient manner when repairs or service is required.

4. Funding for Fiscal Year 2019-20 is available in the Parks & Recreation and Capital Improvement Program department budgets within the General Fund, while funding for Fiscal Years 2020-21 and 2021-22 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Estimated Amount</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>McMillan James Equipment Company, LLC</td>
<td>6/26/20 – 4/30/22</td>
<td>$ 45,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$160,000.00</td>
<td>2020-21</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$ 85,000.00</td>
<td>2021-22</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$290,000.00</td>
<td></td>
</tr>
</tbody>
</table>

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:
Contract Required: Yes  Review Completed By: Carolyn Matthis
Previous Action: None  Council Action: None
Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties (Form 1295) Required: Yes
TGC 2270 Verification Required: Yes

Comments: The City of Irving entered into an Interlocal Cooperative Purchasing Agreement with The Interlocal Purchasing System (TIPS) program which is administered by Region VIII Education Service Center. Purchases under TIPS Contract #200201 which expires on April 30, 2022 meet competitive bid requirements with the State of Texas statutes, rules, policies and procedures. Prices are reasonable and within budget. These as-needed expenditures will be tracked using Contract #42000473-2.

ATTACHMENTS:
Signed VM contract (PDF)
Form TGC 2270 (PDF)

CURRENT YEAR FINANCIAL IMPACT:
Various       Budget:  $45,000.00        Actual:  $45,000.00
Purchase orders will be issued as needed.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:
Prepared: 5/22/2020 11:46 AM by Rashmi Kulkarni
Last Updated: 6/19/2020 09:20 AM by Rashmi Kulkarni
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11033)

WHEREAS, the City of Irving is authorized, pursuant to Section 271, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, the City of Irving entered into an Interlocal Cooperative Purchasing Agreement with The Interlocal Purchasing System (TIPS) Program administered by the Region VIII Education Service Center on June 26, 2014;

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

SECTION I. THAT the City Council hereby approves the attached Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and McMillan James Equipment Company, LLC, and authorizes as-needed expenditures in the estimated amount of $45,000.00 for the period of June 26, 2020, through September 30, 2020, in the estimated amount of $160,000.00 for the period of October 1, 2020, through September 30, 2021, and in the estimated amount of $85,000.00 from October 1, 2021 through April 30, 2022, subject to funds being appropriated in Fiscal Years 2020-21 and 2021-22, for as-needed service and repairs of pumping systems and equipment, utilizing TIPS Contract Number 200201 for Trades, Labor and Materials and the Mayor is authorized to execute said contract.

SECTION II. THAT funding for these expenditures is available in the Parks & Recreation and Capital Improvement Program department budgets within the General Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
CITY OF IRVING, TEXAS
VENDOR/MEMBER CONTRACT
Pursuant to a
COOPERATIVE PURCHASING AGREEMENT

VENDOR: McMillan James Equipment Company, LLC

COOPERATIVE PURCHASING ASSOCIATION/AGENCY: TIPS

COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT NUMBER AND NAME:

#200201 – Trades, Labor & Materials (JOC)

EXPIRATION DATE OF COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT: 4/30/2022

WHEREAS, the Vendor identified above (hereinafter “VENDOR”) has submitted bids and/or proposals to the Cooperative Purchasing Association/Agency identified above (hereinafter “CPAA”); and

WHEREAS, VENDOR and CPAA have entered into the above referenced Cooperative Purchasing Association/Agency Agreement with Vendor (hereinafter “CPAA/VENDOR Agreement”) whereby VENDOR has agreed to sell to CPAA and its Members or Interlocal Contractors certain goods and services of a nature and quality as represented in the specifications and proposals, and at a specified price; and

WHEREAS, the City of Irving, a home-rule municipal corporation and political subdivision of the State of Texas (hereinafter “IRVING”) has entered into an agreement with the CPAA to be a member or interlocal contractor which may purchase specified goods and services at the prices listed pursuant to the CPAA/VENDOR Agreement; and

WHEREAS, IRVING is authorized pursuant to Sections 271.102 and 271.083, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, IRVING desires to purchase, and VENDOR desires to sell, certain goods and services under the CPAA/VENDOR Agreement; and

WHEREAS, IRVING and VENDOR have the intent to comply with all applicable laws relative to performance and payment bonds, as well as laws and policies relative to workers compensation and liability insurance; and

WHEREAS, IRVING and VENDOR desire to enter into this VENDOR/MEMBER Contract to clarify and make explicit the rights, duties and responsibilities between the parties, and to have this VENDOR/MEMBER Contract as a legally enforceable agreement between VENDOR and IRVING, and in case of any conflicts between this Contract and the provisions of an agreement with the CPAA, the terms of this Contract shall prevail; and

WHEREAS, VENDOR and IRVING recognize and agree that this VENDOR/MEMBER Contract does not amend or alter the rights, duties and obligations between VENDOR and the CPAA or between IRVING and the CPAA under their respective contracts with the CPAA.
NOW, THEREFORE, VENDOR and IRVING agree that the foregoing are true and correct, and further agree as follows:

I.

Conditioned upon purchase being approved by the Irving City Council, or approval being made administratively, for VENDOR, to provide certain goods and services as set out in the Purchase Order(s) as may be submitted, and upon order of IRVING, VENDOR does hereby agree to furnish and/or deliver to IRVING in accordance with VENDOR’s Price Quote or Proposal, and the Specifications, Terms, and Conditions in above referenced CPAA/VENDOR Agreement, the goods and services requested in a valid Purchase Order. If the VENDOR and CPAA renew their contract this VENDOR/MEMBER Contract shall automatically renew to reflect the new term of the contract between the VENDOR and CPAA, but in no case shall ever exceed a total of ten years.

II.

IRVING agrees to pay VENDOR for goods and services at the unit price listed upon the Price Quote and Specifications or at the negotiated rate determined by the VENDOR’s proposal and any subsequent modifications agreed to by both VENDOR and IRVING, with payment being subject to any discount terms stated or agreed upon, and subject to any payment terms contained elsewhere within the solicitation documents, the above referenced CPAA/VENDOR Agreement, and its attachments. Any purchase of goods and services so that the cumulative total of payments under this contract exceeds the amount authorized in the City Council Resolution or Administrative Award approving purchase from VENDOR may require additional authorization.

III.

It is understood that the following documents, to wit: the Council Resolution or Administrative Award as may be applicable, the Price Quote, the Specifications, Terms and Conditions, and the Bid Page or Proposal as awarded and set out in CPAA/VENDOR Agreement (a copy of which are on file with IRVING’S Department of Purchasing), IRVING’S Purchase Order(s) as may be submitted during the term of the CPPA agreement with VENDOR, and IRVING’s Insurance Requirements for Services (Exhibit A), are hereby made a part and parcel of this Contract and incorporated herein for all purposes. In addition to the provisions of this Contract, IRVING shall have all powers and duties as a Member of the CPAA, and all communications, invoices and Ch. 176 Texas Local Government Code filings shall be with, or copied to, IRVING.

IV.

IRVING shall make payment in accordance with Texas Prompt Pay Act, Chapter 2251, Texas Government Code. The date of any payment, whether net or gross, shall be determined by calculating the number of days after receipt of invoices from VENDOR, or after reasonable verification as to the requirements specified, whichever is later.

V.

This contract is made and shall be construed according to the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this contract shall be in Dallas County, Texas. This contract is made and is to be performed in Dallas County, Texas.

VI.

If VENDOR fails in any manner to fully perform each and all of the terms, conditions and covenants of this contract, VENDOR shall be in default and notice of default shall be given to VENDOR by the Purchasing Agent of IRVING. In the event that VENDOR continues in default for a period of seven (7) days after receipt of the above-mentioned notice of default, IRVING may terminate or cancel this contract or at its option may purchase similar goods and services on the open market and recover from VENDOR any difference in price thereof.

VII.

As a condition of this Agreement, VENDOR covenants that it will take all necessary actions to insure that, in connection with any goods or services provided under this Agreement, VENDOR, its associates and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, gender, veteran status, or physical disability unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, VENDOR shall keep, retain and safeguard all VENDOR records relating to this Agreement and the SERVICES performed hereunder for a minimum period of three (3) years from termination of this Agreement, with full access allowed to authorized representatives of the CITY, upon request, for purposes of evaluating compliance with this provision of the Agreement.

VIII.

All written notices and correspondence given by one party to another shall be at the addresses listed below for the signers of this Contract.
IX.+

The waiver or failure of either party to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement.

X.

If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.

XI.

This agreement may not be modified, altered or amended except by written instrument duly executed by both parties, except that the address for notice may be changed.

XII.

This Agreement may be executed in Counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XIII.

This Agreement, together with all Exhibits incorporated herein, embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement.

VENDOR
Signature _________________________________
Name Jeffrey Langlitz
Title Principal
Company Name McMillan James Equipment Company, LLC
Date May 22, 2020
Address: 1010 Mustang Dr.
Grapevine, TX 76051

IRVING
Signature _________________________________
Name Richard H. Stopfer
Title Mayor
Company Name City of Irving
Date _________________________________
Address: c/o Purchasing Agent
835 West Irving Boulevard
Irving, Texas 75060
ACKNOWLEDGMENT

CORPORATE ACKNOWLEDGMENT

THE STATE OF Texas $  Jeffrey Langlitz
COUNTY OF Tarrant $  Principal

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared:

______________________________  __________________________
(Print Name)  (Print Title)

of the corporation known as _____________________________________________, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said corporation, that he or she was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation and that she or he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of ________________, A.D., 2______.

__________________________________
Notary Public In and For

My Commission expires:____________________

PARTNERSHIP ACKNOWLEDGMENT

THE STATE OF ______________ $  
COUNTY OF _________________ $  

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day appeared:

______________________________  __________________________
(Print Name)  (Print Title)

of _____________________________________________ a partnership, known to me to be the person and partner whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said partnership, and that she or he was duly authorized as a partner of such partnership to perform same for the purpose and consideration therein expressed, and in the capacity therein stated. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of ________________, A.D., 2______.

__________________________________
Notary Public In and For

My Commission expires:____________________

SINGLE ACKNOWLEDGMENT

THE STATE OF ______________ $  
COUNTY OF _________________ $  

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared

______________________________
(Print Name)

and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of ________________, A.D., 2______.

__________________________________
Notary Public In and For

My Commission expires:____________________

rev. 6.22.18
Exhibit A

INSURANCE REQUIREMENTS FOR SERVICES

At his own expense, contractor shall procure and maintain for the duration of the proposed contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the contractor, his agents, representatives, employees, or subcontractors. Said insurance shall be in the type(s) and minimum(s) listed below. Required limits may be satisfied by a combination of primary and umbrella or excess liability policies upon approval of the City’s Risk Manager.

Workers’ Compensation and Employers’ Liability

Workers’ Compensation Insurance with statutory limits as required by the Labor Code of the State of Texas and Employers’ Liability Insurance with minimum limits of $100,000 per each accident, $500,000 disease policy limit, and $100,000 occupational disease per employee.

Workers’ Compensation coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meet the statutory requirements of the Texas Labor Code and shall apply to all employees of the contractor providing services under the proposed contract. Sole Proprietors may request a waiver of this requirement if they have no employees. If services under this contract will not be performed on city property, the contractor may submit a written request for exemption from this requirement.

Commercial General Liability

Commercial General Liability Insurance with a minimum limit of $1,000,000 per occurrence for bodily injury, personal injury, and property damage. Aggregate Policy minimum limit of $1,000,000 will include coverage for, but is not limited to, Premises-Operations, Broad Form Contractual Liability, Broad Form Property Damage, Products and Completed Operations, Personal Injury, and Independent Contractors and Contractual Liability. Coverage under this policy shall be on an “occurrence” basis.

Business Automobile Liability Insurance

Automobile Liability Insurance with a minimum is of $500,000 Combined Single Limit. Coverage shall include all owned, hired, and non-owned vehicles used in performance of the proposed contract. The combined coverage limits of this insurance shall include bodily injury (including death) and property damage. If the performance of services under this contract will not require the use of vehicle(s) contractor may request, in writing, exemption from this requirement.

By submitting a bid or proposal without previously approved exceptions, contractor agrees to the following general provisions. Requests for exceptions to general provisions and/or coverages must be submitted with your price quote. Exceptions must be approved in writing by City’s representative. The City will not accept requests for exceptions after quotes have been received.
General Provisions

1. SCOPE – These provisions apply to all contracted vendors unless specifically exempted in the proposed contract. Coverage shall state that the Contractor’s insurance shall apply separately to each insured against whose claim is made, or suit is brought, except to the limits of the insured’s liability.

2. COVERAGE APPLICATION – Contractor’s insurance must be primary as respect to the City, its officers, employees, elected officials, appointees, and volunteers and noncontributory with any other insurance, including self-insurance, maintained by the City for its benefit. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City.

3. DEDUCTIBLES AND SELF-INSURED RETENTIONS – Any deductibles or self-insured retentions must be disclosed to the City. The City reserves the right to review the insurance obtained by the contractor, in comparison to the requirements specified in this section.

4. ADDITIONAL INSURED – The City of Irving, including its officers, officials, employees, Boards and Commissions, and volunteers shall be named as an additional insured by endorsement to the coverage listed herein, excluding Workers’ Compensation and Employers’ Liability (for which a waiver of subrogation is required to be issued in favor of the City), with regard to the insured’s activities as required by written contract. The coverage shall contain no special limitations on the scope of protection afforded to the City, and all premiums arising from the coverage herein shall be the responsibility of the insured.

5. COVERAGE CONTINUATION AND CANCELLATION -- In the event any insurance policy shown on the certificate(s) of insurance has an expiration date prior to the completion of the contract, the contractor shall furnish the City proof of identical continued coverage no later than thirty days prior to the expiration date shown on the certificate. Failure to maintain continuous coverage during the term of the proposed contract, or failure to provide proof of coverage at any time during the term of the contract, may result in cessation of work and/or termination of the contract. Coverage shall not be canceled, non-renewed, or materially altered except after thirty days prior written notice by certified mail (return receipt requested) to Purchasing Manager, 835 W. Irving Blvd., Irving, Texas 75060.

6. SUBROGATION – Contractor must waive all rights of subrogation against the City of Irving for bodily injury (including death), property damage, or any other loss arising from work performed by the vendor for the City.

7. RESPONSIBILITY – Approval, disapproval, or failure to act by the City regarding any insurance supplied by the contractor or its subcontractors shall not relieve the contractor of full responsibility or liability for damages and accidents as set forth in the contract documents.

8. ACCEPTABILITY – The City retains the right to approve the acceptability of insurers. As a general rule, the City will accept insurers authorized to transact business in the State of Texas with an A. M. Best rating of "A- VI “or better.
9. **PAYMENT OF PREMIUMS** – Companies issuing insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are the sole responsibility and liability of the contractor.

10. **PROOF OF INSURANCE** - Proof of insurance shall be furnished to the City on the ACORD certificate form, provided the appropriate endorsements for Additional Insured and Amendment of Cancellation with 30-day notice are included. If requested by the City, the contractor must provide copy of the Declaration Page of the policy with all relevant policy endorsements, including endorsement showing City of Irving as additional insured, within fifteen days of request. Copy must be signed by the contractor and notarized. Required proof of insurance must be provided by awarded contractor before the City will authorize any work to be performed under this proposed contract. The City reserves the right to request a complete copy of all insurance policies at any time.

11. **INDEMNIFICATION** – THE VENDOR (THE “INDEMNIFYING PARTY”), SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY’S OFFICERS, AGENTS, COUNCIL MEMBERS, EMPLOYEES, ATTORNEYS AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE “CITY INDEMNIFIED PARTIES”), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES) MADE BY ANY THIRD-PARTY, TO THE EXTENT ARISING FROM OR RELATED TO THE SERVICES PROVIDED BY THE VENDOR PURSUANT TO THIS CONTRACT (COLLECTIVELY, “INDEMNIFIED CLAIMS”), REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY VENDOR OR THE CITY. THE INDEMNITIES IN THIS CONTRACT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF CONTRACT, BREACH OF WARRANTY, VIOLATION OF STATUTE OR COMMON LAW, VIOLATIONS OF THE STATE OR FEDERAL CONSTITUTIONS, OR ANY OTHER CONDUCT WHATSOEVER OF THE CITY INDEMNIFIED PARTIES. VENDOR SHALL GIVE TO THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. VENDOR SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS CONTRACT. THIS INDEMNIFICATION IS NOT INTENDED TO APPLY TO CLAIMS MADE AGAINST THE CITY INDEMNIFIED PARTIES RESULTING FROM NEGLIGENT ACTS OF CITY EMPLOYEES COVERED UNDER SECTION 101.021 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE.

The parties hereby acknowledge and agree that CITY is entering this Contract pursuant to its governmental function and that nothing contained in this Contract shall be construed as constituting a waiver of the CITY’S governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law. Notwithstanding anything to the contrary herein, the parties hereby acknowledge and agree that to the extent this Contract is subject to the provisions of Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the CITY’S immunity from suit is waived only as set forth in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE. Further, the parties agree that this Contract is made subject to all applicable provisions of the Texas Civil Practices and Remedies Code (“CPRC”), including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

**CONTRACTOR (Company Name)** McMillan James Equipment Company, LLC

**SIGNATURE** Jeffrey Langlitz

**PRINTED NAME** Jeffrey Langlitz

**PRINTED TITLE** Principal

rev. 6.22.18
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270
Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY:  Jeffrey Langlitz

Print Name: Jeffrey Langlitz  Title: Principal

Company Name: McMillan James Equipment Company, LLC

Date Signed: May 22, 2020

NOTARIZATION

THE STATE OF ____________  §
COUNTY OF ____________  §

BEFORE ME, the undersigned notary public on this day personally appeared ____________, on behalf of ________________ (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the ______ day of __________, 20__.

NOTARY PUBLIC IN AND FOR THE STATE OF ____________

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract #200201 (TIPS)  LSR #___________
Resolution -- Approving and Accepting the Proposal of Hoffman Southwest Corporation dba Professional Pipe Services (Pro-Pipe) in an Amount Not to Exceed $750,000.00 for Annual Storm & Wastewater Systems Cleaning, Inspection & Reporting

Administrative Comments

1. This item is recommended by the Capital Improvement Program (CIP) Department.

2. Impact: This contract supports the Road to the Future initiative. Cleaning, inspecting and reporting of existing storm and wastewater mains provides condition assessments which will help the CIP and Water Utilities departments determine if existing storm and/or wastewater systems are: in good working order; can be rehabilitated; or should be replaced. Utilization of these services will help to determine if newly installed mains are installed without exception or have deficiencies such as joint separation or pipeline sags, as well as helping to ensure longevity of the City’s storm sewer and wastewater infrastructure.

3. A Request for Proposals was issued on April 17, 2020 and closed on May 8, 2020 seeking proposals from qualified companies to perform this work. Five firms submitted proposals which were received by the stated due date. The proposal from Pro-Pipe received the highest scores based on staff's evaluation of the criteria as published in the Request for Proposals.

4. Minority- and/or Women-owned Business (M/WBE) participation in this award is anticipated to be 4%.

5. Funding for Fiscal Year 2019-20 is available in various project budgets within various funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

6. Because this contract runs from July 2020 through June 2021, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year's additional purchases and the total contract award amount is not exceeded.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Estimated Expenditure</th>
<th>Fiscal Year</th>
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<tr>
<td>Hoffman Southwest Corporation dba Professional Pipe Services (Pro-Pipe)</td>
<td>7/1/20 – 6/30/21</td>
<td>$180,000.00</td>
<td>2019-20</td>
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<tr>
<td></td>
<td></td>
<td>$570,000.00</td>
<td>2020-21</td>
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<tr>
<td>TOTAL AMOUNT NOT TO EXCEED</td>
<td></td>
<td>$750,000.00</td>
<td></td>
</tr>
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Recommendation

The resolution be approved.
ADDITIONAL COMMENTS:

Contract Required: No  Review Completed By: N/A
Previous Action: None  Council Action: None

Discretionary Contract Disclosure Form Required: Yes
Certificate of Interested Parties (Form 1295) Required: Yes

TGC 2270 Verification Form Required: Yes

Comments: Purchasing sent solicitation notices for RFP #101D-20F to 22 vendors, four of which were M/WBE or HUB vendors. Five responses were received, one of which was from an M/WBE or HUB vendor. The proposal from Pro-Pipe has been determined to be reasonable and acceptable based on evaluation criteria as established in the Request for Proposals and is being recommended for award. This contract is for one year with two, two-year renewal options.

The evaluation criteria for selection were as follows: ability, capacity, skill and organization to complete the work per specifications (20%); prior experience with projects of similar scope completed within the past five years within fully developed urban areas (20%); evaluation of respondent’s example deliverables (10%); feedback from references (10%); evaluation of respondent’s completed Unit Price Proposal (40%).

ATTACHMENTS:

RFP #101D-20F_Technical Proposal_050820_Pro-Pipe (PDF)
06-25-2020 - Annual Storm WW Systems Cleaning Inspections Reporting (PDF)

CURRENT YEAR FINANCIAL IMPACT:

Various  Budget: $180,000.00   Actual: $180,000.00
Purchase Orders will be issued as needed for annual contract.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:

Prepared: 6/9/2020 06:38 PM by Darlene Humphries
Last Updated: 6/19/2020 09:29 AM by Darlene Humphries
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves and accepts the proposal of Hoffman Southwest Corporation dba Professional Pipe Services (Pro-Pipe) in the estimated amount of $180,000.00 for the period of July 1, 2020, through September 30, 2020, and in the estimated amount of $570,000.00 for the period of October 1, 2020, through June 30, 2021, subject to funds being appropriated in Fiscal Year 2020-21; however, the expenditures shall not exceed $750,000.00 for the period of July 1, 2020, through June 30, 2021, for Annual Storm & Wastewater Cleaning, Inspection & Reporting, and the Mayor is authorized, upon receipt of all necessary documents from said company and upon approval of the City Attorney’s Office, to execute any necessary contract.

SECTION II. THAT funding for these expenditures is available in various project budgets within various funds.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
Hoffman Southwest DBA Professional Pipe Services (Pro-Pipe) response to RFQ #101D-20F
Annual Storm & Wastewater Systems Cleaning, Inspection & Reporting Contract
Close Date: May 7, 2020

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Executive Summary
Pro-Pipe was founded in 1992 in response to the aging of gravity flow infrastructure in the United States. Since inception, Pro-Pipe has gained an astute understanding of the importance of partnering with municipalities like the City of Irving for condition assessment programs as outlined in the Request for Proposal #101D-20F. Pro-Pipe has vast experience working in the designated pipe sizes and types for both storm and sanitary sewer systems. Pro-Pipe also has worked extensively in the City of Irving’s sewer system as part of Atmos Energy’s cross-bore team. The Dallas Pro-Pipe location at 8401 Chancellor Row, Dallas, Texas 75247 is minutes from Irving providing the flexibility required for a work order contract as outlined in this RFQ. This proximity to Irving also makes Pro-Pipe the candidate of choice for work orders outside of the 31,000 feet of sanitary sewer (pipe diameters from 4”-60”) and storm sewer (pipe diameter from 12”-84”) called out in the RFQ.

Pro-Pipe’s experience with municipalities has also led to a comprehensive understanding of the different needs Irving might have for condition assessment at any given time.

- Pro-Pipe understands that the City of Irving may use the CCTV survey to satisfy some its’ Capacity, Management, Operations, & Maintenance (CMOM) Program requirements.

- The City of Irving will benefit immensely from Pro-Pipe’s extensive experience assisting municipalities and political subdivisions with Capital Improvement Planning. Our experienced NASSCO operators are well versed in capturing defects that will aide City engineers and their consultants in making rehabilitation/ replacement recommendations based on the condition of sewer and storm assets.

- Pro-Pipe recognizes that our product could have an impact on the City of Irving’s economy. Growth, increased asset life, minimized cost to constituents, and a high standard of living are all substantial reasons for performing condition assessment of gravity flow infrastructure.

- Pro-Pipe understands that certain segments in this RFQ may have been identified due to potential deterioration in condition. If at any time Pro-Pipe encounters a NASSCO grade 4 or 5 defect or any other defect in which collapse is imminent, Pro-Pipe will inform the appropriate City of Irving contact and stay on site until the situation is addressed.

- Pro-Pipe understands that the City of Irving will potentially have work orders outside the scope of this RFQ. Our proximity to Irving and commitment to having 100% of our CCTV operators NASSCO PACP, MACP, and LACP certified means we will be able to respond to “other” work orders rapidly.

- Sanitary Sewer Overflows (SSO’s) – Pro-Pipe’s NASSCO certified operators are trained to recognize potential SSO sites. These sites will be reported to the appropriate City of Irving contact and Pro-Pipe personnel will stay on site to assist. If necessary, Pro-Pipe will deploy additional resources when available to further mitigate SSO’s.

- Pro-Pipe has been an integral member of many Sanitary Sewer Evaluation Survey (SSES) teams and understands the crucial role our deliverable plays in the success of these surveys.
• Pro-Pipe has offerings not on this bid tab that could assist the City of Irving if significant Inflow and Infiltration (I&I) is discovered in laterals during condition assessment. Pro-Pipe will frequently install lateral liners from the main to the property line after mainline CIPP is installed to further reduce I&I as it is well known that much if the I&I a system experiences is in someone’s front yard.

Pro-Pipe Personnel
In order to successfully execute the assessment for the City of Irving as laid out in the RFP, it is essential that the proper personnel are utilized. All Pro-Pipe CCTV personnel are NASCCO PACP, MACP, and LACP certified. There are, however, specific personnel that will be assigned specifically to this project. The following personnel and all personnel assigned to the City of Irving will have a minimum of five years of experience with GraniteXP and GraniteNet.

Brian Young, Project Manager
Education: University of Phoenix, BS In Business, 2015,
Certifications: NASSCO Certificate Number: U-0618-070300948, OSHA Confined Space Entry, OSHA 30-Hour, Cal Trans Traffic Control, CPR/ First Aid
Summary: Brian has been working for Pro-Pipe in the condition assessment arena since 2003. Over the course of his tenure at Pro-Pipe, Brian has worked his way to his current role as Branch Manager by serving in the capacity of CCTV Operator, Safety Supervisor and Superintendent. Brian is well versed in NASCCO condition assessment for sanitary sewer and has applied the same techniques to multiple storm-drain projects. Brian has performed NASCCO condition assessment in large urban areas including Phoenix, Las Vegas, Albuquerque, and Los Angeles. Currently, Brian provides oversight for ongoing projects in San Antonio, Round Rock, El Paso, and McKinney.

Robert Hueners, Superintendent
Certificates: NASSCO Certificate Number: U-1016-07005643, Cal Trans Traffic Control, OSHA Confined Space Entry and Rescue
Robert has been working in CCTV condition assessment since 2002. As Project Manager form Innerline Engineering in Corona, California, Robert was responsible for oversight of CCTV production, cleaning operations, and data management for projects in Orange County Sanitation District, City of Los Angeles, City of San Diego, and City of Riverside. Since joining Pro-Pipe in 2015, Robert has brought his skillset to bear as Superintendent. Robert utilizes his NASSCO certifications in conjunction with vast knowledge of storm and sanitary sewer condition assessment, multiple PACP exchange database platforms, and an array of robotic crawler devices used in various pipe types, sizes, and conditions.

Richard Palugod, Lead Operator
Certificates: NASSCO Certificate Number: U-216-07003101
Richard’s five-year tenure does not reflect his veteran skillset at a CCTV operator. During his five years, Richard has completed condition assessments of storm and sewer assets in the most challenging environments while maintaining production well above that of a normal operator. Richard is well versed in NASCCO coding in a number of PACP exchange database operating environments. Richard is also very capable in terms of operating robotic crawlers in pipe diameters ranging in size from 6 to 120 inches. Richard has performed condition assessment in large urban areas including Flagstaff, Albuquerque, and Salt Lake City.
Equipment/ Software Available as of RFP Submission

Software

GraniteXP – Used for all NASSCO coding of storm and sewer assets that are surveyed via CCTV

GraniteNet – Required for all manhole scans listed on the bid tab.

Camera Trucks

Three (3) Ford E450 CUES Camera Trucks, Year Model 2014 or Newer -

Cleaning Units

Three(3) Freightliner Vactor 2100 Series hydro-vacuum combination cleaning trucks

One (1) Jetter Trailer

Camera Units

CUES OZ II – Operative in 100% humidity, minimum 600 lines of resolution, pan and tilt capabilities to clearly view defects and determine the condition of laterals. Equipped with 1500 LF of cable and sonde with appropriate signal strengths to the required depth of inspections so the camera can be accurately located in the unlikely event that an extraction is needed.

Equipment Readily Available Through Collaborative Agreement with CUES (not available for purchase)

CUES SolidFX Sonar/ LiDAR System

Project Approach

Safety

Safety is the most important aspect of our approach to any work order that may be received from the City of Irving under this RFQ. Pro-Pipe will incorporate stringent safety measures that cover everything from PPE to the safety of the citizens of Irving. The corporation is driven by a strong safety culture that encourages well-planned processes. The company holds quarterly, monthly, and daily safety meetings. The quarterly meetings are held at the executive leadership level reviewing trends, incident claims, incident cause/prevention and what can be implemented from a policy and procedural process to further improve the safety culture. Senior managers and technicians, who comprise our branch safety committees, meet monthly for planning and implementation of initiatives uncovered from executive review. Weekly team and daily tailgate meetings are held by each of the project managers and superintendents to cover site-specific items and daily routine items. Attendance is documented, issues are discussed and the activity hazard identification/mitigation process is constantly evolving. Our goal: an injury-free workplace.
PACP Inspections – Sewer and Storm Drain
Utilizing our industry leading fleet operated by our highly tenured team, Pro-Pipe will collect, assess, and provide actionable data to the City of Irving team in order for them to make key decisions that may be necessitated by any given work order.

Pro-Pipe will deploy CCTV trucks equipped with CUES cameras and GraniteXP (GraniteNet) software. Operators of the robotics and software will be PACP/ MACP/ LACP certified and trained users of all the equipment and software (GraniteXP or Granite Updates (GraniteNet) being utilized.

Pro-Pipe personnel will perform condition assessment as set forth in each work order by following their Pro-Pipe enhanced NASSCO training. The process will begin with the data gained from work orders as provided by the City of Irving. Header information will be completed properly. Of utmost importance as it relates to the PACP exchange database is the Asset ID nomenclature the City of Irving utilizes as this will be included in the header. Pro-Pipe will verify early on in the project that proper asset identification numbers are being utilized as we recognize the crucial importance of the accuracy of this detail.

Upon beginning the inspection, Pro-Pipe operators will note pipe size, percentage of flow and other notable items. Operators will traverse through the pipe at speeds no faster than 30 feet per minute allowing for ample time to pan and tilt within the pipe and record defects. Deviations in alignment and grade, abnormal conditions of the pipe, locations and quantities of inflow and infiltration, debris, roots, impediments to flow, tap abnormalities (dropped, broken, properly/ improperly installed service taps) and any other condition that may either prevent the proper completion of the inspection or affect any proposed rehabilitation process are among the defects Pro-Pipe operators will notate. Pro-Pipe will also note less prominent PACP defect codes, both structural and those related to operations and maintenance. All video, databases, logs, photos, and reports shall be provided to the City in NASSCO PACP/ LACP version 7.0 x compliant format on a single USB 3.0 compatible flash/ external hard drive.

Ultimately, the City of Irving will benefit from Pro-Pipe’s commitment to investing in our people, training and technologies as the City will receive a NASSCO structural and operations and maintenance grade for each pipe segment surveyed in any given work order. This grading system provides invaluable insight into where future rehabilitation and replacement dollars might best be sent. Moreover, Pro-Pipe operators are LACP certified and have been performing lateral launches in the City’s system for over 5 years adding another dimension to Pro-Pipe’s offering.

MACP – Manhole Assessments
Utilizing our industry leading fleet operated by our highly tenured team, Pro-Pipe will collect, assess, and provide actionable data to the City of Irving team in order for them to make key decisions on any manhole related work orders. Pro-Pipe will deploy MACP certified operators to operate digital imaging equipment from CUES to conduct Level 2 manhole inspections. Pro-Pipe operators are well versed in Level 2 inspections and understand that Level 2 inspections require observation about the environment external to the manhole as well as internal conditions. External observations such as condition of manholes and feet above grade (when appropriate) will be made prior to deploying the Manhole scanning equipment. The operator will then deploy the manhole scanning equipment into the manhole. The requisite external environmental information as well as the completed MACP header will be stored on a tablet and the Level 2 inspection will completed by our QA/QC staff who are all MACP certified. The inspections will be completed in GraniteNet. All video, databases, logs, photos, and reports shall be provided to the City in NASSCO MACP version 7.0 x compliant format on a single USB 3.0 compatible flash/ external hard drive.
It should be noted that GraniteNet is necessary to utilize any of the CUES manhole scanners. This information is being provided as a service to the City of Irving as Pro-Pipe noted that the City has never performed manhole scanning during the pre-bid meeting on May 2, 2020.

**Three-Dimensional (3D) Mapping**
Pro-Pipe has partnered with CUES on Twelve large 3D LiDAR projects over the past 3 years. The majority of these projects have taken place in Los Angeles, California; Portland, Oregon and Salt Lake City, Utah. This is a successful collaboration in that we utilize both Pro-Pipe and CUES staff and equipment to produce a state-of-the-art deliverable.

**Traffic Control**
Pro-Pipe will be utilizing Eagle Barricade, LLC for traffic control. Eagle Barricade, LLC, is a full-service traffic control work zone safety, Uniformed Police Officers (UPOs) and custom digital sign shop. Eagle Barricade has over 10 years of experience in traffic control services. In addition, Eagle Barricade offers high-quality PPE products and equipment as qualified traffic control staffing for 24/7 services in the DFW area. Clients Eagle Barricade has worked for include North Tarrant Infrastructure (NTI), North Texas Tollway Authority (NTTA), and the City of McKinney. Pro-Pipe has worked extensively with Eagle Barricade at DFW Airport and we are confident that they will provide the utmost in traffic control safety to their employees, Pro-Pipe employees, and the City of Irving citizens.

**NAICS:** 237319 | Highway, Street, and Bridge Construction
5614990 | Flagging, Traffic Control Services

**Certifications:** TXDOT Certified DBE, State of Texas Certified HUB, NCTRCA Certified DBE/MBE/SBE/WBE

**Value to the City of Irving**
Pro-Pipe understands that ultimately, our ability to deliver value comes in the form of data that can be easily understood and actioned by the City of Irving on each work order we receive under this RFQ. This way, budget dollars spent on rehabilitating sanitary and storm sewer system are maximized. Pro-Pipe has a passion for providing the most accurate and actionable data deliverables in the industry. The following references can validate the quality of our deliverable.

**References**

**City of McKinney, Texas – Storm Drain Condition Assessment**

- Pro-Pipe is in year 1 of a 2-Year condition assessment program of the City’s storm drain assets
- Pro-Pipe utilizes a CUES CCTV truck equipped with an OZ II camera and GraniteXP software to code defects

**Contract Amount:** $205,000 Annually
**Contact:** Stephen Bonner
**Contact Info:** (817) 891-1388, sbonner@mckinneytexas.org
City of Los Angeles, California – Condition Assessment

- Services include CCTV inspection, laser/sonar inspection, and small/large diameter cleaning
- Pro-Pipe has averaged 500 miles of condition assessment annually for the past 18 years
- Project is organized on an “as-needed” basis with work orders issued for blocks of works based on internal budgetary caps
- Pro-Pipe has won every subsequent bid since 2002 due to quality of service

Contract Amount: $1,000,000 Annually
Contact: Carmelo Martinez
Contact Info: (210) 233-3282

City of Temple, Texas – Condition Assessment

- Pro-Pipe provided condition assessment of 29,900 feet of 6”-12” sanitary sewer pipe, 58 MACP Level 2 MACP Inspections, 66 Level 1 MACP inspections, and GPS location of undocumented manholes. The deliverable contained a PACP exchange database, PACP run logs for each segment, CCTV flash drives, MACP Level 1 & Level 2 Inspection reports, 3D manhole video with point cloud, and shape files for manholes for which GPS points were collected

Contract Amount: $100,000
Contact: Gil Gregory, PE – MRB Group – Project Manager for the City of Temple
Contact Information: 254-771-2054; Gil.Gregory@mrbgrou p.com

San Antonio Water System (SAWS), San Antonio, Texas

- Pro-Pipe provided condition assessment for multiple work order packages for multiple project managers.
- Pro-Pipe utilized a CUES CCTV truck equipped with an OZ II camera and GraniteXP software.
- Condition assessment to assist design engineers in determining appropriate rehabilitation/replacement methods for Consent Decree related pipe segments.

Contract Amount: Contracts totaling over $200,000 this calendar year

Contact SAWS Multiple Sewershed Package 14: Javier Garcia, Garcia Infrastructure Consultants
Contact Information: (210) 437-0323; jgarcia@gicstx.com

Contact SAWS SSORP BPC East Package 3, BPC West Package 5: Julian Bielawski, Weston Solutions
Contact Information: 210-308-4399, julian.bielawski@westonsolutions.com

Contact SAWS BPC East Sewershed Package 4: Ian Toohey, Garver
Contact Information: 512-485-0009, iptoohey@GarverUSA.com

Pro-Pipe appreciates the opportunity to present our capabilities and core-competencies to the City of Irving. We look forward to working with the City of Irving and are staffed and equipped to begin work as soon as Notice to Proceed is given.
NOTE REGARDING GRANITEXP: Pro-Pipe feels that it may benefit the City of Irving to explain the current situation with regard to GraniteXP. This information is intended to be helpful in nature and not condescending as we are aware that the City may already possess this knowledge. As of the beginning of 2020, Microsoft Windows 7 is no longer supported by Microsoft. This is pertinent because GarniteXP only works on Windows 7. As a result of this change, Granite is no longer supporting GraniteXP with updates. GraniteNet is the “replacement” for GraniteXP. As such, CUES DUC and Spider has to be captured in a “.fusion” file which is only available for play/reply in GraniteNet. Previously, a “.hd” file existed that could be used in conjunction with a digital processing module in GraniteXP that only works on Windows 7. This information is being provided for two reasons:

1. As information for the City of Irving in the event that an upgrade needs to be made to GraniteNet.

2. To avoid our Pro-Pipe’s manhole deliverable being counted as “unresponsive” as we are providing a CUES deliverable as per the specifications, but the MH deliverable for a spider scanner is only viewable in GraniteNet (as are CUES DUC MH and CUES IMX).
Annual Contract
Stormwater & Wastewater Systems – Cleaning, Inspections & Reporting

Work Session
June 25, 2020
Why?

- Clean existing stormwater or wastewater mains of debris
- Inspect existing mains to determine best methods for replacement projects
- Inspect new installed mains for joint separations or pipeline sags
- Report on condition and location of services
- Update records for maintenance
- Troubleshoot existing systems – private development and CIP Projects
2017-2020 CCTV Project Examples

- Southwest Interceptor Bear Creek Branch Basin
  - 15,600 LF Clean-Inspect 24-36” WW ($74,776)
- University Hills Basin
  - 1,120 LF Clean-Inspect 10-12” WW ($6,012)
- Upper Delaware Creek Basin
  - 5,740 LF Clean-Inspect 4-27” WW ($24,738)
- Approximately 50 projects
Evaluation

• Selection committee consisted of 5 members from CIP and Water Utilities

• Components of selection criteria
  - Pricing
  - Ability, Capacity, Skill
  - Experience within past 5 years
  - Example Deliverables
  - Feedback from References

• Funded from various project budgets within CIP, Water Utilities and Transportation Departments as needed
  - Award not to exceed $750,000

• Contract has two – 2 year renewals
Recommendation

- RFP closed on May 8, 2020
- Received 5 Submittals of Qualifications
- Hoffman Southwest Corporation dba Professional Pipe (Pro-Pipe) was selected
CCTV
Discussion
Resolution -- Approving a Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and Mart, Inc., and Authorizing Expenditures in the Total Estimated Amount of $385,000.00 for Minor Construction, Repair, and Renovation Services through The Interlocal Purchasing System (TIPS) Program Administered by the Region VIII Education Service Center

Administrative Comments

1. This item is recommended by the Capital Improvement Program and Parks & Recreation departments, and the Financial Services Department – Purchasing Division.

2. **Impact:** Establishment of a Vendor/Member Contract between the City of Irving and Mart, Inc., for utilization of TIPS Contract No. 200201 which expires on April 30, 2022, will allow the city to obtain trades, labor and materials services for the purpose of construction, renovation and facility repairs under the best possible terms and conditions for the city.

4. Approval of this contract supports as-needed small construction projects, minor remodeling, and emergency response situations. This allows these projects to be handled in a timely and cost effective manner during heavy work load periods for Building Services, keeping service levels high. In addition, this contract will ensure that Parks & Recreation facilities are repaired in a timely, efficient, and cost effective manner for our residents.

5. Funding for Fiscal Year 2019-20 is available in various departmental budgets within various funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Spending Term</th>
<th>Estimated Amount</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
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<td>Mart, Inc.</td>
<td>6/26/20-4/30/21</td>
<td>$96,250.00</td>
<td>2019-20</td>
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<td>$288,750.00</td>
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<td></td>
<td><strong>TOTAL</strong></td>
<td><strong>$385,000.00</strong></td>
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</tr>
</tbody>
</table>

**Recommendation**

The resolution be approved.

**ADDITIONAL COMMENTS:**

**Contract Required:** Yes  
**Previous Action:** None  
**Council Action:** None  
**Discretionary Contract Disclosure Form Required:** No  
**Certificate of Interested Parties (Form 1295) Required:** Yes
**TGC 2270 Verification Form Required:** Yes

**Comments:** The City of Irving entered into an Interlocal Cooperative Purchasing Agreement with The Interlocal Purchasing System (TIPS) program which is administered by Region VIII Education Service Center on June 26, 2014. Purchases under TIPS Contract No. 200201 which expires on April 30, 2022 meet competitive bid requirements with the State of Texas statutes, rules, policies and procedures. Prices are reasonable and within budget. These as-needed purchases will be tracked using Contract #42000475-2.

**ATTACHMENTS:**

Signed VM Contract(PDF)
TGC 2270 (PDF)

**CURRENT YEAR FINANCIAL IMPACT:**

Various  
Budget: $96,250.00  
Actual: $96,250.00

Purchase orders will be issued as needed  
Budget Transfer/Adjustment Required: No

**REVISION INFORMATION:**

Prepared: 5/21/2020 04:42 PM by Rashmi Kulkarni
Last Updated: 6/19/2020 11:31 AM by Darlene Humphries
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11031)

WHEREAS, the City of Irving is authorized, pursuant to Chapter 271, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, the City of Irving entered into an Interlocal Cooperative Purchasing Agreement with The Interlocal Purchasing System (TIPS) Program administered by the Region VIII Education Service Center on June 26, 2014;

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

SECTION I. THAT the City Council hereby approves the attached Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and Mart, Inc., and authorizes expenditures in the estimated amount of $96,250.00 for the period of June 26, 2020, through September 30, 2020, and in the estimated amount of $288,750.00 for the period of October 1, 2020, through April 30, 2021, subject to funds being appropriated in Fiscal Year 2020-21, for minor construction, repair, and renovation services utilizing Contract No. 200201 for Trades, Labor & Materials (JOC) through TIPS, and the Mayor is authorized to execute said contract.

SECTION II. THAT funding for these expenditures is available in various departmental budgets within various funds.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

_______________________________  
RICHARD H. STOPFER  
MAYOR

ATTEST:

__________________________________  
Shanae Jennings  
City Secretary

APPROVED AS TO FORM:

__________________________________  
Kuruvilla Oommen  
City Attorney
CITY OF IRVING, TEXAS
VENDOR/MEMBER CONTRACT
Pursuant to a
COOPERATIVE PURCHASING AGREEMENT

VENDOR: Mart, Inc.

COOPERATIVE PURCHASING ASSOCIATION/AGENCY: TIPS

COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT NUMBER AND NAME:

#200201 – Trades, Labor & Materials (JOC)

EXPIRATION DATE OF COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT: 4/30/2022

WHEREAS, the Vendor identified above (hereinafter "VENDOR") has submitted bids and/or proposals to the Cooperative Purchasing Association/Agency identified above (hereinafter "CPAA"); and

WHEREAS, VENDOR and CPAA have entered into the above referenced Cooperative Purchasing Association/Agency Agreement with Vendor (hereinafter "CPAA/VENDOR Agreement") whereby VENDOR has agreed to sell to CPAA and its Members or Interlocal Contractors certain goods and services of a nature and quality as represented in the specifications and proposals, and at a specified price; and

WHEREAS, the City of Irving, a home-rule municipal corporation and political subdivision of the State of Texas (hereinafter "IRVING") has entered into an agreement with the CPAA to be a member or interlocal contractor which may purchase specified goods and services at the prices listed pursuant to the CPAA/VENDOR Agreement; and

WHEREAS, IRVING is authorized pursuant to Sections 271.102 and 271.083, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, IRVING desires to purchase, and VENDOR desires to sell, certain goods and services under the CPAA/VENDOR Agreement; and

WHEREAS, IRVING and VENDOR have the intent to comply with all applicable laws relative to performance and payment bonds, as well as laws and policies relative to workers compensation and liability insurance; and

WHEREAS, IRVING and VENDOR desire to enter into this VENDOR/MEMBER Contract to clarify and make explicit the rights, duties and responsibilities between the parties, and to have this VENDOR/MEMBER Contract as a legally enforceable agreement between VENDOR and IRVING, and in case of any conflicts between this Contract and the provisions of an agreement with the CPAA, the terms of this Contract shall prevail; and

WHEREAS, VENDOR and IRVING recognize and agree that this VENDOR/MEMBER Contract does not amend or alter the rights, duties and obligations between VENDOR and the CPAA or between IRVING and the CPAA under their respective contracts with the CPAA.

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NOW, THEREFORE, VENDOR and IRVING agree that the foregoing are true and correct, and further agree as follows:

I.

Conditioned upon purchase being approved by the Irving City Council, or approval being made administratively, for VENDOR, to provide certain goods and services as set out in the Purchase Order(s) as may be submitted, and upon order of IRVING, VENDOR does hereby agree to furnish and/or deliver to IRVING in accordance with VENDOR's Price Quote or Proposal, and the Specifications, Terms, and Conditions in above referenced CPAA/VENDOR Agreement, the goods and services requested in a valid Purchase Order. If the VENDOR and CPAA renew their contract this VENDOR/MEMBER Contract shall automatically renew to reflect the new term of the contract between the VENDOR and CPAA, but in no case shall ever exceed a total of ten years.

II.

IRVING agrees to pay VENDOR for goods and services at the unit price listed upon the Price Quote and Specifications or at the negotiated rate determined by the VENDOR's proposal and any subsequent modifications agreed to by both VENDOR and IRVING, with payment being subject to any discount terms stated or agreed upon, and subject to any payment terms contained elsewhere within the solicitation documents, the above referenced CPAA/VENDOR Agreement, and its attachments. Any purchase of goods and services so that the cumulative total of payments under this contract exceeds the amount authorized in the City Council Resolution or Administrative Award approving purchase from VENDOR may require additional authorization.

III.

It is understood that the following documents, to wit: the Council Resolution or Administrative Award as may be applicable, the Price Quote, the Specifications, Terms and Conditions, and the Bid Page or Proposal as awarded and set out in CPAA/VENDOR Agreement (a copy of which are on file with IRVING'S Department of Purchasing), IRVING'S Purchase Order(s) as may be submitted during the term of the CPPA agreement with VENDOR, and IRVING’s Insurance Requirements for Services (Exhibit A), are hereby made a part and parcel of this Contract and incorporated herein for all purposes. In addition to the provisions of this Contract, IRVING shall have all powers and duties as a Member of the CPAA, and all communications, invoices and Ch. 176 Texas Local Government Code filings shall be with, or copied to, IRVING.

IV.

IRVING shall make payment in accordance with Texas Prompt Pay Act, Chapter 2251,Texas Government Code. The date of any payment, whether net or gross, shall be determined by calculating the number of days after receipt of invoices from VENDOR, or after reasonable verification as to the requirements specified, whichever is later.

V.

This contract is made and shall be construed according to the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this contract shall be in Dallas County, Texas. This contract is made and is to be performed in Dallas County, Texas.

VI.

If VENDOR fails in any manner to fully perform each and all of the terms, conditions and covenants of this contract, VENDOR shall be in default and notice of default shall be given to VENDOR by the Purchasing Agent of IRVING. In the event that VENDOR continues in default for a period of seven (7) days after receipt of the above-mentioned notice of default, IRVING may terminate or cancel this contract or at its option may purchase similar goods and services on the open market and recover from VENDOR any difference in price thereof.

VII.

As a condition of this Agreement, VENDOR covenants that it will take all necessary actions to insure that, in connection with any goods or services provided under this Agreement, VENDOR, its associates and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, gender, veteran status, or physical disability unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, VENDOR shall keep, retain and safeguard all VENDOR records relating to this Agreement and the SERVICES performed hereunder for a minimum period of three (3) years from termination of this Agreement, with full access allowed to authorized representatives of the CITY, upon request, for purposes of evaluating compliance with this provision of the Agreement.

VIII.

All written notices and correspondence given by one party to another shall be at the addresses listed below for the signers of this Contract.

rev. 6.22.18
IX.+

The waiver or failure of either party to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement.

X.

If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.

XI.

This agreement may not be modified, altered or amended except by written instrument duly executed by both parties, except that the address for notice may be changed.

XII.

This Agreement may be executed in Counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XIII.

This Agreement, together with all Exhibits incorporated herein, embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement.

VENDOR
Signature

Name: Tim Proctor
Title: President
Company Name: Mart, Inc.
Date: 05/05/2016
Address: 1503 Perry Street
Irving, TX 75060

IRVING
Signature

Richard H. Stopfer
Mayor
City of Irving
Date
Address: c/o Purchasing Agent
835 West Irving Boulevard
Irving, Texas 75060

rev. 6.22.18
ACKNOWLEDGMENT

CORPORATE ACKNOWLEDGMENT

THE STATE OF Texas §
COUNTY OF Dallas §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared:

Tim Proctor
(Print Name)                President    (Print Title)

of the corporation known as Mart, Inc., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said corporation, that he or she was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation and that he or she executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 5th day of May, A.D., 2020.

Kimberly J. Plowman
Notary Public in and For
Dallas County, Texas

PARTNERSHIP ACKNOWLEDGMENT

THE STATE OF §
COUNTY OF §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day appeared:

(Print Name)                (Print Title)

of a partnership, known to me to be the person and partner whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said partnership, and that she or he was duly authorized as a partner of such partnership to perform same for the purpose and consideration therein expressed, and in the capacity therein stated. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of __________, A.D. ___.

Notary Public in and For

County, __________

SINGLE ACKNOWLEDGMENT

THE STATE OF §
COUNTY OF §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of __________, A.D. ___.

Notary Public in and For

County, __________

My Commission expires:____________________

rev. 6.22.18
Exhibit A

INSURANCE REQUIREMENTS FOR SERVICES

At his own expense, contractor shall procure and maintain for the duration of the proposed contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the contractor, his agents, representatives, employees, or subcontractors. Said insurance shall be in the type(s) and minimum(s) listed below. Required limits may be satisfied by a combination of primary and umbrella or excess liability policies upon approval of the City’s Risk Manager.

Workers’ Compensation and Employers’ Liability

Workers’ Compensation Insurance with statutory limits as required by the Labor Code of the State of Texas and Employers’ Liability Insurance with minimum limits of $100,000 per each accident, $500,000 disease policy limit, and $100,000 occupational disease per employee.

Workers’ Compensation coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meet the statutory requirements of the Texas Labor Code and shall apply to all employees of the contractor providing services under the proposed contract. Sole Proprietors may request a waiver of this requirement if they have no employees. If services under this contract will not be performed on city property, the contractor may submit a written request for exemption from this requirement.

Commercial General Liability

Commercial General Liability Insurance with a minimum limit of $1,000,000 per occurrence for bodily injury, personal injury, and property damage. Aggregate Policy minimum limit of $1,000,000 will include coverage for, but is not limited to, Premises-Operations, Broad Form Contractual Liability, Broad Form Property Damage, Products and Completed Operations, Personal Injury, and Independent Contractors and Contractual Liability. Coverage under this policy shall be on an “occurrence” basis.

Business Automobile Liability Insurance

Automobile Liability Insurance with a minimum is of $500,000-Combined Single Limit. Coverage shall include all owned, hired, and non-owned vehicles used in performance of the proposed contract. The combined coverage limits of this insurance shall include bodily injury (including death) and property damage. If the performance of services under this contract will not require the use of vehicle(s) contractor may request, in writing, exemption from this requirement.

By submitting a bid or proposal without previously approved exceptions, contractor agrees to the following general provisions. Requests for exceptions to general provisions and/or coverages must be submitted with your price quote. Exceptions must be approved in writing by City’s representative. The City will not accept requests for exceptions after quotes have been received.

rev. 6.22.18
General Provisions

1. SCOPE – These provisions apply to all contracted vendors unless specifically exempted in the proposed contract. Coverage shall state that the Contractor’s insurance shall apply separately to each insured against whose claim is made, or suit is brought, except to the limits of the insured’s liability.

2. COVERAGE APPLICATION – Contractor’s insurance must be primary as respect to the City, its officers, employees, elected officials, appointees, and volunteers and noncontributory with any other insurance, including self-insurance, maintained by the City for its benefit. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City.

3. DEDUCTIBLES AND SELF-INSURED RETENTIONS – Any deductibles or self-insured retentions must be disclosed to the City. The City reserves the right to review the insurance obtained by the contractor, in comparison to the requirements specified in this section.

4. ADDITIONAL INSURED – The City of Irving, including its officers, officials, employees, Boards and Commissions, and volunteers shall be named as an additional insured by endorsement to the coverage listed herein, excluding Workers’ Compensation and Employers’ Liability (for which a waiver of subrogation is required to be issued in favor of the City), with regard to the insured’s activities as required by written contract. The coverage shall contain no special limitations on the scope of protection afforded to the City, and all premiums arising from the coverage herein shall be the responsibility of the insured.

5. COVERAGE CONTINUATION AND CANCELLATION -- In the event any insurance policy shown on the certificate(s) of insurance has an expiration date prior to the completion of the contract, the contractor shall furnish the City proof of identical continued coverage no later than thirty days prior to the expiration date shown on the certificate. Failure to maintain continuous coverage during the term of the proposed contract, or failure to provide proof of coverage at any time during the term of the contract, may result in cessation of work and/or termination of the contract. Coverage shall not be canceled, non-renewed, or materially altered except after thirty days prior written notice by certified mail (return receipt requested) to Purchasing Manager, 835 W. Irving Blvd., Irving, Texas 75060.

6. SUBROGATION – Contractor must waive all rights of subrogation against the City of Irving for bodily injury (including death), property damage, or any other loss arising from work performed by the vendor for the City.

7. RESPONSIBILITY – Approval, disapproval, or failure to act by the City regarding any insurance supplied by the contractor or its subcontractors shall not relieve the contractor of full responsibility or liability for damages and accidents as set forth in the contract documents.

8. ACCEPTABILITY – The City retains the right to approve the acceptability of insurers. As a general rule, the City will accept insurers authorized to transact business in the State of Texas with an A. M. Best rating of “A- VI “or better.
9. PAYMENT OF PREMIUMS – Companies issuing insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are the sole responsibility and liability of the contractor.

10. PROOF OF INSURANCE - Proof of insurance shall be furnished to the City on the ACORD certificate form, provided the appropriate endorsements for Additional Insured and Amendment of Cancellation with 30-day notice are included. If requested by the City, the contractor must provide copy of the Declaration Page of the policy with all relevant policy endorsements, including endorsement showing City of Irving as additional insured, within fifteen days of request. Copy must be signed by the contractor and notarized. Required proof of insurance must be provided by awarded contractor before the City will authorize any work to be performed under this proposed contract. The City reserves the right to request a complete copy of all insurance policies at any time.

11. INDEMNIFICATION – THE VENDOR (THE “INDEMNIFYING PARTY”), SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY’S OFFICERS, AGENTS, COUNCIL MEMBERS, EMPLOYEES, ATTORNEYS AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE “CITY INDEMNIFIED PARTIES”), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES) MADE BY ANY THIRD-PARTY, TO THE EXTENT ARISING FROM OR RELATED TO THE SERVICES PROVIDED BY THE VENDOR PURSUANT TO THIS CONTRACT (COLLECTIVELY, “INDEMNIFIED CLAIMS”), REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY VENDOR OR THE CITY. THE INDEMNITIES IN THIS CONTRACT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF CONTRACT, BREACH OF WARRANTY, VIOLATION OF STATUTE OR COMMON LAW, VIOLATIONS OF THE STATE OR FEDERAL CONSTITUTIONS, OR ANY OTHER CONDUCT WHATSOEVER OF THE CITY INDEMNIFIED PARTIES. VENDOR SHALL GIVE TO THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. VENDOR SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS CONTRACT. THIS INDEMNIFICATION IS NOT INTENDED TO APPLY TO CLAIMS MADE AGAINST THE CITY INDEMNIFIED PARTIES RESULTING FROM NEGLIGENT ACTS OF CITY EMPLOYEES COVERED UNDER SECTION 101.021 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE.

The parties hereby acknowledge and agree that CITY is entering this Contract pursuant to its governmental function and that nothing contained in this Contract shall be construed as constituting a waiver of the CITY’S governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law. Notwithstanding anything to the contrary herein, the parties hereby acknowledge and agree that to the extent this Contract is subject to the provisions of Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the CITY’s immunity from suit is waived only as set forth in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE. Further, the parties agree that this Contract is made subject to all applicable provisions of the Texas Civil Practices and Remedies Code (“CPRC”), including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

CONTRACTOR (Company Name) [Signature]

SIGNATURE __________________________

PRINTED NAME __________________________

PRINTED TITLE __________________________

Tim Proctor

President

rev. 6.22.18
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270

Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY:

[Signature]

Print Name: Tim Proctor
Title: President

Company Name: Mart, Inc.

Date Signed: 05/05/2020

NOTARIZATION

THE STATE OF TX

COUNTY OF Dallas

BEFORE ME, the undersigned notary public on this day personally appeared Tim Proctor, on behalf of Mart, Inc., (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the 5th day of May, 2020.

KIMBERLY J. PLOWMAN
Notary Public, State of Texas
Comm. Expires 11-19-2023
Notary ID: 128156885

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract #200201 (TIPS)________________________ ____________LXR #
Resolution -- Approving a Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement Between the City of Irving and Air Conditioning Innovative Solutions, Inc. (ACIS), and Authorizing Expenditures in the Total Estimated Amount of $400,000.00 for As-Needed HVAC Equipment Purchases, Installation, Repair, and Parts through the Interlocal Purchasing System (TIPS) Program Administered by the Region VIII Education Service Center

Administrative Comments

1. This item is recommended by the Capital Improvements Program Department – Facilities Maintenance Division and the Financial Services Department – Purchasing Division.

2. **Impact:** Establishment of a Vendor/Member Contract between the City of Irving and ACIS for utilization of TIPS Contract No. 200201 for Trades, Labor & Materials (JOC) which expires on April 30, 2022 will allow the city to procure these goods and services under the best possible terms and conditions for the city.

3. Approval of this contract supports as-needed purchases of HVAC equipment, installation, and repairs which will allow the Facilities Division to respond to the HVAC needs of the more than 60 city facilities that may require the services of this agreement in a timely and efficient manner.

4. Funding for Fiscal Year 2019-20 is available in various departmental budgets within various funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

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<tr>
<th>Vendor</th>
<th>Spending Term</th>
<th>Total Estimated Amount</th>
<th>Fiscal Year(s)</th>
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<td>ACIS</td>
<td>6/26/20 – 4/30/21</td>
<td>$133,333.00</td>
<td>2019-20</td>
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<td>$266,667.00</td>
<td>2020-21</td>
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<td><strong>TOTAL ESTIMATED AMOUNT</strong></td>
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<td><strong>$400,000.00</strong></td>
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</table>

**Recommendation**

The resolution be approved.

**ADDITIONAL COMMENTS:**

- **Contract Required:** Yes
- **Previous Action:** None
- **Council Action:** None
- **Discretionary Contract Disclosure Form Required:** No
- **Certificate of Interested Parties (Form 1295) Required:** Yes

**Review Completed By:** Dean Roggia
TGC 2270 Verification Form Required: Yes

Comments: The City of Irving entered into an Interlocal Cooperative Purchasing Agreement with The Interlocal Purchasing System (TIPS) program which is administered by Region VIII Education Service Center on June 26, 2014. Purchases under TIPS Contract No. 200201 which expires on April 30, 2022 meet competitive bid requirements with the State of Texas statutes, rules, policies and procedures and have been determined to offer pricing that is reasonable and within budget. These as-needed expenditures will be tracked using Contract No. 42000474-2.

ATTACHMENTS:

V/M Contract Signed (PDF)
Form TGC 2270 (PDF)

CURRENT YEAR FINANCIAL IMPACT:

Various Budget: $133,333.00 Actual: $133,333.00
Purchase orders will be issued as needed.
Budget Adjustment Required: No

REVISION INFORMATION:

Prepared: 6/10/2020 09:17 AM by Rashmi Kulkarni
Last Updated: 6/19/2020 08:08 AM by Dean James Roggia
WHEREAS, the City of Irving is authorized, pursuant to Chapter 271, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, the City of Irving entered into an Interlocal Cooperative Purchasing Agreement with The Interlocal Purchasing System (TIPS) Program administered by the Region VIII Education Service Center on June 26, 2014;

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

SECTION I. THAT the City Council hereby approves the attached Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and Air Conditioning Innovative Solutions, Inc., and authorizes expenditures in the estimated amount of $133,333.00 for the period of June 26, 2020, through September 30, 2020, and in the estimated amount of $266,667.00 for the period of October 1, 2020, through April 30, 2021, subject to funds being appropriated in Fiscal Year 2020-21, for as-needed purchase of HVAC equipment, installation, repairs, and parts utilizing Contract No. 200201, for Trades, Labor & Materials (JOC) through the TIPS Program, and the Mayor is authorized to execute said contract.

SECTION II. THAT funding for these expenditures is available in various departmental budgets within various funds.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

__________________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:
__________________________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:
__________________________________________
Kuruvilla Oommen
City Attorney
CITY OF IRVING, TEXAS
VENDOR/MEMBER CONTRACT
Pursuant to a
COOPERATIVE PURCHASING AGREEMENT

VENDOR: ACIS Innovative Solutions, Inc.

COOPERATIVE PURCHASING ASSOCIATION/AGENCY: TIPS

COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT NUMBER AND NAME:

#200201 – Trades, Labor & Materials (JOC)

EXPIRATION DATE OF COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT: 4/30/2022

WHEREAS, the Vendor identified above (hereinafter “VENDOR”) has submitted bids and/or proposals to the Cooperative Purchasing Association/Agency identified above (hereinafter “CPAA”); and

WHEREAS, VENDOR and CPAA have entered into the above referenced Cooperative Purchasing Association/Agency Agreement with Vendor (hereinafter “CPAA/VENDOR Agreement”) whereby VENDOR has agreed to sell to CPAA and its Members or Interlocal Contractors certain goods and services of a nature and quality as represented in the specifications and proposals, and at a specified price; and

WHEREAS, the City of Irving, a home-rule municipal corporation and political subdivision of the State of Texas (hereinafter “IRVING”) has entered into an agreement with the CPAA to be a member or interlocal contractor which may purchase specified goods and services at the prices listed pursuant to the CPAA/VENDOR Agreement; and

WHEREAS, IRVING is authorized pursuant to Sections 271.102 and 271.083, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, IRVING desires to purchase, and VENDOR desires to sell, certain goods and services under the CPAA/VENDOR Agreement; and

WHEREAS, IRVING and VENDOR have the intent to comply with all applicable laws relative to performance and payment bonds, as well as laws and policies relative to workers compensation and liability insurance; and

WHEREAS, IRVING and VENDOR desire to enter into this VENDOR/MEMBER Contract to clarify and make explicit the rights, duties and responsibilities between the parties, and to have this VENDOR/MEMBER Contract as a legally enforceable agreement between VENDOR and IRVING, and in case of any conflicts between this Contract and the provisions of an agreement with the CPAA, the terms of this Contract shall prevail; and

WHEREAS, VENDOR and IRVING recognize and agree that this VENDOR/MEMBER Contract does not amend or alter the rights, duties and obligations between VENDOR and the CPAA or between IRVING and the CPAA under their respective contracts with the CPAA.

rev. 6.22.18
NOW, THEREFORE, VENDOR and IRVING agree that the foregoing are true and correct, and further agree as follows:

I.
Conditioned upon purchase being approved by the Irving City Council, or approval being made administratively, for VENDOR, to provide certain goods and services as set out in the Purchase Order(s) as may be submitted, and upon order of IRVING, VENDOR does hereby agree to furnish and/or deliver to IRVING in accordance with VENDOR’s Price Quote or Proposal, and the Specifications, Terms, and Conditions in above referenced CPAA/VENDOR Agreement, the goods and services requested in a valid Purchase Order. If the VENDOR and CPAA renew their contract this VENDOR/MEMBER Contract shall automatically renew to reflect the new term of the contract between the VENDOR and CPAA, but in no case shall ever exceed a total of ten years.

II.
IRVING agrees to pay VENDOR for goods and services at the unit price listed upon the Price Quote and Specifications or at the negotiated rate determined by the VENDOR’s proposal and any subsequent modifications agreed to by both VENDOR and IRVING, with payment being subject to any discount terms stated or agreed upon, and subject to any payment terms contained elsewhere within the solicitation documents, the above referenced CPAA/VENDOR Agreement, and its attachments. Any purchase of goods and services so that the cumulative total of payments under this contract exceeds the amount authorized in the City Council Resolution or Administrative Award approving purchase from VENDOR may require additional authorization.

III.
It is understood that the following documents, to wit: the Council Resolution or Administrative Award as may be applicable, the Price Quote, the Specifications, Terms and Conditions, and the Bid Page or Proposal as awarded and set out in CPAA/VENDOR Agreement (a copy of which are on file with IRVING’S Department of Purchasing), IRVING’S Purchase Order(s) as may be submitted during the term of the CPPA agreement with VENDOR, and IRVING’s Insurance Requirements for Services (Exhibit A), are hereby made a part and parcel of this Contract and incorporated herein for all purposes. In addition to the provisions of this Contract, IRVING shall have all powers and duties as a Member of the CPAA, and all communications, invoices and Ch. 176 Texas Local Government Code filings shall be with, or copied to, IRVING.

IV.
IRVING shall make payment in accordance with Texas Prompt Pay Act, Chapter 2251, Texas Government Code. The date of any payment, whether net or gross, shall be determined by calculating the number of days after receipt of invoices from VENDOR, or after reasonable verification as to the requirements specified, whichever is later.

V.
This contract is made and shall be construed according to the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this contract shall be in Dallas County, Texas. This contract is made and is to be performed in Dallas County, Texas.

VI.
If VENDOR fails in any manner to fully perform each and all of the terms, conditions and covenants of this contract, VENDOR shall be in default and notice of default shall be given to VENDOR by the Purchasing Agent of IRVING. In the event that VENDOR continues in default for a period of seven (7) days after receipt of the above-mentioned notice of default, IRVING may terminate or cancel this contract or at its option may purchase similar goods and services on the open market and recover from VENDOR any difference in price thereof.

VII.
As a condition of this Agreement, VENDOR covenants that it will take all necessary actions to insure that, in connection with any goods or services provided under this Agreement, VENDOR, its associates and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, gender, veteran status, or physical disability unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, VENDOR shall keep, retain and safeguard all VENDOR records relating to this Agreement and the SERVICES performed hereunder for a minimum period of three (3) years from termination of this Agreement, with full access allowed to authorized representatives of the CITY, upon request, for purposes of evaluating compliance with this provision of the Agreement.

VIII.
All written notices and correspondence given by one party to another shall be at the addresses listed below for the signers of this Contract.
IX.+

The waiver or failure of either party to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement.

X.

If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.

XI.

This agreement may not be modified, altered or amended except by written instrument duly executed by both parties, except that the address for notice may be changed.

XII.

This Agreement may be executed in Counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XIII.

This Agreement, together with all Exhibits incorporated herein, embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement.

VENDOR
Signature

Name Mike Nichols
Title President
Company Name Air Conditioning Innovative Solutions Inc
Date 05/26/2020
Address: 1028 N McDonald
 McKinney, TX 75069

IRVING
Signature

Name Richard H. Stopfer
Title Mayor
Company Name City of Irving
Date
Address: c/o Purchasing Agent
835 West Irving Boulevard
Irving, Texas 75060
ACKNOWLEDGMENT

CORPORATE ACKNOWLEDGMENT

THE STATE OF Texas §
COUNTY OF Collin §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared:

Mike Nichols  President
(Print Name)          (Print Title)

of the corporation known as Air Conditioning Innovative Solutions Inc., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said corporation, that he or she was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation and that she or he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 26th day of May, 2020 A.D.

Notary Public In and For

Collin County, Texas

My Commission expires: 03/26/2023

PARTNERSHIP ACKNOWLEDGMENT

THE STATE OF §
COUNTY OF §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day appeared:

(Print Name) (Print Title)

of a partnership, known to me to be the person and partner whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said partnership, and that she or he was duly authorized as a partner of such partnership to perform same for the purpose and consideration therein expressed, and in the capacity therein stated. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ______________, A.D., 20___.

Notary Public In and For

_________ County, ____________

My Commission expires: ____________________

SINGLE ACKNOWLEDGMENT

THE STATE OF §
COUNTY OF §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared ______________ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of ______________, A.D., 20___.

Notary Public In and For

_________ County, ____________

My Commission expires: ____________________

rev. 6.22.18
Exhibit A

INSURANCE REQUIREMENTS FOR SERVICES

At his own expense, contractor shall procure and maintain for the duration of the proposed contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the contractor, his agents, representatives, employees, or subcontractors. Said insurance shall be in the type(s) and minimum(s) listed below. Required limits may be satisfied by a combination of primary and umbrella or excess liability policies upon approval of the City’s Risk Manager.

Workers’ Compensation and Employers’ Liability
Workers' Compensation Insurance with statutory limits as required by the Labor Code of the State of Texas and Employers' Liability Insurance with minimum limits of $100,000 per each accident, $500,000 disease policy limit, and $100,000 occupational disease per employee.

Workers’ Compensation coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meet the statutory requirements of the Texas Labor Code and shall apply to all employees of the contractor providing services under the proposed contract. Sole Proprietors may request a waiver of this requirement if they have no employees. If services under this contract will not be performed on city property, the contractor may submit a written request for exemption from this requirement.

Commercial General Liability
Commercial General Liability Insurance with a minimum limit of $1,000,000 per occurrence for bodily injury, personal injury, and property damage. Aggregate Policy minimum limit of $1,000,000 will include coverage for, but is not limited to, Premises-Operations, Broad Form Contractual Liability, Broad Form Property Damage, Products and Completed Operations, Personal Injury, and Independent Contractors and Contractual Liability. Coverage under this policy shall be on an “occurrence” basis.

Business Automobile Liability Insurance
Automobile Liability Insurance with a minimum is of $500,000-Combined Single Limit. Coverage shall include all owned, hired, and non-owned vehicles used in performance of the proposed contract. The combined coverage limits of this insurance shall include bodily injury (including death) and property damage. If the performance of services under this contract will not require the use of vehicle(s) contractor may request, in writing, exemption from this requirement.

By submitting a bid or proposal without previously approved exceptions, contractor agrees to the following general provisions. Requests for exceptions to general provisions and/or coverages must be submitted with your price quote. Exceptions must be approved in writing by City’s representative. The City will not accept requests for exceptions after quotes have been received.

rev. 6.22.18
General Provisions

1. SCOPE – These provisions apply to all contracted vendors unless specifically exempted in the proposed contract. Coverage shall state that the Contractor’s insurance shall apply separately to each insured against whose claim is made, or suit is brought, except to the limits of the insured's liability.

2. COVERAGE APPLICATION – Contractor's insurance must be primary as respect to the City, its officers, employees, elected officials, appointees, and volunteers and noncontributory with any other insurance, including self-insurance, maintained by the City for its benefit. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City.

3. DEDUCTIBLES AND SELF-INSURED RETENTIONS – Any deductibles or self-insured retentions must be disclosed to the City. The City reserves the right to review the insurance obtained by the contractor, in comparison to the requirements specified in this section.

4. ADDITIONAL INSURED – The City of Irving, including its officers, officials, employees, Boards and Commissions, and volunteers shall be named as an additional insured by endorsement to the coverage listed herein, excluding Workers' Compensation and Employers' Liability (for which a waiver of subrogation is required to be issued in favor of the City), with regard to the insured's activities as required by written contract. The coverage shall contain no special limitations on the scope of protection afforded to the City, and all premiums arising from the coverage herein shall be the responsibility of the insured.

5. COVERAGE CONTINUATION AND CANCELLATION -- In the event any insurance policy shown on the certificate(s) of insurance has an expiration date prior to the completion of the contract, the contractor shall furnish the City proof of identical continued coverage no later than thirty days prior to the expiration date shown on the certificate. Failure to maintain continuous coverage during the term of the proposed contract, or failure to provide proof of coverage at any time during the term of the contract, may result in cessation of work and/or termination of the contract. Coverage shall not be canceled, non-renewed, or materially altered except after thirty days prior written notice by certified mail (return receipt requested) to Purchasing Manager, 835 W. Irving Blvd., Irving, Texas 75060.

6. SUBROGATION – Contractor must waive all rights of subrogation against the City of Irving for bodily injury (including death), property damage, or any other loss arising from work performed by the vendor for the City.

7. RESPONSIBILITY – Approval, disapproval, or failure to act by the City regarding any insurance supplied by the contractor or its subcontractors shall not relieve the contractor of full responsibility or liability for damages and accidents as set forth in the contract documents.

8. ACCEPTABILITY – The City retains the right to approve the acceptability of insurers. As a general rule, the City will accept insurers authorized to transact business in the State of Texas with an A.M. Best rating of "A- VI "or better.

rev. 6.22.18
9. PAYMENT OF PREMIUMS — Companies issuing insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are the sole responsibility and liability of the contractor.

10. PROOF OF INSURANCE - Proof of insurance shall be furnished to the City on the ACORD certificate form, provided the appropriate endorsements for Additional Insured and Amendment of Cancellation with 30-day notice are included. If requested by the City, the contractor must provide copy of the Declaration Page of the policy with all relevant policy endorsements, including endorsement showing City of Irving as additional insured, within fifteen days of request. Copy must be signed by the contractor and notarized. Required proof of insurance must be provided by awarded contractor before the City will authorize any work to be performed under this proposed contract. The City reserves the right to request a complete copy of all insurance policies at any time.

11. INDEMNIFICATION — THE VENDOR (THE “INDEMNIFYING PARTY”), SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY’S OFFICERS, AGENTS, COUNCIL MEMBERS, EMPLOYEES, ATTORNEYS AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE “CITY INDEMNIFIED PARTIES”), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES) MADE BY ANY THIRD-PARTY, TO THE EXTENT ARISING FROM OR RELATED TO THE SERVICES PROVIDED BY THE VENDOR PURSUANT TO THIS CONTRACT (COLLECTIVELY, “INDEMNIFIED CLAIMS”), REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY VENDOR OR THE CITY. THE INDEMNITIES IN THIS CONTRACT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF CONTRACT, BREACH OF WARRANTY, VIOLATION OF STATUTE OR COMMON LAW, VIOLATIONS OF THE STATE OR FEDERAL CONSTITUTIONS, OR ANY OTHER CONDUCT WHATSOEVER OF THE CITY INDEMNIFIED PARTIES. VENDOR SHALL GIVE TO THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. VENDOR SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS CONTRACT. THIS INDEMNIFICATION IS NOT INTENDED TO APPLY TO CLAIMS MADE AGAINST THE CITY INDEMNIFIED PARTIES RESULTING FROM NEGLIGENCE OF CITY EMPLOYEES COVERED UNDER SECTION 101.021 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE.

The parties hereby acknowledge and agree that CITY is entering this Contract pursuant to its governmental function and that nothing contained in this Contract shall be construed as constituting a waiver of the CITY’S governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law. Notwithstanding anything to the contrary herein, the parties hereby acknowledge and agree that to the extent this Contract is subject to the provisions of Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the CITY’S immunity from suit is waived only as set forth in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE. Further, the parties agree that this Contract is made subject to all applicable provisions of the Texas Civil Practices and Remedies Code (“CPRC”), including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

CONTRACTOR (Company Name) Air Conditioning Innovative Solutions Inc

SIGNATURE

PRINTED NAME Mike Nichols

PRINTED TITLE President

rev. 6.22.18
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270

Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY: ____________________________ Title: President

Print Name: Mike Nichols

Company Name: Air Conditioning Innovative Solutions Inc

Date Signed: 5/26/2020

NOTARIZATION

THE STATE OF Texas §

COUNTY OF Collin §

BEFORE ME, the undersigned notary public on this day personally appeared Mike Nichols, on behalf of Air Conditioning Innovative Solutions Inc (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the 26th day of May, 2020.

NOTARY PUBLIC IN AND FOR THE STATE OF Texas

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

2. "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract #200201(TIPS) LSR #__________
For any Company that objects to and refuses to sign the above verification due to alleged infringement upon the Company’s First Amendment rights, please execute the following affidavit:

**AFFIDAVIT**

STATE OF ________________  §

COUNTY OF ________________  §

I, __________________________, after being duly sworn, hereby certify that I am qualified and authorized to make this affidavit, that I am the duly chosen, qualified and acting officer of the Company for the office shown below; and as such, I am familiar with the facts herein and I am duly authorized to execute and deliver this affidavit on behalf of the Company.

_____________________________ (Company Name) objects to the verification required by Texas Government Code Section 2270.002 on the basis that it infringes upon Company’s constitutional rights guaranteed under the First Amendment of the United States Constitution and Company therefore refuses to execute said verification.

EXECUTED as of this ______ day of ______________, 20____.

By: __________________________

Name: __________________________

Title: __________________________

On behalf of: _______________________ (Company Name)

Subscribed and sworn to before me this ____ day of ______________, 20____.

Notary Public In and For the State of ___________

Contract #200201(TIPS)  

LSR #_________
Resolution -- Approving and Accepting the Bid from Wildcat Electric Supply, Inc., in an Amount Not to Exceed $350,000.00 to Provide Valmont Traffic Signal Poles, Roadway Lighting Steel Pole with Dual and Single Arm Assemblies

Administrative Comments

1. This item is recommended by the Traffic & Transportation Department.
2. Impact: These purchases will provide matching interchangeability with existing infrastructure equipment and foundations necessary for the safety of the motorists and the sustaining transportation system.
3. This award establishes an annual contract for providing traffic signal and roadway lighting steel poles with dual and single arm assemblies. The contract is for one-year with two, one-year renewal options.
4. Funding for Fiscal Year 2019-20 is available in the Street Improvement Bond Fund, while funding for Fiscal Year 2020-21 is subject to budget appropriation.
5. Because this annual contract runs from July 2020 through June 2021, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year’s additional purchases and the total contract award amount is not exceeded.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Estimated Amount</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wildcat Electric Supply, Inc.</td>
<td>7/1/20-6/30/21</td>
<td>$100,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$250,000.00</td>
<td>2020-21</td>
</tr>
<tr>
<td>TOTAL AMOUNT NOT TO EXCEED</td>
<td></td>
<td>$350,000.00</td>
<td></td>
</tr>
</tbody>
</table>

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: No  Review Completed By: N/A
Previous Action: None  Council Action: None

Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties (Form 1295) Required: Yes
TGC 2270 Verification Form Required: Yes

Comments: Purchasing sent solicitation notices for ITB #126R-20F to 14 vendors, of which two were M/WBE or HUB vendors. Three responses were received, one of which was from M/WBE or HUB vendors. The lowest responsive, responsible bidder meets specifications and performance criteria. Pricing is reasonable and within the budget. These as-needed
purchases will be tracked using Contract #42000476-2.

**ATTACHMENTS:**

126R-20F Response Summary  (PDF)  
TGC 2270  (PDF)  

**CURRENT YEAR FINANCIAL IMPACT:**

40104202-700050  Budget: $50,000.00  Actual: $50,000.00  
40104202-700060  Budget: $50,000.00  Actual: $50,000.00  

Purchase orders will be issued as needed for annual contract.  
Budget Adjustment/Transfer Required: No  

**REVISION INFORMATION:**

Prepared: 6/1/2020 03:12 PM by Rashmi Kulkarni  
Last Updated: 6/19/2020 11:04 AM by Darlene Humphries
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves and accepts the bid of Wildcat Electric Supply, Inc., in the estimated amount of $100,000.00 for the period of July 1, 2020, through September 30, 2020, and in the estimated amount of $250,000.00 for the period of October 1, 2020, through June 30, 2021, subject to funds being appropriated in Fiscal Year 2020-21; however, expenditures shall not exceed $350,000.00 for the period of July 1, 2020, through June 30, 2021, for Valmont Traffic Signal Poles, Roadway Street Lighting Steel Pole with Dual and Single Arm Assemblies.

SECTION II. THAT funding for these expenditures is available in the Street Improvement Bond Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
<table>
<thead>
<tr>
<th>Line #</th>
<th>Description</th>
<th>Mfr</th>
<th>QTY</th>
<th>UOM</th>
<th>Unit Total Price</th>
<th>Extended Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>RD IL AM (TY SA) 50T-8-8 (.4 KW)S, 50 ft. Roadway Illumination Galvanized Steel Pole with Dual Arm assembly with Anchor Bolts</td>
<td>Valmont Industries</td>
<td>5</td>
<td>EA</td>
<td>$2,598.00</td>
<td>$12,990.00</td>
</tr>
<tr>
<td>2</td>
<td>RD IL AM (TY SA) 40T-8-8 (.4 KW)S, 40 ft. Roadway Illumination Galvanized Steel Pole with Dual Arm assembly with Anchor Bolts</td>
<td>Valmont Industries</td>
<td>20</td>
<td>EA</td>
<td>$2,367.00</td>
<td>$47,340.00</td>
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<tr>
<td>3</td>
<td>RD IL AM (TY SA) 40T-8 (.4 KW)S; 40 ft. Roadway Illumination Galvanized Steel Pole with Single Arm assembly with Anchor Bolt</td>
<td>Valmont Industries</td>
<td>31</td>
<td>EA</td>
<td>$1,924.00</td>
<td>$59,644.00</td>
</tr>
<tr>
<td>4</td>
<td>Type C Signal Pole 44FT Galvanized with External Etching Process for Dark Bronze Powder Coating MASTARM - SMA - FPGV Dark Bronze - CL27AC DECO, Base-HH AB per Specifications</td>
<td>Valmont Industries</td>
<td>20</td>
<td>EA</td>
<td>$7,875.00</td>
<td>$157,500.00</td>
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<tr>
<td>5</td>
<td>15 FT Luminaire Arm Extension for 44 FT SMA Pole - FPGV Dark Bronze</td>
<td>Valmont Industries</td>
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<td>EA</td>
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<td>$35,200.00</td>
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<tr>
<td>6</td>
<td>CL27AC Deco Base Clamshell sized for TxDot Signal Pole ARM, Length (28&quot;)</td>
<td>Valmont Industries</td>
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<td>EA</td>
<td>$977.00</td>
<td>$3,908.00</td>
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<td>Valmont Industries</td>
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<td>EA</td>
<td>$977.00</td>
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<td>8</td>
<td>CL27AC Deco Base Clamshell sized for TxDot Signal Pole ARM, Length (40&quot;)</td>
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<td>EA</td>
<td>$977.00</td>
<td>$3,908.00</td>
</tr>
<tr>
<td>9</td>
<td>CL27AC Deco Base Clamshell sized for TxDot Signal Pole ARM, Length (44&quot;)</td>
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<td>$3,908.00</td>
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<tr>
<td>Item Description</td>
<td>Quantity</td>
<td>Unit</td>
<td>Price 1</td>
<td>Price 2</td>
<td>Price 3</td>
<td>Price 4</td>
</tr>
<tr>
<td>------------------------------------------------------</td>
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<tr>
<td>CL27AC Deco Base Clamshell sized for TxDot Signal Pole ARMLength (48') Valmont Industries</td>
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<td>EA</td>
<td>$977.00</td>
<td>$3,908.00</td>
<td>$990.00</td>
<td>$3,960.00</td>
</tr>
</tbody>
</table>
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270

Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY:

Print Name: 

Title: President

Company Name: Tiger Electric Supply Inc. DBA Winslow Electric Supply

Date Signed: 6-11-2020

NOTARIZATION

THE STATE OF Texas

COUNTY OF Harris

BEFORE ME, the undersigned notary public on this day personally appeared Keith Hessmer, on behalf of Tiger Electric Supply Inc. (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the 11th day of June, 2020

ELISA MARTINEZ
NOTARY PUBLIC IN AND FOR THE STATE OF Texas

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract #126R-20F

LSR #_________
Resolution -- Approving and Accepting the Bids of Core & Main, LP and ACT Pipe & Supply, Inc., in the Total Estimated Amount of $158,406.52 for Fire Hydrant Parts

Administrative Comments
1. This item is recommended by the Water Utilities Department.
2. Impact: This annual contract provides fire hydrant parts in order to repair and perform preventive maintenance on approximately 8,000 fire hydrants in the city.
3. This award establishes an annual contract for the continuation of supplying fire hydrant parts. This contract is for one year with two, one-year renewal options.
4. Funding for Fiscal Year 2019-20 is available in the Water and Sewer System Fund while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Groups</th>
<th>FY19-20 Est. Exp.</th>
<th>FY20-21 Est. Exp.</th>
<th>Total Estimated Expenditures</th>
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<tr>
<td>Core &amp; Main, LP</td>
<td>I-V, VII, VIII</td>
<td>$46,360.00</td>
<td>$92,719.17</td>
<td>$139,079.17</td>
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<td>ACT Pipe &amp; Supply, Inc.</td>
<td>VI</td>
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<td>$12,884.95</td>
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<td><strong>TOTAL</strong></td>
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<td><strong>$52,802.40</strong></td>
<td><strong>$105,604.12</strong></td>
<td><strong>$158,406.52</strong></td>
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Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: No
Previous Action: None
Review Completed By: N/A
Council Action: None

Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties (Form 1295) Required: Yes
TGC 2270 Verification Form Required: Yes

Comments: Purchasing sent solicitation notices for ITB #134J-20F to 402 vendors of which 128 were M/WBE or HUB vendors. Two responses were received. The lowest responsive, responsible bidders meet specifications and are being recommended for award. This award is for one year with two renewal options each for a one-year period. Expenditures for these as-needed purchase will be tracked using Contract No. #42000478 (a-b)-2.

ATTACHMENTS:

134J-20F Response Summary (PDF)
TGC 2270 - Core & Main LP (PDF)
CURRENT YEAR FINANCIAL IMPACT:

50016012-600150  Budget: $52,802.40  Actual: $52,802.40
Purchase orders will be issued as needed for annual contract.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:

Last Updated: 6/17/2020 04:58 PM by Zachary Noblitt
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11066)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves and accepts the bids of Core & Main, LP for Groups I-V, VII, and VIII of solicitation ITB #134J-20F, in the estimated amount of $46,360.00 for the period of June 26, 2020, through September 30, 2020, and in the estimated amount of $92,719.17 for the period of October 1, 2020, through May 31, 2021; and ACT Pipe & Supply, Inc., for Group VI of solicitation ITB 3134J-20F, in the estimated amount of $6,442.40 for the period of June 26, 2020 through September 30, 2020, and in the estimated amount of $12,884.95 for the period of October 1, 2020 through May 31, 2021, subject to funds being appropriated in Fiscal Year 2020-21, for Fire Hydrants Parts.

SECTION II. THAT funding for these expenditures is available in the Water and Sewer System Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


__________________
RICHARD H. STOPFER
MAYOR

ATTEST:

__________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

__________________
Kuruvilla Oommen
City Attorney
<table>
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<tr>
<th>Line #</th>
<th>Description</th>
<th>QTY</th>
<th>UOM</th>
<th>Estimated Unit</th>
<th>ACT Pipe &amp; Supply, Inc.</th>
<th>Core &amp; Main LP</th>
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CITY OF IRVING, TEXAS  
ITB NAME: Fire Hydrant Parts  
ITB NUMBER: 134J-20F  
ITB CLOSING DATE: 05/29/20  
Jerry Perry, Purchasing Agent  972-721-3754

<table>
<thead>
<tr>
<th>Line #</th>
<th>Description</th>
<th>QTY</th>
<th>UOM</th>
<th>Estimated</th>
<th>ACT Pipe &amp; Supply, Inc. Unit</th>
<th>ACT Pipe &amp; Supply, Inc. Extended</th>
<th>Core &amp; Main LP Unit</th>
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CITY OF IRVING, TEXAS  
ITB NAME: Fire Hydrant Parts  
ITB NUMBER: 134J-20F  
ITB CLOSING DATE: 05/29/20  

Jerry Perry, Purchasing Agent  972-721-3754

<table>
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<th>Description</th>
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<th>Core &amp; Main LP</th>
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## City of Irving, Texas
### ITB Name: Fire Hydrant Parts
### ITB Number: 134J-20F
### ITB Closing Date: 05/29/20
### Jerry Perry, Purchasing Agent  972-721-3754

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<tr>
<td>200</td>
<td>Alemite Fitting</td>
<td>5</td>
<td>EA</td>
<td></td>
<td>$5.78</td>
<td>$28.90</td>
</tr>
<tr>
<td>201</td>
<td>5' Lower Stem</td>
<td>6</td>
<td>EA</td>
<td></td>
<td>$183.98</td>
<td>$1,103.88</td>
</tr>
<tr>
<td>202</td>
<td>4' Lower Stem</td>
<td>6</td>
<td>EA</td>
<td></td>
<td>$183.98</td>
<td>$1,103.88</td>
</tr>
<tr>
<td>203</td>
<td>Pumper Nozzle</td>
<td>2</td>
<td>EA</td>
<td></td>
<td>$249.98</td>
<td>$499.96</td>
</tr>
<tr>
<td>204</td>
<td>2&quot; Hose Nozzle</td>
<td>4</td>
<td>EA</td>
<td></td>
<td>$113.85</td>
<td>$455.40</td>
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<tr>
<td>205</td>
<td>6&quot; Kennedy Extension</td>
<td>4</td>
<td>EA</td>
<td></td>
<td>$469.79</td>
<td>$1,879.16</td>
</tr>
<tr>
<td>206</td>
<td>12&quot; Kennedy Extension</td>
<td>2</td>
<td>EA</td>
<td></td>
<td>$562.89</td>
<td>$1,125.78</td>
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<tr>
<td>207</td>
<td>4&quot; Pumper Nozzle</td>
<td>2</td>
<td>EA</td>
<td></td>
<td>$249.98</td>
<td>$499.96</td>
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<tr>
<td>208</td>
<td>5&quot; Main Valve Repair Kit</td>
<td>10</td>
<td>EA</td>
<td></td>
<td>$420.75</td>
<td>$4,207.50</td>
</tr>
<tr>
<td>209</td>
<td>5&quot; Safety Repair Kit</td>
<td>8</td>
<td>EA</td>
<td></td>
<td>$218.05</td>
<td>$1,744.40</td>
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<tr>
<td>210</td>
<td>Proposed Discount Off List Price for Kennedy Hydrant Parts or Kits Not Listed Above</td>
<td>1</td>
<td>EA</td>
<td></td>
<td>17.0%</td>
<td>17.0%</td>
</tr>
<tr>
<td>211</td>
<td>Group VII- M H</td>
<td>1</td>
<td>EA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>212</td>
<td>Proposed Discount Off List Price for All M H Hydrant Parts or Kits</td>
<td>1</td>
<td>EA</td>
<td></td>
<td>17.0%</td>
<td>17.0%</td>
</tr>
<tr>
<td>213</td>
<td>Group VIII - Miscellaneous</td>
<td>1</td>
<td>EA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>214</td>
<td>&quot;Fire Hydrant Oil - USDA Approved Grade H-1 for use in potable water systems.</td>
<td>10</td>
<td>EA</td>
<td></td>
<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>215</td>
<td>&quot;Fire Hydrant Oil - USDA Approved Grade H-1 for use in potable water systems.</td>
<td>1</td>
<td>EA</td>
<td></td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>216</td>
<td>NEW LINE ITEM Upper Stem 1987 - Later, Left Turn</td>
<td>5</td>
<td>EA</td>
<td></td>
<td>$183.98</td>
<td>$919.90</td>
</tr>
</tbody>
</table>
Form TGC 2270

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270

Please read both pages.

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY: ________________________________

Print Name: Larry Brock Title: District Manager

Company Name: Core & Main LP.

Date Signed: 5-28-20

NOTARIZATION

THE STATE OF Texas $

COUNTY OF Dallas $

BEFORE ME, the undersigned notary public on this day personally appeared Larry Brock, on behalf of Core & Main LP (Company Name), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the 28TH day of MAY, 2020.

MARY LINDSEY
My Notary ID # 7583855
Expires January 26, 2024

NOTARY PUBLIC IN AND FOR THE STATE OF Texas

The following definitions apply to TEXAS GOVERNMENT CODE SECTION 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exist to make a profit, but does not include a sole proprietorship.

State law requires verification from a Company for a contract involving goods or services: (1) between a government entity and a Company with 10 or more full-time employees, and (2) that has a value of $100,000 or more to be paid wholly or partly from public funds, before the City can enter into the contract.

Contract # 134J-20F LSR #
For any Company that objects to and refuses to sign the above verification due to alleged infringement upon the Company's First Amendment rights, please execute the following affidavit:

**AFFIDAVIT**

STATE OF ________________  §

COUNTY OF ________________  §

I, __________________________, after being duly sworn, hereby certify that I am qualified and authorized to make this affidavit, that I am the duly chosen, qualified and acting officer of the Company for the office shown below; and as such, I am familiar with the facts herein and I am duly authorized to execute and deliver this affidavit on behalf of the Company.

_______________ (Company Name) objects to the verification required by Texas Government Code Section 2270.002 on the basis that it infringes upon Company's constitutional rights guaranteed under the First Amendment of the United States Constitution and Company therefore refuses to execute said verification.

EXECUTED as of this _____ day of ______________, 20__.

By: __________________________

Name: _________________________

Title: __________________________

On behalf of: ____________________ (Company Name)

Subscribed and sworn to before me this ___ day of ______________, 20__.

Notary Public In and For the State of __________

Contract #__________  LSR #__________
Resolution -- Approving a Vendor Member Contract Pursuant to a Cooperative Purchase Agreement between City of Irving and Wesco Distribution, Inc., for the Purchase of Uninterrupted Power Supply (UPS) Equipment in The Total Estimated Amount of $58,945.00 through the National Intergovernmental Purchasing Alliance Company dba Omnia Partners, Public Sector (Omnia Partners)

Administrative Comments

1. This item is recommended by the Water Utilities Department.

2. Impact: Establishment of the Vendor/Member Contract between the City of Irving and Wesco Distribution, Inc., for utilization of Omnia Partners Contract No. R192008 which expires on March 31, 2023 for Maintenance, Repair & Operations (MRO) Supplies & Related Services will allow the city to procure these items on an as-needed basis under the best possible terms and conditions for the city.

3. The attached quote for the represent the first purchase to be made under this contract. This purchase allows the department to replace the (UPS) which is critical to maintain power and functionality to the SCADA system during a loss of power. The SCADA system monitors and controls both water and wastewater systems in the city.

4. Funding in the total estimated amount of $58,945.00 is available in the Water and Sewer Non-Bond CIP Fund.

Recommendation

The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Yes  
Previous Action: None  
Discretionary Contract Disclosure Form Required: No  
Certificate of Interested Parties (Form 1295) Required: Yes  
TGC 2270 Verification Form Required: No

Comments: The City of Irving entered into an Interlocal Participation Agreement with the National Intergovernmental Purchasing Alliance Company dba Omnia Partners, Public Sector on July 18, 2019 by RES-2019-262. Purchases to be made under Omnia Partners Contract No. R192008, expiring on March 31, 2023, meet competitive bid requirements with the State of Texas statutes, rules, policies, and procedures. Pricing is reasonable and within budget. These as-needed purchases will be tracked using Contract #42000480.
CURRENT YEAR FINANCIAL IMPACT:

Various Accounts  Budget: $58,945.00  Actual: $58,945.00
Purchase orders will be issued as needed.
Budget Adjustment Required: No

REVISION INFORMATION:

Prepared: 6/10/2020 05:24 PM by Jerry Perry
Last Updated: 6/18/2020 04:51 PM by Jerry Perry
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11077)

WHEREAS, the City of Irving is authorized pursuant to Chapter 271, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, the City of Irving entered into a Master Intergovernmental Cooperative Purchasing Agreement with the National Intergovernmental Purchasing Alliance Company dba Omnia Partners, Public Sector (Omnia Partners) on July 18, 2019;

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

SECTION I. THAT the City Council hereby approves the attached Vendor/Member Contract Pursuant to a Cooperative Purchasing Agreement between the City of Irving and Wesco Distribution, Inc., and approves the purchase of Uninterrupted Power Supply (UPS) equipment in the total estimated amount of $58,945.00, through Omnia Partners Contract No. R192008 for Maintenance, Repair & Operations (MRO) Supplies and Related Services, and the Mayor is authorized to execute said contract.

SECTION II. THAT funding for this expenditures is available in the Water and Sewer Non-Bond CIP Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_____________________________
Kuruvilla Oommen
City Attorney
CITY OF IRVING, TEXAS
VENDOR/MEMBER CONTRACT
Pursuant to a
COOPERATIVE PURCHASING AGREEMENT

VENDOR:  WESCO Distribution, Inc.

COOPERATIVE PURCHASING ASSOCIATION/AGENCY:  Omnia Partners

COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT NUMBER AND NAME:

#R192008 – Maintenance, Repair & Operations (MRO) Supplies & Related Services

EXPIRATION DATE OF COOPERATIVE PURCHASING ASSOCIATION/AGENCY AGREEMENT:  3/31/2023

WHEREAS, the Vendor identified above (hereinafter "VENDOR") has submitted bids and/or proposals to the Cooperative Purchasing Association/Agency identified above (hereinafter "CPAA"); and

WHEREAS, VENDOR and CPAA have entered into the above referenced Cooperative Purchasing Association/Agency Agreement with Vendor (hereinafter "CPAA/VENDOR Agreement") whereby VENDOR has agreed to sell to CPAA and its Members or Interlocal Contractors certain goods and services of a nature and quality as represented in the specifications and proposals, and at a specified price; and

WHEREAS, the City of Irving, a home-rule municipal corporation and political subdivision of the State of Texas (hereinafter "IRVING") has entered into an agreement with the CPAA to be a member or interlocal contractor which may purchase specified goods and services at the prices listed pursuant to the CPAA/VENDOR Agreement; and

WHEREAS, IRVING is authorized pursuant to Sections 271.102 and 271.083, Texas Local Government Code, and Section 791.025, Texas Government Code, to enter into cooperative purchase agreements and is deemed thereby to satisfy state laws requiring competitive bidding; and

WHEREAS, IRVING desires to purchase, and VENDOR desires to sell, certain goods and services under the CPAA/VENDOR Agreement; and

WHEREAS, IRVING and VENDOR have the intent to comply with all applicable laws relative to performance and payment bonds, as well as laws and policies relative to workers compensation and liability insurance; and

WHEREAS, IRVING and VENDOR desire to enter into this VENDOR/MEMBER Contract to clarify and make explicit the rights, duties and responsibilities between the parties, and to have this VENDOR/MEMBER Contract as a legally enforceable agreement between VENDOR and IRVING, and in case of any conflicts between this Contract and the provisions of an agreement with the CPAA, the terms of this Contract shall prevail; and

WHEREAS, VENDOR and IRVING recognize and agree that this VENDOR/MEMBER Contract does not amend or alter the rights, duties and obligations between VENDOR and the CPAA or between IRVING and the CPAA under their respective contracts with the CPAA.

rev. 5.22.18
NOW, THEREFORE, VENDOR and IRVING agree that the foregoing are true and correct, and further agree as follows:

I.

Conditioned upon purchase being approved by the Irving City Council, or approval being made administratively, for VENDOR, to provide certain goods and services as set out in the Purchase Order(s) as may be submitted, and upon order of IRVING, VENDOR does hereby agree to furnish and/or deliver to IRVING in accordance with VENDOR’s Price Quote or Proposal, and the Specifications, Terms, and Conditions in above referenced CPAA/VENDOR Agreement, the goods and services requested in a valid Purchase Order. If the VENDOR and CPAA renew their contract this VENDOR/MEMBER Contract shall automatically renew to reflect the new term of the contract between the VENDOR and CPAA, but in no case shall ever exceed a total of ten years.

II.

IRVING agrees to pay VENDOR for goods and services at the unit price listed upon the Price Quote and Specifications or at the negotiated rate determined by the VENDOR’s proposal and any subsequent modifications agreed to by both VENDOR and IRVING, with payment being subject to any discount terms stated or agreed upon, and subject to any payment terms contained elsewhere within the solicitation documents, the above referenced CPAA/VENDOR Agreement, and its attachments. Any purchase of goods and services so that the cumulative total of payments under this contract exceeds the amount authorized in the City Council Resolution or Administrative Award approving purchase from VENDOR may require additional authorization.

III.

It is understood that the following documents, to wit: the Council Resolution or Administrative Award as may be applicable, the Price Quote, the Specifications, Terms and Conditions, and the Bid Page or Proposal as awarded and set out in CPAA/VENDOR Agreement (a copy of which are on file with IRVING’S Department of Purchasing), IRVING’S Purchase Order(s) as may be submitted during the term of the CPPA agreement with VENDOR, and IRVING’S Insurance Requirements for Services (Exhibit A), are hereby made a part and parcel of this Contract and incorporated herein for all purposes. In addition to the provisions of this Contract, IRVING shall have all powers and duties as a Member of the CPAA, and all communications, invoices and Ch. 176 Texas Local Government Code filings shall be with, or copied to, IRVING.

IV.

IRVING shall make payment in accordance with Texas Prompt Pay Act, Chapter 2251, Texas Government Code. The date of any payment, whether net or gross, shall be determined by calculating the number of days after receipt of invoices from VENDOR, or after reasonable verification as to the requirements specified, whichever is later.

V.

This contract is made and shall be construed according to the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this contract shall be in Dallas County, Texas. This contract is made and is to be performed in Dallas County, Texas.

VI.

If VENDOR fails in any manner to fully perform each and all of the terms, conditions and covenants of this contract, VENDOR shall be in default and notice of default shall be given to VENDOR by the Purchasing Agent of IRVING. In the event that VENDOR continues in default for a period of seven (7) days after receipt of the above-mentioned notice of default, IRVING may terminate or cancel this contract or at its option may purchase similar goods and services on the open market and recover from VENDOR any difference in price thereof.

VII.

As a condition of this Agreement, VENDOR covenants that it will take all necessary actions to insure that, in connection with any goods or services provided under this Agreement, VENDOR, its associates and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, gender, veteran status, or physical disability unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, VENDOR shall keep, retain and safeguard all VENDOR records relating to this Agreement and the SERVICES performed hereunder for a minimum period of three (3) years from termination of this Agreement, with full access allowed to authorized representatives of the CITY, upon request, for purposes of evaluating compliance with this provision of the Agreement.

VIII.

All written notices and correspondence given by one party to another shall be at the addresses listed below for the signers of this Contract.
IX.++

The waiver or failure of either party to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement.

X.

If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.

XI.

This agreement may not be modified, altered or amended except by written instrument duly executed by both parties, except that the address for notice may be changed.

XII.

This Agreement may be executed in Counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XIII.

This Agreement, together with all Exhibits incorporated herein, embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement.

VENDOR

Signature

Name Eddie Brown
Title Sales Manager
Company Name Wesco Distribution Inc.
Date 5-5-20
Address: 9400 N Royal Ln. Ste 100
Irving, TX 75063

IRVING

Signature

Richard H. Stopfer
Mayor
City of Irving

Date

Address: c/o Purchasing Agent
835 West Irving Boulevard
Irving, Texas 75060
ACKNOWLEDGMENT

CORPORATE ACKNOWLEDGMENT

THE STATE OF Texas  
COUNTY OF Dallas  

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared:

Eddie Brown  
(Print Name)  
Sales Manager  
(Print Title)

of the corporation known as Wesco Distribution Inc., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said corporation, that he or she was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation and that she or he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 5th day of May, 2020

[Signature]
Notary Public In and For

DALLAS County, TX

PARTNERSHIP ACKNOWLEDGMENT

THE STATE OF  
COUNTY OF  

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day appeared:

________________________  
(Print Name)  
________________________  
(Print Title)

of  
a partnership, known to me to be the person and partner whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said partnership, and that he or she was duly authorized as a partner of such partnership to perform same for the purpose and consideration therein expressed, and in the capacity therein stated.  GIVEN UNDER MY HAND AND SEAL OF OFFICE this the  

_________ day of ☐ January ☐ February ☐ March ☐ April ☐ May ☐ June ☐ July ☐ August ☐ September ☐ October ☐ November ☐ December, 2020.

[Signature]
Notary Public In and For

________________________ County, ____________

My Commission expires: ____________________________

SINGLE ACKNOWLEDGMENT

THE STATE OF  
COUNTY OF  

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared

________________________  

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the  

_________ day of ☐ January ☐ February ☐ March ☐ April ☐ May ☐ June ☐ July ☐ August ☐ September ☐ October ☐ November ☐ December, 2020.

[Signature]
Notary Public In and For

________________________ County, ____________

My Commission expires: ____________________________

rev. 5.22.18
Exhibit A

INSURANCE REQUIREMENTS FOR SERVICES

At his own expense, contractor shall procure and maintain for the duration of the proposed contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the contractor, his agents, representatives, employees, or subcontractors. Said insurance shall be in the type(s) and minimum(s) listed below. Required limits may be satisfied by a combination of primary and umbrella or excess liability policies upon approval of the City’s Risk Manager.

Workers’ Compensation and Employers’ Liability

Workers’ Compensation Insurance with statutory limits as required by the Labor Code of the State of Texas and Employers’ Liability Insurance with minimum limits of $100,000 per each accident, $500,000 disease policy limit, and $100,000 occupational disease per employee.

Workers’ Compensation coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meet the statutory requirements of the Texas Labor Code and shall apply to all employees of the contractor providing services under the proposed contract. Sole Proprietors may request a waiver of this requirement if they have no employees. If services under this contract will not be performed on city property, the contractor may submit a written request for exemption from this requirement.

Commercial General Liability

Commercial General Liability Insurance with a minimum limit of $1,000,000 per occurrence for bodily injury, personal injury, and property damage. Aggregate Policy minimum limit of $1,000,000 will include coverage for, but is not limited to, Premises-Operations, Broad Form Contractual Liability, Broad Form Property Damage, Products and Completed Operations, Personal Injury, and Independent Contractors and Contractual Liability. Coverage under this policy shall be on an “occurrence” basis.

Business Automobile Liability Insurance

Automobile Liability Insurance with a minimum is of $500,000-Combined Single Limit. Coverage shall include all owned, hired, and non-owned vehicles used in performance of the proposed contract. The combined coverage limits of this insurance shall include bodily injury (including death) and property damage. If the performance of services under this contract will not require the use of vehicle(s) contractor may request, in writing, exemption from this requirement.

By submitting a bid or proposal without previously approved exceptions, contractor agrees to the following general provisions. Requests for exceptions to general provisions and/or coverages must be submitted with your price quote. Exceptions must be approved in writing by City’s representative. The City will not accept requests for exceptions after quotes have been received.

rev. 6.22.18
General Provisions

1. SCOPE – These provisions apply to all contracted vendors unless specifically exempted in the proposed contract. Coverage shall state that the Contractor’s insurance shall apply separately to each insured against whose claim is made, or suit is brought, except to the limits of the insured’s liability.

2. COVERAGE APPLICATION – Contractor’s insurance must be primary as respect to the City, its officers, employees, elected officials, appointees, and volunteers and noncontributory with any other insurance, including self-insurance, maintained by the City for its benefit. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City.

3. DEDUCTIBLES AND SELF-INSURED RETentions – Any deductibles or self-insured retentions must be disclosed to the City. The City reserves the right to review the insurance obtained by the contractor, in comparison to the requirements specified in this section.

4. ADDITIONAL INSURED – The City of Irving, including its officers, officials, employees, Boards and Commissions, and volunteers shall be named as an additional insured by endorsement to the coverage listed herein, excluding Workers’ Compensation and Employers’ Liability (for which a waiver of subrogation is required to be issued in favor of the City), with regard to the insured’s activities as required by written contract. The coverage shall contain no special limitations on the scope of protection afforded to the City, and all premiums arising from the coverage herein shall be the responsibility of the insured.

5. COVERAGE CONTINUATION AND CANCELLATION -- In the event any insurance policy shown on the certificate(s) of insurance has an expiration date prior to the completion of the contract, the contractor shall furnish the City proof of identical continued coverage no later than thirty days prior to the expiration date shown on the certificate. Failure to maintain continuous coverage during the term of the proposed contract, or failure to provide proof of coverage at any time during the term of the contract, may result in cessation of work and/or termination of the contract. Coverage shall not be canceled, non-renewed, or materially altered except after thirty days prior written notice by certified mail (return receipt requested) to Purchasing Manager, 835 W. Irving Blvd., Irving, Texas 75060.

6. SUBROGATION – Contractor must waive all rights of subrogation against the City of Irving for bodily injury (including death), property damage, or any other loss arising from work performed by the vendor for the City.

7. RESPONSIBILITY – Approval, disapproval, or failure to act by the City regarding any insurance supplied by the contractor or its subcontractors shall not relieve the contractor of full responsibility or liability for damages and accidents as set forth in the contract documents.

8. ACCEPTABILITY – The City retains the right to approve the acceptability of insurers. As a general rule, the City will accept insurers authorized to transact business in the State of Texas with an A. M. Best rating of “A- VI ” or better.

rev. 6.22.18
9. PAYMENT OF PREMIUMS – Companies issuing insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are the sole responsibility and liability of the contractor.

10. PROOF OF INSURANCE - Proof of insurance shall be furnished to the City on the ACORD certificate form, provided the appropriate endorsements for Additional Insured and Amendment of Cancellation with 30-day notice are included. If requested by the City, the contractor must provide copy of the Declaration Page of the policy with all relevant policy endorsements, including endorsement showing City of Irving as additional insured, within fifteen days of request. Copy must be signed by the contractor and notarized. Required proof of insurance must be provided by awarded contractor before the City will authorize any work to be performed under this proposed contract. The City reserves the right to request a complete copy of all insurance policies at any time.

11. INDEMNIFICATION – THE VENDOR (THE "INDEMNIFYING PARTY"), SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY'S OFFICERS, AGENTS, COUNCIL MEMBERS, EMPLOYEES, ATTORNEYS AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE "CITY INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) MADE BY ANY THIRD-PARTY, TO THE EXTENT ARISING FROM OR RELATED TO THE SERVICES PROVIDED BY THE VENDOR PURSUANT TO THIS CONTRACT (COLLECTIVELY, "INDEMNIFIED CLAIMS"), REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY VENDOR OR THE CITY. THE INDEMNITIES IN THIS CONTRACT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF CONTRACT, BREACH OF WARRANTY, VIOLATION OF STATUTE OR COMMON LAW, VIOLATIONS OF THE STATE OR FEDERAL CONSTITUTIONS, OR ANY OTHER CONDUCT WHATSOEVER OF THE CITY INDEMNIFIED PARTIES. VENDOR SHALL GIVE TO THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. VENDOR SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS CONTRACT. THIS INDEMNIFICATION IS NOT INTENDED TO APPLY TO CLAIMS MADE AGAINST THE CITY INDEMNIFIED PARTIES RESULTING FROM NEGLIGENT ACTS OF CITY EMPLOYEES COVERED UNDER SECTION 101.021 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE.

The parties hereby acknowledge and agree that CITY is entering this Contract pursuant to its governmental function and that nothing contained in this Contract shall be construed as constituting a waiver of the CITY'S governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law. Notwithstanding anything to the contrary herein, the parties hereby acknowledge and agree that to the extent this Contract is subject to the provisions of Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the CITY'S immunity from suit is waived only as set forth in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE. Further, the parties agree that this Contract is made subject to all applicable provisions of the Texas Civil Practices and Remedies Code ("CPRC"), including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

CONTRACTOR (Company Name)  Wesco Distribution Inc.

SIGNATURE  [Signature]

PRINTED NAME  Eddie Brown

PRINTED TITLE  Sales Manager

rev. 6.22.18
**Project:** Valley View SCADA UPS Replacement Project: Option B Rev 1

**UPS System: N+1 Parallel Redundant Solution**

(2) 12kVA UPS Modules with required accessories, project services and Eaton PredictPulse Remote Monitoring Service. To provide 67 minutes backup time at 3.6kW of load while maintaining N+1 parallel redundancy.

Basis of design, Eaton 9155-12 SCI# Q050619010-6XL2CSS.

Temporary power wiring to critical SCADA loads included.

**SCI#:** Q050619010-6XL2CSS

**AC Input:** 240/120V / 60Hz / 1Ø / 3W + G

**AC Output:** 240/120V / 60Hz / 1Ø / 3W + G

Battery Backup at 12kVA/10.8kW: 18 minutes

Battery Backup at 4kVA/3.6kW: 67 minutes

**Capacity Day-1:** 12kVA / 10.8kW

**Redundancy:** Complete N+1 Parallel Redundant

**Future Upgradability:** 15kVA / 13.5kW per module

**Features:**

Small Footprint and Low Weight
ABM Battery Management and Monitoring
ISO 9000 & ISO 9001 Certified
100% Continuous Duty, Solid State Static Switch
On-Line Double Conversion Technology
Equipment Details:

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Equipment</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>UPS Enclosure</td>
<td>internal batteries, unit-mount bypass, upgradable to 15kVA</td>
</tr>
<tr>
<td>1</td>
<td>Input Panel</td>
<td>Feeding both UPS and bypass in tie panel</td>
</tr>
<tr>
<td>1</td>
<td>Parallel Tie Panel</td>
<td>Wall-mount. Maintenance bypass breaker included</td>
</tr>
<tr>
<td>4</td>
<td>Horizontal Rack-Mount PDU</td>
<td>30A, 120V L5-30P input / (10) 5-20R output each</td>
</tr>
<tr>
<td>2</td>
<td>Rack-Mount Receptacles</td>
<td>30A, 240V / (1) L6-30R output each</td>
</tr>
</tbody>
</table>

Accessories / Services / General Notes:

Turnkey Project Installation / Removal / Eaton Representative Project Engineering
Factory Start-Up and Owner Training completed concurrently: Any-Hour
1-Year Factory UPS Parts & Labor Warranty, 7x24 8-hour emergency on-site response
1-Year Installation Warranty
Factory and On-Site Testing
SNMP Communication Card, relay summary alarm, Technical Support. Year-1 Predict Pulse Remote Monitoring Service
Removal and environmentally compliant disposal of existing UPS equipment
Provide and install (4) 30A 120V & (2) 30A 208V circuits in Server Room. 100A sub-panel by others.
Materials / Labor included to provide temporary utility power to critical loads while UPS replacement taking place.
Submittal documentation, On-Site Project Engineering, As-Built one-line upon completion, Closeout Documentation

Excluded: unplugging & plugging in critical equipment, permit/inspection fees, non-typical insurance requirements

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Notes</th>
</tr>
</thead>
</table>

total $ 58,945.00

Freight / Delivery / Disposal Included.
Tax Not Included (tax exempt/reseller certificate required for ship-to state)
Resolution -- Renewing the Annual Contract with ITRON, Inc., in the Total Estimated Amount of $300,000.00 for ITRON Equipment

Administrative Comments
1. This item is recommended by the Water Utilities Department.
2. **Impact:** ITRON equipment allows water meters to be read remotely. This contract will allow staff to continue to upgrade the current metering system as the city transitions over to a fixed network system through the Advanced Metering Infrastructure (AMI) project.
3. This renewal establishes the continuation of an annual contract to supply ITRON equipment including Encoder Receiver Transmitters (ERTs) for meters, remote antennas for ERTs, through the lid mount kits for ERTs, network repeaters, network collectors (CCUs), network tower collectors (TCUs), and other ancillary items required to read meters remotely. This is the second and final of two optional one year renewals. The current contract expires June 30, 2020.
4. Funding for Fiscal Year 2019-20 is available in the Water and Sewer System Fund, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Estimated Expenditure</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITRON, Inc.</td>
<td>7/1/20 – 6/30/21</td>
<td>$150,000.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$150,000.00</td>
<td>2020-21</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$300,000.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Recommendation**
The resolution be approved.

**ADDITIONAL COMMENTS:**

- **Contract Required:** No
- **Review Completed By:** N/A
- **Previous Action:** 2019-219
- **Council Action:** Approved Renewal
- **Discretionary Contract Disclosure Form Required:** No
- **Certificate of Interested Parties (Form 1295) Required:** No
- **TGC 2270 Verification Form Required:** No
- **Comments:** Services provided by the vendor meet specifications and performance criteria; pricing remains the same. This is the second and final of two one-year renewal options. Purchasing has assigned Contract No. 42000222-0 for tracking purposes.

**ATTACHMENTS:**
CURRENT YEAR FINANCIAL IMPACT:

50206012-700200        Budget: $150,000.00        Actual: $150,000.00
50016012-600151        Budget: $150,000.00        Actual: $150,000.00

Purchase orders will be issued as needed for annual contract.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:

Prepared: 5/19/2020 03:30 PM by Jerry Perry
Last Updated: 6/18/2020 04:28 PM by Regina Dearing
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby renews the contract with ITRON, Inc., in the estimated amount of $150,000.00 for the period of July 1, 2020, through September 30, 2020, and in the estimated amount of $150,000.00 for the period of October 1, 2020 through June 30, 2021, subject to funds being appropriated in Fiscal Year 2020-21, for ITRON equipment.

SECTION II. THAT funding for these expenditures is available in the Water and Sewer System Fund.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
ITB #166J-19F Itron Encoder Receiver Transmitters (ERTs)
Title: Itron Encoder Receiver Transmitters (ERTs)
Owner: Jerry Perry, 972-721-3754
Close Date: 5/11/18
1st of two 1 year Renewals

<table>
<thead>
<tr>
<th>Line #</th>
<th>Description</th>
<th>Mfgno</th>
<th>QTY</th>
<th>UOM</th>
<th>Unit</th>
<th>Extended</th>
<th>Unit</th>
<th>Extended</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ITRON ERT’s and Accessories: All items will be awarded to the same vendor. Be sure to bid all items to be considered for award.</td>
<td></td>
<td>1</td>
<td>EA</td>
<td>$2,750.00</td>
<td>$2,750.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Itron 100W+ 2-port</td>
<td>Itron</td>
<td>2000</td>
<td>EA</td>
<td>$65.22</td>
<td>$1,304,400.00</td>
<td>$55.00</td>
<td>$1,100,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Itron 100W+ 3-port</td>
<td>Itron</td>
<td>20</td>
<td>EA</td>
<td>$70.22</td>
<td>$1,404.40</td>
<td>$95.00</td>
<td>$1,900.00</td>
</tr>
<tr>
<td>4</td>
<td>Itron 100W+ Thru Lid Mounting Kit</td>
<td>Itron</td>
<td>1200</td>
<td>EA</td>
<td>$3.00</td>
<td>$36,000.00</td>
<td>$125.00</td>
<td>$1,500,000.00</td>
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<tr>
<td>5</td>
<td>Itron 100W+ Thru Lid Remote Mount Antenna Kit</td>
<td>Itron</td>
<td>1100</td>
<td>EA</td>
<td>$37.00</td>
<td>$40,700.00</td>
<td>$135.00</td>
<td>$148,500.00</td>
</tr>
</tbody>
</table>

*RECOMMENDED FOR AWARD

Total Price: $1,382,504.40
Total Price: $2,753,150.00
Advanced Metering Infrastructure (AMI) Project Update

Work Session
June 25, 2020
AMI Project Goals

• Improve meter reading efficiency
  • **Read meters remotely** at any time on a desktop computer through a fixed network
  • Result: No driving/walking and more frequent reads

• Improve customer service
  • Customers can **monitor water usage and monthly bills**
  • Customers and staff have data to help resolve billing issues
  • Staff can help customers find private leaks that increase costs
Project Status

• Meter communications network is functioning
• Over 82% of the meters are now read remotely and provide hourly and daily usage data to customers through the on-line portal
• On-going installations by staff and Pedal Valves to continue improving meter communications
  • Itron meter ERTs, meter antennas and network repeaters
  • Composite meter box lids
  • New meters
Itron ERTs and Antennas

• ERT - Communication device that transmits meter information through the communications network to a desktop computer

• ERTs now installed on over 95% of our meters

• ERT antennas boost signal and improve communication

• Bid renewal of up to $300,000 with Itron (primarily for antennas/mounts and network repeaters)
Meter Box Lids

- Must allow efficient transmission of meter data
- Worked with a manufacturer and pilot tested a new composite meter box lid
- Bid renewal allows for purchase of up to 23,000 lids
Customer Portal Information

Smart Meter Usage
Welcome to our Smart Meter Inquiry.

From Date: 05/19/2020
To Date: 06/18/2020

No user login has been linked to this account number so the user events cannot display.
Summary

• The AMI communications network is operating and over 82% of meters are now being read remotely
• Customers with remote meter read functionality are also now able to access hourly and daily usage information
• Work continues on the build out of the AMI system with the goal of reaching 100% of the meters
Questions or Comments
Resolution -- Renewing the Annual Contract with Atlas Utility Supply Company in the Total Estimated Amount of $962,852.00 for Water Meter Boxes

Administrative Comments
1. This item is recommended by the Water Utilities Department.
2. **Impact:** This annual contract allows the department to purchase water meter boxes that are specially manufactured for the electronic radio transmitters (ERTs) that are required for the Advanced Metering Infrastructure (AMI) Project.
3. This renewal establishes the continuation of an annual contract for water meter boxes. This is the first of two one-year renewal options. The current contract expires July 31, 2020.
4. The system includes approximately 50,000 meters.
5. Funding for Fiscal Year 2019-20 is available in the Water and Sewer Operating and Water and Sewer Non-Bond CIP funds, while funding for Fiscal Year 2020-21 is subject to budget appropriation.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Contract Term</th>
<th>Total Est. Exp.</th>
<th>Fiscal Year(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atlas Utility Supply Company</td>
<td>8/1/2020 – 7/31/2021</td>
<td>$320,950.00</td>
<td>2019-20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$641,902.00</td>
<td>2020-21</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$962,852.00</td>
<td></td>
</tr>
</tbody>
</table>

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: No
Review Completed By: N/A
Previous Action: RES-2019-243
Council Action: Approved Award
Discretionary Contract Disclosure Form Required: No
Certificate of Interested Parties (Form 1295) Required: No
TGC 2270 Verification Form Required: No

Products provided by the vendor meet specifications and performance criteria; pricing remains the same. This is the first of two one-year renewal options. Expenditures for these as-needed purchases will be tracked using Contract No. 42000298-1.

ATTACHMENTS:
CURRENT YEAR FINANCIAL IMPACT:

50016012-620001, 50206012-700200  
Budget: $320,950.00  
Actual: $320,950.00

Purchase orders will be issued as needed for annual contract.
Budget Adjustment/Transfer Required: No

REVISION INFORMATION:

Prepared: 5/19/2020 03:42 PM by Jerry Perry
Last Updated: 6/18/2020 05:04 PM by Darlene Humphries
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11022)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby renews the contract with Atlas Utility Supply Company in the estimated amount of $320,950.00 for the period of August 1, 2020 through September 30, 2020, and in the estimated amount of $641,902.00 for the period of October 1, 2020 through July 31, 2021, subject to funds being appropriated in Fiscal Year 2020-21, for Water Meter Boxes.

SECTION II. THAT the City Council hereby amends RES-2019-243 to extend the approval of expenditures under that prior resolution from June 30, 2020, to July 31, 2020 for Water Meter Boxes from Atlas Utility Supply Company, subject to availability of current funds.

SECTION III. THAT funding for these expenditures is available in the Water and Sewer Operating and Water and Sewer Non-Bond CIP funds.

SECTION IV. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


RICHARD H. STOPFER
MAYOR

ATTEST:

Shanae Jennings
City Secretary

APPROVED AS TO FORM:

Kuruvilla Oommen
City Attorney
Renewal Summary
ITB #160J-19F  Water Meter Boxes
Purchasing Agent: Jerry Perry, 972-721-3754
Close Date: May 23, 2019
First of two optional renewals

<table>
<thead>
<tr>
<th>Line #</th>
<th>Description</th>
<th>QTY</th>
<th>UOM</th>
<th>Unit</th>
<th>Extended</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Brooks Products 36 Series Concrete Meter Box</td>
<td>200</td>
<td>EA</td>
<td>$30.25</td>
<td>$6,050.00</td>
</tr>
<tr>
<td>2</td>
<td>Small Black Polymer Meter Lid with Magnet to fit a Brooks Products 36 Series</td>
<td>16000</td>
<td>EA</td>
<td>$28.91</td>
<td>$462,560.00</td>
</tr>
<tr>
<td>3</td>
<td>Brooks Products 65 Series Concrete Meter Box</td>
<td>100</td>
<td>EA</td>
<td>$52.42</td>
<td>$5,242.00</td>
</tr>
<tr>
<td>4</td>
<td>Large Black Polymer Meter Lid with Magnet to fit a Brooks Products 65 Series</td>
<td>7000</td>
<td>EA</td>
<td>$67.00</td>
<td>$469,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Estimated Expenditure for Additional Items Not Specifically Listed</td>
<td>1</td>
<td>EA</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>
Ordinance -- Approving a Second Amended and Restated Development Agreement with Vaquero Ventures Management, LLC for the Sale of 313 W. Irving Boulevard

Administrative Comments
1. This item is recommended by the Office of Economic Development.

2. **Impact**: Approval of this Second Amended and Restated Development Agreement with Vaquero Ventures would allow for the closing date for the sale of city-owned property at 313 W. Irving Blvd. to be extended, enabling the developer to obtain all necessary closing documents, such as an executed lease with Starbucks for the occupancy of the building to be constructed.

3. On October 3, 2019, City Council approved ORD-2019-10268 approving a Development Agreement with Vaquero Ventures Management, LLC to redevelop the city’s property located at 313 W. Irving Blvd. by building a Starbucks coffee store with indoor seating, patio, and drive through.

4. The sale price of the city land is $119,390.00. The Development Agreement includes certain criteria that must be included at the time of closing. Those criteria include (i) an executed lease with Starbucks to operate a Starbucks’s store with an initial term of not less than five (5) years; (ii) a Performance Bond in the full amount of the Purchase Price, guaranteeing the purchaser will take all actions reasonably necessary and required by the City to construct and occupy a minimum 2,100 square foot Starbucks coffee store on or before the Date of Occupancy; (iii) if necessary, obtain proper Zoning for the site plan; and, (iv) obtain a building permit for the construction of the coffee store.

5. Per the original agreement, closing was to occur on February 7, 2020, and Starbucks was to occupy the building by December 31, 2020.

6. Due to ongoing lease negotiation between the purchaser and Starbucks, Vaquero requested an extension to the closing date in order to submit all required documents at closing. Council approved an amendment to the Agreement on January 30, 2020, to extend the closing date by five (5) months to July 7, 2020.

7. Purchaser is still negotiating a Lease with Starbucks, which is due at closing. Purchaser estimates an additional 60 days for executed lease, plus an additional 30-60 days for ordering plans and permitting; therefore, has requested to extend the closing date by 150 days.

8. The Second Amended and Restated Development Agreement would extend the Closing Date to December 4, 2020. The Purchaser will deposit an additional $10,000 Earnest Money, non-refundable except for Seller’s Default and amend Date of Occupancy to October 28, 2021.

Recommendation
The resolution be approved.
ADDITIONAL COMMENTS:

- Contract Required: Yes  
- Previous Action:  
  - ORD 2019-10268  
  - ORD 2020-10305  
- Review Completed By: Christina Weber  
- Council Action:  
  - Development Agreement  
  - Amended and Restated Development Agreement

ATTACHMENTS:

- 313 W Irving Blvd. Second Restate and Amended Development Agreement  (PDF)

CURRENT YEAR FINANCIAL IMPACT:

NONE

REVISION INFORMATION:

Prepared: 6/10/2020 01:53 PM by Imelda Speck
Last Updated: 6/18/2020 04:21 PM by Jennifer Phillips
ORDINANCE NO. (ID # 11071)

AN ORDINANCE APPROVING AN A SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT WITH VAQUERO VENTURES MANAGEMENT, LLC AND FINDING THAT CERTAIN REAL PROPERTY LOCATED AT 313 W. IRVING BOULEVARD IS NO LONGER REQUIRED FOR PRESENT OR FUTURE PUBLIC OR MUNICIPAL PURPOSES; THAT THE PROPERTY MAY BE LEGALLY CONVEYED; AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY; AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT OF SALE, A DEED WITHOUT WARRANTY, AND ANY OTHER NECESSARY DOCUMENTS; AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, City is the owner of a tract of land commonly known as 313 W. Irving Boulevard (the “Property”) located within Tax Increment Reinvestment Zone No. 2 (the “Zone”); and the redevelopment of the Property is identified within the Zone’s Project and Financing Plan (the “Plan”); and

WHEREAS, the City Council approved Ordinance No. 2019-10268 on October 3, 2019, finding the development agreement for the purchase and development of the Property in a manner consistent with the Zone Project Plan.

WHEREAS, the City Council approved Ordinance No. 2020-10305 on January 30, 2020, finding that the development agreement should be amended to allow for an extension of the closing date; and

WHEREAS, the City and Purchaser have determined that the development agreement should be amended to allow for a second extension of the closing date; and

WHEREAS, the City has determined that conveyance of the Property to Purchaser under the terms of this Amended and Restated Development Agreement is advisable to implement the Zone project plan.

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

SECTION 1. That the City Council hereby approves the Second Amended and Restated Development Agreement attached as Exhibit “A” and authorizes the sale of the real property, more particularly described in the Development Agreement, to Vaquero Ventures Management, LLC, by Special Warranty Deed upon receipt of $119,390.00. The conveyance is subject to any easements, reservations, conditions, covenants, and restrictive covenants affecting the property, and the Mayor is authorized to execute the attached Second Amended and Restated Development Agreement, Special Warranty Deed, and any other documents necessary to complete this transaction.

SECTION 2. That the City’s portion of the proceeds received from the sale of the property shall be deposited in the Economic Development Fund.

SECTION 3. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

-1-

_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT

This AMENDED AND RESTATED DEVELOPMENT AGREEMENT (the “Agreement”) is entered on the ______ day of ________, 2020 (the “Second Amendment Date”) into by and between the City of Irving, a Texas municipal corporation (“City”), and Vaquero Ventures Management, LLC, a Texas limited liability company (“Purchaser”), pursuant to the terms and conditions set forth herein.

WHEREAS, City is the owner of a tract of land commonly known as 313 W. Irving Boulevard (the “Property”) located within Tax Increment Reinvestment Zone No. 2 (the “Zone”); and

WHEREAS, on August 23, 2002, the City purchased the Property for a public purpose; and

WHEREAS, on March 13, 2019 Purchaser submitted an offer for the purchase and development of the Property in a manner consistent with the Zone project plan; and

WHEREAS, on October 3, 2019 the City and Purchaser entered into a development agreement for the purchase and development of the Property in a manner consistent with the Zone project plan; and

WHEREAS, on January 30, 2020, the City approved an amendment to the development agreement to allow for an extension of the closing date; and

WHEREAS, the City and Purchaser have determined that the development agreement should be amended to allow for an extension of the closing date; and

WHEREAS, the City has determined that conveyance of the Property to Purchaser under the terms of this Second Amended and Restated Development Agreement is advisable to implement the Zone project plan; and

ARTICLE 1 PROPERTY/PURCHASE PRICE

1.1 Certain Basic Terms. Unless the context otherwise requires, the following terms shall have the following meanings for purposes of this Agreement:

(a) **City Representative:** City Manager or his authorized representative

(b) **Purchase Price:** One hundred nineteen thousand, three hundred ninety and No/100 Dollars ($119,390.00).

(c) **Earnest Money:** The cash sum of Two Thousand and No/100 Dollars ($2,000.00) to be delivered in accordance with and subject to the terms set forth in Section 1.3.

Development Agreement
(d) **Inspection Period:** Commencing on the Effective Date and ending October 28, 2019, subject to extension as set forth in Section 2.3.

(e) **Closing Date:** On or before December 4, 2020

(f) **Title Company:** Republic Title of Texas, Inc.
8810 N MacArthur Boulevard
Irving, TX 75063

(g) **Date of Occupancy:** October 28, 2021

(h) **Company Affiliate:** Shall mean any other entity directly or indirectly controlled by or under direct or indirect common control as the Purchaser. As used in this definition, the term "control", "controlling" or "controlled by" shall mean the possession, directly or indirectly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of such entity or (b) direct or cause the direction of management or policies of such entity, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case, any lender of such entity or any affiliate of such lender.

(i) **Effective Date:** October 3, 2019

(j) **Extension Earnest Money:** The cash sum of **TEN THOUSAND AND NO/100 DOLLARS ($10,000.00)** to be delivered in accordance with and subject to the terms set forth in Section 1.3

(k) **2nd Extension Earnest Money:** The cash sum of **TEN THOUSAND AND NO/100 DOLLARS ($10,000.00)** to be delivered in accordance with and subject to the terms set forth in Section 1.3

1.2 **Property.** Subject to the terms and conditions of this Agreement and the reservation of subsurface minerals in, on and under the Property, City agrees to sell to Purchaser, and Purchaser agrees to purchase from City, all of City’s assignable and transferable rights, title and interest in and to the land which is described and/or depicted on the attached Exhibit A (collectively, the “Property”).

Development Agreement
13 Earnest Money and Independent Consideration.

(a) Within five (5) business days after the Effective Date, Purchaser shall deliver the Earnest Money to the Title Company (the “Initial Earnest Money”). Any and all cash deposited with the Title Company as the Earnest Money shall be deposited and held for the benefit of the party entitled thereto pursuant to this Agreement. The Earnest Money shall be applied to the Purchase Price of the Property at the Closing (as defined in Section 5.1 hereof).

(b) The parties acknowledge and agree that a portion of the Earnest Money in the amount of ONE HUNDRED AND NO/100 Dollars ($100.00) is independent consideration (the “Independent Consideration”) for City’s execution and delivery of this Agreement and the purchase right granted in and pursuant to this Agreement. The Independent Consideration is independent of any other consideration or payment provided in this Agreement, is non-refundable and shall be retained by City if this Agreement terminates prior to Closing. Furthermore, the Independent Consideration shall be applied against the Purchase Price of the Property at the Closing.

(c) Within three (3) business days after the Amendment Date, Purchaser shall deliver the Extension Earnest Money to the Title Company (the “Extension Earnest Money”), this money is non-refundable. Any and all cash deposited with the Title Company as the Extension Earnest Money shall be deposited and held for the benefit of the party entitled thereto pursuant to this Agreement. The Extension Earnest Money shall be applied to the Purchase Price of the Property at the Closing (as defined in Section 5.1 hereof), the Extension Earnest Money is non-refundable to Purchaser, except in the event of default by the City, and shall be retained by City if this Agreement terminates prior to Closing.

(d) Within three (3) business days after the Second Amendment Date, Purchaser shall deliver the 2nd Extension Earnest Money to the Title Company (the “2nd Extension Earnest Money”), this money is non-refundable. Any and all cash deposited with the Title Company as the 2nd Extension Earnest Money shall be deposited and held for the benefit of the party entitled thereto pursuant to this Agreement. The 2nd Extension Earnest Money shall be applied to the Purchase Price of the Property at the Closing (as defined in Section 5.1 hereof), the 2nd Extension Earnest Money is non-refundable to Purchaser, except in the event of default by the City, and shall be retained by City if this Agreement terminates prior to Closing.

1.4 Remedies.

(a) If Purchaser should refuse or otherwise fail to comply with Purchaser’s obligations under this Agreement for any reason, other than City’s default or the exercise by Purchaser of an express right of termination granted herein, and such failure shall continue beyond five (5) days following City’s written notice of the same to Purchaser, then City shall have the right to terminate this Agreement and receive any previously delivered Earnest Money as liquidated damages; provided however, Purchaser shall be liable to City for liabilities created by, or losses of City caused by Purchaser under this Agreement.

(b) If City should refuse or otherwise fail to comply with City’s obligations under this Development Agreement
Agreement, and such failure shall continue beyond ten (10) days following Purchaser’s written notice of the same to City, except for City’s failure to execute Closing Documents, for which such cure period shall be one (1) business day following Purchaser’s written notice of the same, then Purchaser’s sole and exclusive remedies shall be the right to terminate this Agreement and receive an immediate refund of the Earnest Money without the necessity of obtaining any consent or release by City.

1.5 **Purchase Price.** The Purchase Price shall be paid in cash at Closing.

**ARTICLE 2  FEASIBILITY**

2.1 **City’s Delivery of Property Information.** Within ten (10) business days after the Effective Date, City shall deliver to Purchaser, at the address stated below, the following, if any, in City’s possession or reasonable control (collectively, the “Property Information”):

(a) Copies of any and all agreements affecting the Property, including copies of all unrecorded restrictive covenants, reciprocal easement or other private agreements relating to the Property.

(b) Lawyer’s Title Insurance Corporation Owner’s title policy No. 684842 for the Property.

(c) Most recent existing survey of the Property, as depicted on the replat “Original Town of Irving” approved September 16, 2013 and recorded January 7, 2016.

(d) Copies of all approvals, permits and licenses from each governmental authority having jurisdiction over the Property.

CITY EXPRESSLY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE PROPERTY INFORMATION FURNISHED TO PURCHASER AND, FURTHER, PURCHASER HEREBY AGREES THAT SUCH PROPERTY INFORMATION SHALL BE PROVIDED ON AN "AS IS" BASIS, AND CITY SHALL HAVE NO OBLIGATION TO COMPILE OR UPDATE SUCH PROPERTY INFORMATION.

2.2 **Inspection.** Purchaser shall have through 11:59 PM Dallas, Texas time on the last day of the Inspection Period in which (a) to enter the Property and examine, inspect, and investigate the Property, (b) to perform or obtain such other studies and investigations as Purchaser may desire and (c) to determine whether the Property is acceptable to Purchaser. Purchaser and its agents, employees, or representatives shall have a continuing right of reasonable access to the Property during this Agreement for the purpose of conducting surveys, architectural, engineering, geotechnical, and environmental inspections and tests (excluding intrusive inspection and sampling, which will require City’s prior written consent by and through the City Representative), and any other inspections, studies, or tests desired by Purchaser. City, in its sole discretion, may require Purchaser’s agents, employees, or representatives to be accompanied by City Representative during any Purchaser activity on the Property during this Agreement. Purchaser will notify City of request to access the Property and City will respond within two (2) business days if Purchaser’s agents, employees, or representatives will be accompanied by City

Development Agreement
Representative during Purchaser activity. If City fails to respond to Purchaser’s request to access the Property, then City’s consent to Purchaser’s unaccompanied access to the Property shall be deemed given. If any inspection or test materially and adversely disturbs the Property, Purchaser, at its sole expense, will restore the Property to the same condition as existed immediately prior to any such inspection or test performed by Purchaser. The costs and expenses of any of Purchaser’s inspections shall be borne solely by Purchaser. Purchaser’s agents or contractors entering upon the Property shall maintain general liability insurance in an amount of at least $1,000,000.00 combined single limit, with the City as an additional insured, covering liabilities for personal injury, death and property damage arising out of activities on or about the Property. Purchaser shall deliver to City copies of all engineering reports, environmental reports, soil tests and other studies, tests and reports obtained by Purchaser with respect to the physical condition of the Property, and this obligation shall survive the termination of this Agreement. Notwithstanding anything to the contrary in this Agreement, Purchaser may not conduct any subsurface investigations without City’s prior written consent and through the City Representative, which consent may be withheld in City Representative’s sole and absolute discretion. The covenants under this paragraph shall survive the Closing or any termination of this Agreement and shall not be subject to any limitation of remedies in this Agreement.

2.3 Extension of Inspection Period. Upon three (3) business days’ written notice to City prior to the expiration of the Inspection Period, Purchaser may exercise a one-time, two (2) month extension of the Inspection Period (“Inspection Period Extension”), and shall, within three (3) business days thereafter, deposit an additional cash amount of TEN THOUSAND AND NO/100 Dollars ($10,000.00) with the Title Company (the “Additional Deposit”), which Additional Deposit shall become a part of the Earnest Money for all purposes hereunder and shall be subject to all terms and conditions relating to the disposition of the Earnest Money provided for in this Agreement. Upon receipt of the Additional Deposit, the Initial Earnest Money in the sum of TWO THOUSAND AND NO/100 Dollars ($2,000.00) shall become non-refundable.

2.4 Termination of Agreement.

(a) If, prior to the expiration of the Inspection Period or Inspection Period Extension, Purchaser, in its sole discretion, elects not to purchase the Property, Purchaser shall send written notice to City terminating this Agreement on or prior to expiration of the Inspection Period or Inspection Period Extension. In such case, this Agreement shall terminate and the then-refundable portion of the Earnest Money, minus the Independent Consideration, shall be returned to Purchaser. If such termination notice is not sent prior to expiration of Inspection Period or Inspection Period Extension to City, City and Purchaser shall proceed to Closing.

(b) If, prior to Closing, Purchaser fails to obtain the necessary changes in zoning for the Property in accordance with the site plan submitted in case ________, Purchaser shall send written notice to City terminating this Agreement prior to Closing, in which case, this Agreement shall terminate and the then-refundable portion of the Earnest Money, minus the Independent Consideration, shall be returned to Purchaser. If such termination notice is not sent to City, City and Purchaser shall proceed to Closing.

ARTICLE 3 TITLE REVIEW
3.1 Title Commitment and Survey.

(a) Within ten (10) business days after the Effective Date, Purchaser shall obtain, at Purchaser’s expense:

(i) a current, effective commitment for an owner’s policy of title insurance (the “Title Commitment”) issued by the Title Company covering the Property, in the amount of the Purchase Price, showing Purchaser as the proposed insured;

(ii) true, correct, complete and legible (to the extent reasonably available) copies of any and all documents referred to in the Title Commitment (the “Exception Documents”); and

(iii) a current tax certificate covering the Property.

(b) Prior to July 31, 2020, Purchaser shall obtain, at Purchaser’s expense, a copy of a current on-the-ground boundary survey (the “Survey”) of the Property prepared by a duly licensed Texas land surveyor in accordance with Texas or American Land Title Association standards. The Survey shall be in a form reasonably acceptable to City, Purchaser and to the Title Company, and allow the Title Company, upon payment of the applicable premium, to modify the survey exception contained in the Title Policy (as defined below) to be issued by the Title Company.

3.2 Title Review and Cure: Updated Title Commitment. Purchaser shall have a period of twenty (20) days from its receipt of the later of the Title Commitment, the Exception Documents, or the Survey to review the City’s title to the Property (the “Title Review Period”). If the Survey, Exception Documents, or the Title Commitment reflects or discloses any defect, exception or other matter affecting the Property (“Title Defects”) that is unacceptable to Purchaser, then on or before the expiration of the Title Review Period Purchaser shall provide the City with written notice of its objections. Any matter which Purchaser does not object to in writing prior to the expiration of the Title Review Period shall be deemed a “Permitted Exception.” City may use reasonable efforts to remove or cure the Title Defects, but shall not be required to incur any costs or to institute litigation in doing so subject to the provisions of this Agreement. City shall, within ten (10) days after its receipt of Purchaser’s notice of Title Defects, notify Purchaser of those items which Seller will cure, cause to be cured, or not cure before Closing (“City’s Cure Notice”). If City elects not to cure any or all of the Title Defects, or if City fails to notify Purchaser of its intent to cure or not cure any Title Defects, then Purchaser, as its sole remedies, may in its sole discretion either (i) terminate this Agreement by giving written termination notice to City within 5 business days of receipt of City’s Cure Notice but no later than the expiration of Inspection Period, or (ii) accept such title as City can deliver. Notwithstanding anything to the contrary in this Agreement, if Purchaser fails to terminate this Agreement by giving written termination notice to City within the Inspection Period or Inspection Period Extension, any Title Defects that City has not cured and which are shown on the Survey or the Title Commitment as the same may have been updated (other than items which City has agreed in writing to cure or cause to be cured) shall be deemed to be waived and accepted by Purchaser and shall be Permitted Exceptions. Notwithstanding anything contained herein to the contrary, the term “Permitted Exceptions” shall not include, and City shall discharge or otherwise cause to be satisfied and released, all liens and monetary Development Agreement
encumbrances caused by City affecting all or any part of the Property. If Purchaser terminates this Agreement as provided herein, the Title Company shall promptly return the then-refundable portion of the Earnest Money to Purchaser, and neither City nor Purchaser thereafter shall have any further right or obligation under this Agreement save and except any surviving rights or obligations provided for in this Agreement.

3.3. **Title Costs.** Purchaser shall pay for the premium of the Title Policy covering the Property and for the modification of the survey exception on the Title Policy if requested by Purchaser. Purchaser shall pay for the tax certificates required for the Closing.

**ARTICLE 4 APPROVALS, COVENANTS AND DISCLAIMERS**

41. **New Instruments.** During the pendency of this Agreement, City shall not execute any instruments or documents concerning, affecting or relating to the Property without providing Purchaser with prior notice.

42. **Covenants of City and Purchaser.**

(a) Each party shall timely perform all of its respective obligations as provided hereunder.

(b) City will promptly provide written notice to Purchaser of any pending or threatened action, suit or proceeding with respect to the Property.

(c) The City, by and through its City Representative, in its capacity as owner of the Property and not in its capacity as the controlling municipal authority, will cooperate with Purchaser in its efforts to obtain any necessary changes in zoning for the Property in accordance with case # prior to Closing. At its earliest opportunity, Purchaser will file its zoning application.

43. **Disclaimers.**

(a) Purchaser will conduct inspections and investigations of the Property, including, but not limited to, the physical and environmental conditions thereof, and shall rely upon same, and upon Closing shall assume the risk of any adverse matters, including, but not limited to, adverse physical and environmental conditions, that may not have been revealed by Purchaser’s inspections and investigations. Purchaser further acknowledges and agrees that Purchaser is acquiring the Property on an “AS IS, WHERE IS” and WITH ALL FAULTS BASIS, and, WITHOUT REPRESENTATIONS, WARRANTIES OR COVENANTS, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE, EXCEPT THOSE EXPRESSLY MADE IN ARTICLE 7 HEREOF OR ELSEWHERE IN THIS AGREEMENT, OR IN THE DEED (as hereinafter defined).

(b) Without limiting the general provisions of the foregoing paragraph, it is understood and agreed that City is not making and specifically disclaims any warranties or representations of any kind or character, express or implied, as to (i) matters of title, except as contained in the Deed delivered to Purchaser at Closing, (ii) tax consequences, (iii) physical or environmental conditions, (iv) availability of access, ingress or egress, (v) valuation, (vi) governmental approvals or (vii) development Agreement.
governmental regulations or any other matter or thing relating to or affecting the Property. This disclaimer includes, without limitation, the value, condition, merchantability, marketability, profitability, suitability or fitness for a particular use or purpose of the Property. Purchaser further expressly acknowledges and agrees that City is not representing or warranting that anything can or will be accomplished through Purchaser’s or City’s efforts with regard to the planning, platting or zoning process, or any other governmental or municipal authorities, boards or entities. Purchaser further acknowledges that City has not warranted, and does not hereby warrant, that the Property now or in the future will meet or comply with the requirements of any safety code, environmental law or regulation of the state, city, county or any other authority having jurisdiction over the Property.

**ARTICLE 5  CLOSING**

5.1 **Closing Schedule.** The closing of the purchase and sale of the Property (the closing of the Property pursuant to the terms hereof shall hereinafter be referred to as the “Closing”) shall be held on or before the Closing Date at the offices of the Title Company, or such other location as mutually agreeable to the parties.

5.2 **City’s Deliveries in Escrow.** On the Closing Date, City shall deliver in escrow to the Title Company the following:

(a) **Deed.** A special warranty deed, in substantially the same form as shown on Exhibit B, attached hereto, executed and acknowledged by City, conveying to Purchaser good and indefeasible title to the Property according to the legal description shown on the Survey, subject only to the Permitted Exceptions (the “Deed”).

(b) **Additional Documents.** Any additional documents that the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

5.3 **Purchaser’s Deliveries in Escrow.** On the Closing Date, Purchaser shall deliver in escrow to the Title Company the following:

(a) **Purchase Price.** The Purchase Price, less the Earnest Money and any other credits or reductions as provided herein, in immediate, same-day federal funds wired for credit into the Title Company’s escrow account.

(b) **Memorandum of Lease.** An memorandum of lease executed by Purchaser, as landlord, and by Starbucks Corporation, as tenant, which memorandum shall evidence the existence of a lease for the Property, the size of the building to be constructed, the term of the lease (which term shall not be fewer than five (5) years), including any renewal options, and tenant’s permitted use under the lease.

(c) **Guarantee.** Purchaser shall execute and obtain a Performance Bond, with the City of Irving as the beneficiary of such Performance Bond, in substantially the same form (subject to approval by the City of Irving) as shown on Exhibit C, in the full amount of the Purchase Price, guaranteeing that the Purchaser will take all actions reasonably necessary, including any actions required by Development Agreement.
City Regulations, to construct and occupy a minimum 2100 square foot Starbucks coffee store on the Property on or before the Date of Occupancy.

(d) **Building Permit.** Purchaser will take all actions required by City Regulations (including, obtaining proper zoning and approval of required site plans and replats) to obtain a Building Permit approved and issued by the City of Irving for the construction of a minimum 2100 square foot Starbucks coffee store ("building") on the Property, including all required site improvements. Notwithstanding any State preemption, Purchaser agrees to comply with all applicable City Regulations with respect to building materials and architectural design requirements outlined in the City Zoning Ordinance, Ordinance 2016-9883, HCD Heritage Crossing District Zoning, as amended Exhibit D.

(e) **Additional Documents.** Any additional documents that City or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

5.4 **Closing Statements/Closing Costs.** On the Closing Date, City and Purchaser shall deposit with the Title Company executed closing statements consistent with this Agreement in the form required by the Title Company. The Title Company’s escrow fees shall be paid by Purchaser. Purchaser shall pay the fee for recording the Deed, Deed of Trust and all costs associated with Purchaser’s financing, if any.

5.5 **Possession.** The City shall deliver to Purchaser exclusive and vacant possession of the Property at the Closing, subject only to the Permitted Exceptions.

5.6 **Close of Escrow.** Upon satisfaction or completion of the foregoing conditions and deliveries, the parties shall direct the Title Company (a) to immediately record and deliver the documents described above to the appropriate parties and (b) make disbursements according to the closing statements executed by City and Purchaser.

**ARTICLE 6 TAXES**

No real estate taxes are currently payable with respect to the Property. The parties anticipate that real estate taxes shall become due and payable with respect to the Property from and after the Closing Date. Any taxes payable with respect to the Property, shall be the sole responsibility of the Purchaser.

**ARTICLE 7 REPRESENTATIONS AND WARRANTIES**

7.1 **City’s Representations and Warranties.** As a material inducement to Purchaser to execute this Agreement and consummate this transaction, City represents and warrants to Purchaser, as of the Effective Date and the Closing Date, that:

(a) **Organization and Authority.** City has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the sale. This Agreement and all of the documents to be delivered by City at the Development Agreement
Closing have been and will be authorized and properly executed and will constitute the valid and binding obligations of City, enforceable in accordance with their terms.

(b) **Conflicts and Pending Actions or Proceedings.** There is no agreement binding on City to sell all or any portion of the Property to any party other than Purchaser or which will prohibit or delay the development of the Property. There is no action or proceeding pending, or to City's knowledge, threatened or contemplated against City or any portion of the Property, including, without limitation, any assessments or impositions, or condemnation, or which challenges or impairs City's ability to execute or perform its obligations under this Agreement.

(c) **Agreement to Sell.** There is no outstanding option or right of first refusal in favor of any third party to buy the Property.

(d) **Default.** Performance of this Agreement will not result in any breach of, or constitute a default under, any agreement or instrument to which City is a party or by which City or the Property might be bound.

(e) **Compliance with Laws and Codes.** City has not received any written notice advising or alleging that the Property, and/or the use and operation thereof, are in violation of any applicable municipal or other governmental laws, ordinances, rules, regulations, codes, licenses, permits and authorizations, nor does City have any such notices in its possession related to the Property.

7.2 **Purchaser's Representations and WARRANTIES.** As a material inducement to City to execute this Agreement and consummate this transaction, Purchaser represents and warrants to City that:

(a) **Organization and Authority.** Purchaser has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement and consummate the purchase of the Property. This Agreement and all of the documents to be delivered by Purchaser at the Closing has been authorized and has been or will be properly executed and has or will constitute the valid and binding obligations of Purchaser, enforceable in accordance with their terms.

(b) **Conflicts and Pending Action.** There is no agreement to which Purchaser is a party or binding on Purchaser which is in conflict with this Agreement. There is no action or proceeding pending or to Purchaser's knowledge, threatened, against Purchaser or which challenges or impairs Purchaser's ability to execute or perform its obligations under this Agreement.

7.3 **Survival of Representations and WARRANTIES.** The representations and warranties set forth in this Section 7 are made as of the Date of this Agreement, are remade as of the Closing Date, shall survive the Closing for a period of twelve (12) months, and shall not be deemed to be merged into or waived by the instruments of Closing.

**ARTICLE 8 MISCELLANEOUS**

8.1 **Assignment.** Purchaser may assign this Agreement in whole to a Company Affiliate by providing City with written notice of the assignment and all related assignment documents within two (2) days. Purchaser may not assign this Agreement to an entity that is not a Company Affiliate.
without prior written consent of the Irving City Council. No partial assignment(s) of this Agreement are permitted. Any prohibited assignment shall be void.

8.2 Condemnation. Purchaser shall assume all risk of loss or damage to Property from the Effective Date arising from the taking or damaging of the Property or any portion thereof for a public use under eminent domain. In such case, Purchaser at Closing, shall be entitled to all funds payable to City on account of such taking or damaging, and all claims and causes of action for such taking or damaging.

8.3 Headings. The article and paragraph headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

8.4 Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed a waiver of such party’s right to enforce against the other party the same or any other such term or provision.

8.5 Governing Law. This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws of the State of Texas and is performable in Dallas County, Texas.

8.6 Survival. The provisions of this Agreement that contemplate performance after the Closing or termination of this Agreement shall survive the Closing or termination of this Agreement and shall not be deemed to be merged into or waived by the instruments of the Closing.

8.7 No Third-Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

8.8 Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the parties hereto. The parties agree that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.

8.9 Time. Time is of the essence in the performance of this Agreement.

8.10 Attorneys’ Fees. Should either party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including attorneys’ fees, expended or incurred in connection therewith.
8.11 Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following address:

If to City:

Philip Sanders, Assistant City Manager
825 W. Irving Blvd.
Irving, Texas 75060
Email: pssanders@cityofirving.org

With a copy to:

City Attorney’s Office
825 W. Irving Blvd.
Irving, Texas 75060
email:cao@cityofirving.org

If to Purchaser:

Vaquero Ventures Management, LLC
Attn: Emily Crockett
2900 Wingate Street, Suite 200
Fort Worth, TX 76107
Email: ecrockett@vaqueroventures.com

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered upon deposit, postage prepaid, in the United States Mail, (b) sent by overnight delivery using a nationally recognized overnight courier, in which case it shall be deemed delivered upon deposit with such courier, (c) sent by email, in which case notice shall be deemed delivered upon transmission of such notice, or (d) sent by personal delivery, in which case it shall be deemed received upon receipt at the address of the addressee or actual receipt by the addressee. The above addresses may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

8.12 Construction. The parties acknowledge that the parties and their legal counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

8.13 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. The last day of any period of time described herein shall be deemed to end at 6 p.m. Dallas, Texas time. The term “day” shall mean any calendar day.

Development Agreement
8.14 **Relationship of the Parties.** Nothing contained herein is intended to create, nor shall it ever be construed to make, City and Purchaser partners or joint venturers.

8.15 **Brokerage Commission.** There are no fees or real estate commissions payable by City on in relation to the Property. Any real estate commissions earned by parties representing the Purchaser shall be paid solely by Purchaser.

8.16 **Counterpart Signatures.** This Agreement, notices and amendments, may be executed in two or more counterparts, each of which shall be deemed an original, and all such counterparts shall be deemed to constitute one and the same instrument.

*Signature pages follow*
IN WITNESS WHEREOF,
EXECUTED on this ___ day of ____, 2020.

CITY OF IRVING, TEXAS:

__________________________
Richard H. Stopfer, Mayor

ATTEST:

__________________________
Shanae Jennings, City Secretary

APPROVED AS TO FORM:

__________________________
Kuruvilla Oommen, City Attorney
PURCHASER:

Vaquero Ventures Management, LLC

By: ____________________________
Name: U.A. Landrum
Title: Manager
Date: 6-18-20

THE STATE OF TEXAS §
COUNTY OF TARRANT §

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared ____________________________, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same as Manager of Vaquero Ventures Management, LLC, a Texas limited liability company, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the __________ day of __________, 2020.

______________________________
Notary Public In and For The State of Texas

My Commission Expires:

KYLE BARRETT
Notary Public, State of Texas
Comm. Expires 06-17-2022
Notary ID 129854451

Development Agreement
ACKNOWLEDGEMENT

The undersigned Title Company hereby acknowledges its receipt of an executed copy of this Agreement and, further, agrees to comply with and be bound by the terms and provisions of this Agreement, including, without limitation, those terms relating to disposition of the Earnest Money and compliance with Section 6045(e) of the Internal Revenue Code of 1986, as amended from time to time, and as further set forth in any Regulations or forms promulgated thereunder.

TITLE COMPANY:

Republic Title Company of Texas, Inc.

By:__________________________
Name:_________________________
Its:___________________________
Date:_________________________ 20__
EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

(insert Replat of Original Town of Irving, Lot 1R, Block 1)
EXHIBIT B

SPECIAL WARRANTY DEED FORM

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

THE STATE OF TEXAS §
COUNTY OF DALLAS §

KNOW ALL BY THESE PRESENTS:

That the City of Irving, a municipal corporation of the County of Dallas, State of Texas, ("GRANTOR"), for and in consideration of the sum of ONE HUNDRED NINETY THREE HUNDRED NINETY and NO/100 ($193,983.00), and by these presents does GRANT, SELL and CONVEY subject to the terms, conditions, reservations, restrictions and exceptions hereinafter made unto Vaquero Ventures Management, LLC, a Texas limited liability company ("GRANTEE"), all of the property as described in Exhibit A, which is attached hereto and made a part hereof for all purposes ("Property").

This deed is subject to: (i) any and all visible and apparent easements; (ii) and encroachments, whether recorded or not; (iii) any and all covenants, conditions, reservations, restrictions, exceptions, easements, rights-of-way, or other instruments of record applicable to the Property or any part thereof; (iv) compliance with all applicable City of Irving Regulations with respect to building materials and architectural design requirements outlined in the City Zoning Ordinance, Ordinance 2016-9883, HCD Heritage Crossing District Zoning, and as amended; and (v) standby fees, taxes and assessments by any taxing authority for the year 2019 and subsequent years and subsequent taxes and assessments by any taxing authority for prior years due to changes in land usage or ownership, the payment of which GRANTEE hereby assumes.

GRANTOR does further save and except from this deed and the conveyance herein made and does reserve to GRANTOR and its successors and assigns forever all oil, gas and other minerals in and under and that may be produced from the Property. If the mineral estate is subject to existing production or an existing lease, this reservation includes production, the lease and all benefits from it. GRANTOR waives the right of ingress and egress to and from the surface of the property relating to the portion of the mineral estate owned by GRANTOR. Nothing herein, however, restricts or prohibits the pooling or unitization of the portion of the mineral estate owned by GRANTOR with land other than the Property; or the exploration or production of the oil, gas, and other minerals by means of wells that are drilled or mines that open on land other than the Property but enter or bottom under the Property, provided that these operation in no manner interfere with
the surface or subsurface support of any improvements constructed or to be constructed on the Property.

As a material part of the consideration for this deed, GRANTOR and GRANTEE agree that, to the maximum extent allowed by law, (a) GRANTEE is taking the Property “AS IS, WHERE IS, WITH ALL FAULTS”, (b) GRANTOR disclaims responsibility as to the accuracy or completeness of any information relating to the Property, (c) GRANTEE assumes all responsibility to examine all applicable building codes and zoning ordinances to determine if the Property can be used for the purposes desired and to check for outstanding or pending code enforcement actions including but not limited to repair or demolition orders, and (d) GRANTOR expressly disclaims and GRANTEE expressly waives, any warranty or representation, express or implied, including without limitation any warranty of condition, habitability, merchantability or fitness for a particular purpose of the Property. Without limiting the foregoing, GRANTOR makes no representations of any nature regarding the Property and specifically disclaims any warranty, guaranty or representation, oral or written, express or implied, past, present, or future, concerning: (i) the nature and condition of the Property, including without limitation, the water, soil and geology, and the suitability thereof and the Property for any and all activities and uses which GRANTEE may elect to conduct thereon, and the existence of any environmental substances, hazards or conditions or presence of any endangered or protected species thereon or compliance with all applicable laws, rules or regulations; (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; (iii) the compliance of the Property or its operation with any law, ordinance or regulation of any federal, state, or local governmental authority; and (iv) whether or not the Property can be developed or utilized for any purpose. For purposes hereof, “environmental substances” means the following: (a) any “hazardous substance” under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. Section 9601 et. seq., as amended, (b) any “hazardous substance” under the Texas Hazardous Substances Spill Prevention and Control Act, Tex. Water Code, Section 26.261, et. seq., as amended, (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubrication oils, (d) any “hazardous chemicals” or “toxic chemicals” under the Occupational Safety and Health Act, 29 U.S.C.A. Section 651 et. seq., as amended, (e) any “hazardous waste” under the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901 et. seq., as amended, (f) asbestos, (g) polychlorinated biphenyls, (h) underground storage tanks, whether empty, filled, or partially filled with any substance, (i) any substance, the presence of which is prohibited by federal, state or local laws and regulations, and (j) any other substance which by federal, state or local laws and regulations requires special handling or notification of governmental authorities in its collection, storage, treatment or disposal. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

TO HAVE AND TO HOLD the above described Property together with all and singular the rights and appurtenances thereto belonging to GRANTEE, its successors and assigns forever, and GRANTOR binds GRANTOR and GRANTOR’s heirs, executors, administrators, successors and
assigns to warrant and forever defend all and singular the Property to GRANTEE and GRANTEE's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, when the claim is by, through, or under GRANTOR, but not otherwise, except as to the reservations from conveyance and the exceptions to conveyance and warranty.

EXECUTED this____day of__________________________, 2020.

GRANTOR:

ATTEST:

CITY OF IRVING, TEXAS

______________________________
City Secretary

______________________________
Richard H. Stopfer, Mayor

APPROVED AS TO FORM:

______________________________
Kuruvilla Oommen, City Attorney

Development Agreement

Exhibit B - 3
ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF DALLAS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Richard H. Stopfer, Mayor of the City of Irving, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said City of Irving, Texas, a municipal corporation, that he was duly authorized to perform the same by appropriate resolution of the City Council of the City of Irving and that he executed the same as the act of the said City for purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the______day of___________, A.D. 20__

Notary Public In and For Dallas County, Texas
Printed Name: ____________________________
My Commission Expires: ____________________

ACKNOWLEDGED AND AGREED TO:
GRANTEE:
Vaquero Ventures Management, LLC

By: _________________________________
Printed Name: ____________________
Title: ________________________________
ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on

__________________________, by__________________________,

__________________________of Vaquero Ventures Management, LLC a Texas limited liability company, on behalf of said company.

Notary Public in and for the State of Texas
Printed Name: __________________________
My Commission Expires: __________________________
EXHIBIT A
LEGAL DESCRIPTION

(insert Replat of Original Town of Irving, Lot 1R, Block 1)
Exhibit C
Form of Purchaser Guarantee

PERFORMANCE BOND

BOND NO.

STATE OF TEXAS §

COUNTY OF DALLAS §

KNOW ALL BY THESE PRESENTS:

THAT Vaquero Ventures Management, LLC of Fort Worth, Tarrant County, State of Texas, as PRINCIPAL and

(Name of Surety) as SURETY, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto City of Irving (OWNER), in the penal sum of ONE HUNDRED NINETY THOUSAND, THREE HUNDRED NINETY and no/100 Dollars ($199,390.00) for the payment whereof, the said PRINCIPAL and SURETY bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents:

WHEREAS, the PRINCIPAL has entered into a certain written contract with the OWNER, for purchase and development of 313 W. Irving Blvd., Irving Texas, dated _______, 2020, which contract is hereby referred to and made part hereof as fully and to the same extent as if copied at length herein.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said PRINCIPAL shall faithfully perform the said contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said contract agreed and covenanted by the PRINCIPAL to be observed and performed, and according to the true intent and meaning of said contract, then this obligation shall be void; otherwise to remain in full force and effect:

SURETY, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the obligations performed thereunder, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the obligations to be performed thereunder.

IN WITNESS WHEREOF, the said PRINCIPAL and SURETY have signed and sealed this instrument this________day of______________________, 20__________.
PRINCIPAL:

Vaquero Ventures Management, LLC

By: ___________________________
Name: ___________________________
Title: ___________________________

2900 Wingate Street, Ste. 200
Fort Worth, Texas 76107

SURETY:

Name of Surety

By: ___________________________
Name: ___________________________
Title: ___________________________

Address
City, State, Zip

The name, address and phone number of the Resident Agent of Surety is:
Exhibit D
Ordinance 2016-9883
AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 1144 OF THE CITY OF IRVING, TEXAS, BY REPEALING SECTION 52-32h IN ITS ENTIRETY AND REPLACING THE EXISTING LANGUAGE OF SECTION 52-32f IN ITS ENTIRETY WITH NEW LANGUAGE IN ORDER TO CREATE THE HERITAGE CROSSING DISTRICT, WHICH WILL BE COMPOSED OF A TRANSIT MIXED-USE CHARACTER ZONE, A CORRIDOR MIXED-USE CHARACTER ZONE, AND A NEIGHBORHOOD MIXED-USE CHARACTER ZONE; GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: PROPERTY ROUGHLY BORDERED ON THE NORTH BY WEST PIONEER DRIVE, ON THE WEST BY NORTH MACARTHUR BOULEVARD AND SOUTH MACARTHUR BOULEVARD, ON THE SOUTH BY WEST SHADY GROVE ROAD, AND ON THE EAST BY NORTH BRITAIN ROAD AND SOUTH BRITAIN ROAD, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM R-6 SINGLE FAMILY DISTRICT USE, R-3.5 TWO-FAMILY DISTRICT USE, R-MF-2 MULTIFAMILY DISTRICT USE, P-O PROFESSIONAL OFFICE DISTRICT USE, C-O COMMERCIAL OFFICE DISTRICT USE, C-N NEIGHBORHOOD COMMERCIAL DISTRICT USE, C-C COMMUNITY COMMERCIAL DISTRICT USE, ML-20 LIGHT INDUSTRIAL DISTRICT USE, C-OUS-2 COMMERCIAL OUTDOOR 2 DISTRICT USE DDD DOWNTOWN DEVELOPMENT DISTRICT USE, AND THE HERITAGE CROSSING REDEVELOPMENT DISTRICT UNDER ORDINANCE NO. 1144, AS AMENDED TO HCD HERITAGE CROSSING DISTRICT USE UNDER ORDINANCE NO. 1144; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE DEMAND A ZONING CHANGE AND AMENDMENT HEREIN MADE; PROVIDING THAT THIS ORDINANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDINANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied; safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighbor- bhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and
WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council of the City of Irving, Texas, did consider the following factors in making a determination as to whether this requested change should be granted or denied; effect on the congestion of the streets; the fire hazards, panics, floods, and other dangers possibly present in the securing of safety from same; the effect on the promotion of health and the general welfare; effect on adequate light and air; the effect on the overcrowding of the land; the effect on the concentration on population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, has determined that there is a necessity and need for this change in zoning and has also found and determined that there has been a change in the conditions of the property surrounding and in close proximity to the property requested for a change since this property was originally classified and therefore feels that a change in zoning classification for the particular piece of property is needed, is called for, and is in the best interest of the public at large, the citizens of the City of Irving, and helps promote the general health, safety and welfare of this community;

WHEREAS, the Irving Planning and Zoning Commission and the Irving City Council, in accordance with the provisions of the Charter of the City of Irving, state law, and applicable city ordinances, have given the required notices and have held the required public hearings regarding these amendments to Comprehensive Zoning Ordinance No. 1144 of the City of Irving;

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

SECTION 1. That Comprehensive Zoning Ordinance No. 1144 of the City of Irving, Texas, is hereby amended by repealing Section 52-32h in its entirety.

SECTION 2. That Comprehensive Zoning Ordinance No. 1144 of the City of Irving, Texas, is hereby amended by deleting the existing language of Section 52-32f in its entirety and replacing it with the following:
52-32f. HCD Heritage Crossing District

(a) **Introduction.** This section provides the regulatory tools for new development and redevelopment consistent with the community vision for the Heritage Crossing area more particularly described in Exhibit A which is attached hereto and incorporated by reference (the “Plan Area”).

(1) **Purpose and Intent.** The purpose of the Heritage Crossing District is to implement the vision previously outlined in the adopted Downtown Development and Heritage Crossing Redevelopment districts. It facilitates pedestrian oriented, mixed-use, urban infill redevelopment, providing shopping, employment, housing, and business and personal services. The Heritage Crossing District supports economic development, a sustainable tax base, and job creation/retention by:

a. Providing a streamlined and simplified city approval process;
b. Establishing adjacency predictability in the built environment;
c. Offering flexibility to changing market conditions;
d. Reducing risk to private investment/development;
e. Synchronizing private investment/development with public capital investment policies; and
f. Calibrating zoning regulations with a vision for redevelopment within the Heritage Crossing District.

(2) **Goals.** The goals of the Heritage Crossing District are to

a. Promote a more functional and attractive community through the use of recognized urban design principles; and
b. Allow property owners flexibility in land use, while prescribing a higher level of detail in building design and form.

(3) **Relationship the Irving Comprehensive Plan.** The Heritage Crossing District seeks to implement the recommendations of the 2016 Irving Comprehensive Plan relative to Heritage Crossing, including: “Continue to enhance Irving’s existing signature centers including: Heritage District.” The Heritage Crossing District specifically implements the following recommendations:

a. Make downtown more visible to visitors and residents through entranceways, wayfinding signage and public art;
b. Capitalize on the location of the TRE station;
c. Create pedestrian connections throughout the Heritage District;
d. Ensure development throughout the Heritage District is compatible with existing design and supports the neighborhood as a whole;
e. Design retail space as a focal point of activity, offering interesting shops, quality restaurants, and essential services in attractive buildings and settings;
f. Ensure new office developments fit into the style and character already established by the community and neighborhood; and
g. Develop well-designed multifamily projects and outdoor spaces that contribute to a visually pleasing environment that supports Irving’s local character and promotes social interaction and pride among its residents.

(b) Components of this Section (f).

(1) The Regulating Plan. The Heritage Crossing District regulating plan ("Regulating Plan") (Attachment 1) is hereby adopted as the official zoning map for the Plan Area. Within any area subject to the approved Regulating Plan, this Heritage Crossing District becomes the exclusive and mandatory regulation unless modified by SF-1, SP-2 or any other more specific plan. It shall establish the following development standards for all properties within the Plan Area:

a. Establishment of Character Zones. The Plan Area is divided into different “character zones”. Each character zone is intended to create a distinct urban form based on the illustrative vision for different sections within the Plan Area. Each character zone shall establish use and building form standards including standards for building height, width, location, functional design, and parking. The Regulating Plan classifies all lots within the Plan Area into one of the following three (3) character zones:

1. Transit Mixed-Use (TMU) – The Transit Mixed-Use Zone creates opportunities for local small scale, in-line retail and restaurant, and medium-scale urban residential (apartments, townhouses, multi-unit homes, live-work) development. This zone takes advantage of the proximity to the Trinity Railway Express by creating shared parking opportunities and focusing on urban residential, without mandating ground floor retail.

2. Corridor Mixed-Use (CMU) – The Corridor Mixed-Use Zone creates a vibrant, mixed-use area that leverages Irving Boulevard/Second Street as “context sensitive streets” supporting multimodal traffic, linking other regional destinations, and promoting economic development. The Corridor Mixed-Use area will serve as the primary neighborhood for commercial activity in the local community.

3. Neighborhood Mixed-Use (NMU) – The Neighborhood Mixed-Use Zone is intended to provide for a range of small scale residential uses (single family, low-density apartments, live-work, townhomes, multi-unit homes, etc.) in low intensity development at key locations. It also provides for a mix of home occupation, low-impact office and neighborhood services within the zone.

b. Building Frontage Standards. Buildings along Main Street, Irving Boulevard, and 2nd Street within the Corridor Mixed-Use Zone and west of Britain Street shall be designed to balance pedestrian-oriented building design standards while accommodating service, utility, and parking functions. Specific development applications apply within the Corridor Mixed-Use Zone requirements.

(2) Development Standards. The Heritage Crossing District text portion of this section (f) enumerates the development standards with text and graphics for character zones, frontage, building form, landscape and building design.

(c) Administration.

(1) Applicability.
a. The uses and buildings on all properties within the Heritage Crossing District shall conform exclusively to this section (f) unless otherwise specifically referenced herein.

b. Where in conflict, numerical metrics shall take precedence over graphic metrics.


a. Administrative Modifications to the Heritage Crossing District. The director or the director’s designee may approve administrative modifications to standards in this section (f) per the criteria set in Table 1 below. A site plan shall be required for administrative review of proposed modifications.

<table>
<thead>
<tr>
<th>Code Standard</th>
<th>Extent of Administrative Modification Permitted</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Building Form and Development Standards</td>
<td></td>
<td>Changes to the build-to-zones and setbacks may only occur when they are caused by one or more of the following:</td>
</tr>
<tr>
<td>1. Build to zones/setbacks</td>
<td>No more than a 20% change in the maximum or minimum setback applicable or 5 feet whichever is greater.</td>
<td>i. Need to accommodate existing buildings and structures on the lot that meet the overall intent and vision for redevelopment in the Plan Area; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ii. Need to accommodate other required modes of transportation (transit, bike, pedestrian), storm water drainage, water quality, or low impact development (LID) elements on the site; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>iii. Need to accommodate overhead or underground utilities and/or easements; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>iv. Need to preserve existing heritage trees on the property, per Article (h) 1 of this Section. This modification is not mandatory for tree preservation, but for the allowance for preservation; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>v. Need to provide public amenities along the sidewalk (outdoor dining/seating, larger sidewalk, or other similar public amenities).</td>
</tr>
<tr>
<td>2. Required Parking Spaces</td>
<td>Reduction in the number of required parking spaces</td>
<td>Reduction in the number of parking spaces shall be based on one or more of the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>i. A shared parking plan for parking within 300 feet of the subject property; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ii. A parking study for the uses proposed on the site; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>iii. A combination of the above.</td>
</tr>
</tbody>
</table>
Table 1: Administrative Modifications Table

<table>
<thead>
<tr>
<th>Code Standard</th>
<th>Extent of Administrative Modification Permitted</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Other</td>
<td></td>
<td>i. A modification of a numerical standard is needed to accommodate existing conditions.</td>
</tr>
<tr>
<td>1. Any other numerical standard in this section</td>
<td>A modification up to 10% (increase or decrease)</td>
<td>ii. The proposed development still meets the intent of the section.</td>
</tr>
<tr>
<td>2. Phased Developments</td>
<td>Deferment of building frontage standards</td>
<td>i. Phased developments may defer building frontage requirements as long as they meet the build-to-zone and parking setback requirements.</td>
</tr>
</tbody>
</table>

(3) **Nonconforming Uses.** Nonconforming uses shall meet the standards in Sec. 52-47, Nonconforming Uses, of the Irving Land Development Code, as amended.

(4) **Nonconforming Structures and Sites.** For the purposes of this section, a “nonconforming structure or site” means a structure or site that does not meet the current standards addressed in this section. A nonconforming structure or site may be altered or enlarged, provided that such alteration or enlargement neither creates any new nonconformity nor increases the degree of the existing nonconformity of all or any part of such structure or site. Attachment 2 provides examples of acceptable additions to nonconforming structures in the Heritage Crossing District.

(d) **Definitions.** Many terms used in this section are defined in Section 52-75 and Section 35-1 of the Irving Land Development Code, as amended. Definitions are only included in this section if not defined in the Irving Land Development Code, or if the definition for this section differs from the Irving Land Development Code. In case of a conflict between the definitions under this section and Section 52-75 and Section 35-1 of the Irving Land Development Code, the definitions in this section shall supersede.

(1) “Administrative Modification” shall mean a requested modification to Heritage Crossing District standards that complies with the administrative modifications provisions of Section (c) (2) - Administration. The director shall have the authority to administratively approve a request for an administrative modification in conformance with subsection (c).
(2) "Arcade" shall mean a portion of the main façade of the building that is at or near the property line and a colonnade supports the upper floors of the building. Arcades are intended for buildings with ground floor commercial or retail uses and the arcade may be one or two stories. The ground floor area within the arcade may be conditioned or non-conditioned space. Any habitable arcade space within the public right-of-way shall require legal permission from the City prior to construction.

(3) "Bed and Breakfast" shall mean a dwelling occupied as a permanent residence by an owner or renter which serves breakfast and provides or offers sleeping accommodations in not more than eight (8) rooms for transient guests for compensation.

(4) "Build-to Zone" (or "BTZ") shall mean the area between the minimum and maximum front setbacks from the property line. The principal building façade line shall be located within this area.

(5) "Building Form and Site Development Standards" shall mean the standards established for each character zone including but not limited to building placement, building height, parking, service access, and other functional design standards.
(6) "Building Façade Line" shall mean the location of the vertical plane of a building nearest a street frontage.

Section View – Gallery Building

Section View – Arcade Building

Plan View

Building Façade Line Illustrations

(7) "Building Frontage" shall mean the percentage of a building’s façade line that is required to be located within the Build-To Zone as a proportion of the lot’s width along the fronting public street. Required driveways, stairs to access entrances, parks, plazas, squares, improved forecourts, and pedestrian breezeway frontages shall count towards the required building frontage.
"Building Step-Back" shall mean the setting back of the building façade line away from the street at a specific floor or height.

Illustration of a building step-back
(9) "Character Zone" shall mean an area within the Heritage Crossing District that is intended to preserve and/or create an urban form that is distinct from other areas within the plan area. Character zones are identified in the regulating plan.

(10) "Commercial Use or Mixed Use Building" shall mean a building in which at least the ground floor of the building is built to commercial-ready standards and any of the floors are occupied by non-residential or residential uses.

(11) "Commercial Ready" shall mean a ground floor space constructed with appropriate building orientation, entrance and window treatment and floor-to-ceiling height in order to accommodate ground floor retail/commercial uses (including but not limited to commercial, retail, restaurant, entertainment, and lobbies for civic, hotel, or multi-family uses). Standards for commercial-ready frontage are in subsection (g)(3) of this section. Prior to the issuance of a certificate of occupancy for a retail/commercial use in a commercial-ready space, the space must comply with all building and construction codes for commercial uses. The intent of Commercial-Ready space is to provide the flexibility of occupying a space in accordance with market demand and allowing the use in such space to change to retail/commercial uses accordingly.

(12) "Complete Street" shall mean a street that not only accommodates various modes of transportation such as automobiles, transit, bikes, and pedestrians, but also establishes a design context that is conducive for redevelopment along the street.

(13) "Director" shall be the Planning and Community Development Director or the Director’s designee.

(14) "Encroachments" shall mean any structural or non-structural element such as a sign, awning, canopy, terrace, or balcony that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the public right-of-way, or above a height limit.

(15) "Façade Area" shall mean the surface area of a building's elevation (including all floors) not counting minor indentations fronting a particular street. Ground floor façade area is the surface area of a building’s ground floor elevation not counting minor indentations fronting a particular street. Upper floor façade area is the surface area of a building's upper floor elevations not counting minor indentations fronting a particular street.

(16) "Gallery" shall mean a roofed promenade or canopy, especially one extending along the wall of a building and supported by arches or columns on the outer side. The gallery space is unenclosed (non-conditioned) space and may be 2 or more stories tall. Any habitable gallery space within the public right-of-way shall require legal permission from the City prior to construction.

Images of Galleries
(17) "Heritage Crossing District" shall mean the zoning designation intended to implement the vision outlined in the previous Downtown Development and Heritage Crossing Redevelopment districts. It facilitates pedestrian oriented, mixed-use, urban infill redevelopment, providing shopping, employment, housing, and business and personal services.

(18) "Heritage Crossing Regulating Plan" shall mean the Regulating Plan shall be reflected on the official zoning map of the City and in Attachment 1 of this section. The Regulating Plan graphically depicts development standards including character zones, street designations, and special requirement(s) applicable to properties within the Heritage Crossing District.

(19) "Heritage Tree" shall mean any Post Oak tree(s), Blackjack Oak tree(s), or any tree(s) that is 24"-caliper or greater.

(20) "Live-work Unit" shall mean a dwelling unit that is also used for work purposes, provided that the "work" component is restricted to the uses of professional office, artist's workshop, studio, or other similar uses and is located on the street level. The "live" component may be located on the street level (behind the work component) or any other level of the building. Live-work Unit is distinguished from a home occupation otherwise defined by the Irving Land Development Code, as amended, in that the work use is not required to be incidental to the dwelling unit, non-resident employees may be present on the premises, and customers may be served on site.

(21) "Multi-unit Home" shall mean a multi-unit residential building (2 to 4 units) that is designed to appear as a large single-family home from the exterior, but functions as a multi-unit building on the interior. Multi-unit homes have one main front door for the building, but may also have side and rear entries. Parking (as defined in this section) is accessed from an alley or a driveway leading to the rear of the lot. Parking may not face a public right-of-way.

Images of multi-unit homes

(22) "Numerical Standard" shall mean any standard that has a numerical limit (minimums and maximums) or value as established within both the text and graphic standards of the Heritage Crossing District.
(23) “Parking Setback Line” shall mean the distance that any surface parking lot is to be set back from either the principal building façade line or property line along any street frontage (depending on the specific standard in the character zone). Surface parking may be located anywhere behind the parking setback line on the property.

![Illustration of a parking setback line](image_url)

(24) “Primary Entrance” shall mean the main entrance located along the front of a building facing a street or sidewalk that provides access from the public sidewalk to the building. It is different from a secondary entrance which may be located at the side or rear of a building providing private-controlled access into the building from a sidewalk, parking or service area.

(25) “Public Space” shall mean publicly-accessible open space in the form of parks, courtyards, forecourts, plazas, greens, playgrounds, squares, etc.

(26) “Residential Use Building” shall mean a building that is built to accommodate only residential uses on all floors of the building such as a detached single-family home, attached single-family home (i.e. townhome), two- or three-family home (i.e. duplex, triplex), multiple family (4 or more), apartment building (under single ownership or under multiple owners within a condominium regime).

(27) “Service-related Uses” shall mean parking access, garbage/trash collection, utility meters and equipment, loading/unloading areas, and similar uses which support the principal use on a lot.

(28) “Street Screen” shall mean a freestanding wall, living fence, or combination fence built along the frontage line or in line with the building façade along the street. It may mask a parking lot or a loading/service area from view or provide privacy to a side yard and/or strengthen the spatial definition of the public realm.
(e) Schedule of Permitted Uses.

(1) Applicability. Due to the emphasis on urban form over land uses in the Heritage Crossing District, general use categories have been identified by character zone (Table 2).

<table>
<thead>
<tr>
<th>Character Zones</th>
<th>Transit Mixed-Use (TMU)</th>
<th>Corridor Mixed-Use (CMU)</th>
<th>Neighborhood Mixed-Use (NMU)</th>
<th>Additional Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uses</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P</td>
<td>Ground Floors along Main Street and Irving Boulevard shall be built to Commercial Ready Standards.</td>
</tr>
<tr>
<td>Residential Uses</td>
<td></td>
<td></td>
<td></td>
<td>Family Residential (greater than 8 units)</td>
</tr>
<tr>
<td>1. Duplex</td>
<td></td>
<td></td>
<td>P/AC</td>
<td>i. Building shall be designed to appear as one home with one front door.</td>
</tr>
<tr>
<td>2. Multi-Family Residential (2 to 4 units)</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P/AC</td>
<td>ii. Additional doors may be used on the side and rear to meet required access.</td>
</tr>
<tr>
<td>3. Multi-Unit Home (2 to 4 units)</td>
<td>--</td>
<td>P/AC</td>
<td>P/AC</td>
<td>iii. Parking shall be located in the rear of the lot and shall be accessed from an alley or by a driveway leading to the rear.</td>
</tr>
<tr>
<td>4. Multi-Unit Residential (5 to 8 units)</td>
<td>P/AC</td>
<td>P/AC</td>
<td>--</td>
<td>Allowed adjacent to 6th Street or South of 6th Street and South of 2nd Street.</td>
</tr>
<tr>
<td>5. Single Family Residential(Detached)</td>
<td>--</td>
<td>P/AC</td>
<td>P</td>
<td>Used for transition from existing single-family detached areas.</td>
</tr>
<tr>
<td>6. Townhouse</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P/AC</td>
<td></td>
</tr>
</tbody>
</table>

| Commercial Uses                  | P/AC                    | P/AC                      | P/AC                        | New surface parking lots shall be permitted as an interim use of property if they are the primary use of property and part of a phased development. |
| 1. Admin and Business Offices     | P                       | P                         | P/AC                        |                       |
| 2. Art Gallery                   | P                       | P                         | P                           |                       |
| 3. Art Workshop                  | P                       | P                         | P                           |                       |
| 4. Bed & Breakfast               | --                      | P                         | P                           |                       |
| 5. Business or Trade School      | P/AC                    | P/AC                      | P                           |                       |
| 6. Commercial Off-Street Parking | P/AC                    | P/AC                      | P/AC                        |                       |
| 7. Construction Sales and Services | --                      | P                         | --                          |                       |
| 8. Financial Services/Depository | P                       | P                         | --                          |                       |
| 9. Food Preparation/Catering     | P/AC                    | P/AC                      | P/AC                        |                       |
| 10. Funeral Services             | P/AC                    | P/AC                      | P/AC                        |                       |

i. Pick-up and drop-off lanes, storage of vehicles, service areas, and drive through facilities shall NOT have direct frontage along Main Street, Irving Boulevard or 2nd Street.

ii. All such areas along other streets shall be screened with a required street screen (see subsection (h) 2 of this Section for standards).
### Table 2. Heritage Crossing District Land Use Table

<table>
<thead>
<tr>
<th>Character Zones</th>
<th>Transit Mixed-Use (TMU)</th>
<th>Condominium Mixed-Use (CMU)</th>
<th>Neighborhood Mixed-Use (NMU)</th>
<th>Additional Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. General Retail Sales</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>12. Grocery Store</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>13. Hotel/Motel</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>15. Commercial Amusement – Outdoor</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>16. Laundromat/Dry Cleaning</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>17. Medical Offices – greater than 3,000 SF (including Wellness Clinics)</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>18. Medical Offices – 3,000 SF or less (including Wellness Clinics)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>19. Pawn Shop Services</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>20. Printing and Publishing</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>21. Professional Office</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>22. Restaurant</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>23. Vehicle Rentals</td>
<td>--</td>
<td>P/AC (east of Britain only)</td>
<td>--</td>
<td>i. Drive through lanes, service bays, and/or gas station canopies shall meet the design standards in Section (g). Building Design Standards of this code.</td>
</tr>
<tr>
<td>24. Vehicle Repair Services</td>
<td>--</td>
<td>P/AC (east of Britain only)</td>
<td>--</td>
<td>ii. Outdoor storage of vehicles or other products sold shall NOT have direct frontage along pedestrian frontages. Outdoor storage of vehicles and/or other products sold shall be screened with a required street screen along General Streets (see subsection (h) 2 of this Section for standards).</td>
</tr>
<tr>
<td>25. Vehicle Sales</td>
<td>--</td>
<td>P/AC (east of Britain only)</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>26. Vehicle Washing (of any type)</td>
<td>--</td>
<td>P/AC (east of Britain only)</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>27. Veterinary Services</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>28. Any use with a drive through window or drive up service (including banks and financial institutions; pharmacy; dry cleaning and pressing shop; funeral homes and mortuaries; retail stores; restaurant)</td>
<td>P/AC</td>
<td>P/AC</td>
<td>--</td>
<td>i. Drive through or drive-up facilities shall meet the design standards in Section (g)(4) of this code.</td>
</tr>
<tr>
<td><strong>Civic Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Assisted Living</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>2. Club or Lodge</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>3. College or University Facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>4. Communication Service Facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Character Zones</td>
<td>Transit Mixed-Use (TML)</td>
<td>Cordiller Mixed-Use (CMU)</td>
<td>Neighborhood Mixed-Use (NMU)</td>
<td>Additional Criteria</td>
</tr>
<tr>
<td>------------------------------</td>
<td>------------------------</td>
<td>--------------------------</td>
<td>------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Counseling Services</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>6. Day Care Services</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P/AC</td>
<td>Drive through, driveway, stacking, loading and parking plan subject to site plan approval.</td>
</tr>
<tr>
<td>7. Governmental Uses</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>i. Outdoor storage of fleet vehicles, service areas, utility boxes and equipment shall NOT be permitted located along Main Street, Irving Boulevard or 2nd Street.</td>
</tr>
<tr>
<td>8. Hospital Services</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td>ii. All such areas along other streets shall be screened with a required street screen (at least as high as the equipment being screened) (see subsection (g) of this Section for standards).</td>
</tr>
<tr>
<td>9. Local Utility Service</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P/AC</td>
<td></td>
</tr>
<tr>
<td>10. Maintenance &amp; Service Facilities</td>
<td>P/AC</td>
<td>P/AC (east of Britain only)</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>11. Major Utility Facilities</td>
<td>P/AC</td>
<td>P/AC (east of Britain only)</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>12. Museum, Art Gallery and Related Cultural Services</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>13. Park &amp; Recreation Services</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>14. Postal Facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>15. Private Education/Charter School</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P/AC</td>
<td>Drop off and loading study required in site plan process</td>
</tr>
<tr>
<td>16. Public Education</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P/AC</td>
<td>Drop off and loading study required in site plan process</td>
</tr>
<tr>
<td>17. Community Garden</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>18. Railroad Facilities</td>
<td>P</td>
<td>--</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>19. Religious Assembly</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>20. Telecommunication Tower</td>
<td>P/AC</td>
<td>P/AC</td>
<td>P/AC</td>
<td>Subject to Sec. 52.32d of the Irving Land Development Code and located on top of a building or architectural component only</td>
</tr>
<tr>
<td>21. Transportation Terminal</td>
<td>P</td>
<td>P</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>d. Industrial Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Manufacturing</td>
<td>P</td>
<td>P (east of Britain only)</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>2. Warehousing</td>
<td>P</td>
<td>P (east of Britain only)</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>e. Other Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Sexually-Oriented Businesses</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>2. Non-Depository Financial Institutions</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td></td>
</tr>
</tbody>
</table>
(f) **Building Form and Site Development Standards.**

(1) All parcels within the Heritage Crossing District are assigned to one of three character zones:
   a. Transit Mixed-Use (TMU)
   b. Corridor Mixed-Use (CMU)
   c. Neighborhood Mixed-Use (NMU)

(2) In addition to standards that apply to all character zones, building form and site development standards applicable to each character zone are described below in subsections (f)(10), (f)(11), and (f)(12).

(3) The images and graphics in the first subsection of each character zone standards are provided for illustrative purposes only. Refer to the standards in the following subsections for the specific building form and site development standards.

(4) The graphics used to illustrate the building form and development standards in each character zone are not intended to indicate exact conditions within each character zone. Rather, illustrations are conceptual and standards are to be applied based on the specific frontage types designated along the subject property or site. For example, a specific site may not have frontages along all streets as indicated in the illustrations and only the standards applicable to designated building frontages on the property should be used. In addition, the illustrations may depict other site elements to establish context and only the standards regulated by the specific subsection shall apply. For example, the building placement graphics may depict sidewalks for context purposes only and the graphic should only be used to establish standards for building placement on the site. Building form graphics in this section are **NOT TO SCALE.**

(5) **Parking and Service Access.**

   a. Location of parking (both structured and surface) shall be per the character zone specific building form standards found in subsections (f)(10), (f)(11), and (f)(12).
b. Minimum required off-street parking spaces shall be provided per Table 3.

<table>
<thead>
<tr>
<th>Character Zone</th>
<th>TMU</th>
<th>CMU</th>
<th>NMU</th>
<th>Additional Criteria</th>
</tr>
</thead>
</table>
| All Non-Residential uses and ground floor Commercial-Ready spaces | 1 space per 500 sq.ft. of building area | 1 space per 300 sq.ft. of building area | 1 space per 350 sq.ft. of building area | 1. Off-site parking may be provided per sec. 52-36 of the Irving Land Development Code.  
2. Landscaping within surface parking lots shall meet standards in the Irving Land Development Code.  
3. A shared parking plan or alternative parking plan may be approved by the director as an administrative modification.  
4. On-street parking located along the subject block on any public street adjacent to the property may be counted towards the required off street parking.  
5. No off-street parking required for retail, restaurant, or office uses on Main Street between Rock Island and Third Street. |
| Multi-Unit Residential (5 to 8 units) and Multi-Family Residential (greater than 8 units) | 1 space per dwelling unit | 1 spaces per dwelling unit | 1.5 spaces per dwelling unit |
| Lodging | 0.5 space per lodging room |
| Single-Family Residential, Townhouse, Multi-Unit Home (2 to 4 units) | 2 space per dwelling unit | 2 space per dwelling unit | 2 spaces per dwelling unit |

Min. Bicycle Parking Requirement (in addition to Vehicular Parking)

| All uses | 1 space required for every 10 provided automobile spaces (Minimum of two) | 1 space required for every 10 provided automobile spaces (Minimum of two) | not required | Location of bicycle parking: For retail and commercial ready buildings, 25% of all provided bicycle parking shall be located within 50 feet of a primary building entrance. Location shall be accessible from a public sidewalk. |

c. Driveway and Service Access.

1. Along Main Street, Irving Boulevard and 2nd Street: driveway spacing shall be limited to one driveway per each block face or per 200 feet of block face for blocks greater than 400 feet in length, including any existing alleys.

2. Shared driveways, joint use easements or joint access easements shall be required for adjoining properties when driveway and service access is off of Main Street, Irving Boulevard or 2nd Street.

3. Service and loading/unloading areas shall be screened per standards in subsection (g)(4).

4. Front-loaded garages on residential lots less than 40 feet wide shall not be allowed. Townhomes shall utilize garages with access from Alleys.

5. The Director may administratively grant exceptions to the provisions of this section in cases where the Director determines meeting the provisions of this section are impractical or represent an unreasonable hardship.
(6) **Street Screen Requirements.**

   a. Any lot frontage along Main Street, Irving Boulevard and 2nd Street with surface parking shall be defined by a Street Screen. This required Street Screen shall be located at the street edge of the Build-to Zone. Refer to the subsection (h) in this section for other specifications.

(7) **Measuring Heights.**

   a. Chimneys, vents, elevators, stair enclosures, cupolas, domes, steeples, screened HVAC equipment, other mechanical enclosures, tanks, solar energy systems, and similar elements are exempt from the height limit. Mechanical and utility equipment shall be set back from the façade line in order to minimize visibility from the street.

   b. Internal building height shall be measured from finished floor to the bottom of the structural members of the ceiling.

   c. Floor-to-floor heights shall not apply to parking structures, government, educational, or religious buildings.

(8) **Encroachments and Overhangs.**

   a. Encroachments into public right-of-way by canopies, awnings, temporary barriers or patio dining shall require legal permission of the City and shall meet the following criteria.

      1. Maximum of 50% of the depth of the sidewalk or 10 feet (whichever is less).

      2. Minimum vertical clearance from the finished sidewalk shall be 8 feet.

      3. In no case shall an encroachment be located over an on-street parking or travel lane.

      4. Outdoor dining may also be placed on the sidewalk as long as ADA required clear space is maintained.

   b. Overhangs within required setbacks: Canopies, awnings, galleries, and balconies may be within any required setback areas per standards established in each character zone as long as the vertical clearance is a minimum of 8 feet from the finished sidewalk elevation.

(9) **Phased Developments.** Due to the infill nature of development within the Heritage Crossing District, certain building form and site development standards may be deferred for phased development projects meeting the following criteria:

   a. Submission of a site plan that illustrates how development and any related private improvements will be phased over time. Each phase of the site plan shall independently comply with all applicable standards of the Heritage Crossing District unless an administrative modification is granted.

   b. Required private landscaping and open space amenities must also be phased with the building.
(10) **Corridor Mixed-Use Zone (CMU).**

(a) *Illustrations and intent.* The Corridor Mixed-Use Zone creates a vibrant, mixed-use area that leverages Irving Boulevard/Second Street as "context sensitive streets" supporting multimodal traffic, linking other regional destinations and promoting economic development. The Corridor Mixed-Use area will serve as the primary neighborhood commercial activity area for the local community.

(b) **Building Placement**

<table>
<thead>
<tr>
<th>(i) Build-to Zones (BTZ) and Setbacks</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Distance from property line to edge of the zone</td>
<td>A</td>
<td>B</td>
<td>C</td>
</tr>
<tr>
<td>1. Front: Along Main Street, Irving Boulevard and 2nd Street</td>
<td>0 foot min. setback – 25 foot max. setback</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Front: Along all other streets</td>
<td>0 foot min. setback – 30 foot max. setback</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>75 foot max setback if parking is in front</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Side</td>
<td>0 foot min. setback; no max. setback</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Rear</td>
<td>0 foot min. setback; no max. setback</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Corridor Mixed-Use Character Zone

(c) Building Height

(i) Principal Building Standards

1. Building maximum
   - 3 stories or 45 feet (whichever is less)  A

2. First floor height
   - 12 foot min. for all buildings along Main Street, Irving Boulevard and 2nd Street
   - 10 foot min. for all other streets  B

3. Upper floor(s) height
   - 9 foot min.  C

(ii) Accessory Building Standards

1. Accessory buildings shall meet the standards for principal building standards in the Corridor Mixed-Use Zone.

(d) Parking & Service Access

(f) Surface Parking Setbacks (with new buildings)

1. Main Street, Irving Blvd. and 2nd Street
   - Shall be located behind the principal building along that street frontage.
   - 3 feet behind the building façade line along that street.
   - See subsection (h) for screening requirements.  A

2. All other streets
   - Shall be located behind the principal building along that street frontage.
   - If no building is located along the street frontage; then surface parking shall be setback a minimum of 3 feet from the property line.  C

3. Side
   - 0 foot min.  D

4. Rear/Alley
   - 0 foot min. from property line or alley edge  E
(11) Transit Mixed-Use Zone (TMU).

(a) Illustrations and intent. The Transit Mixed-Use Zone creates opportunities for local small scale, in-line retail and restaurant, and medium scale urban residential (apartments, townhouses, multi-unit homes, live-work) development. It also takes advantage of the proximity to the Trinity Railroad Express Station by creating shared parking opportunities and focusing on urban residential, without mandating ground floor retail.

(b) Building Placement

(i) Build-to-Zones (BTZs) and Setbacks (Distance from property line to edge of the zone)

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Front</td>
<td>5 foot min. setback – 30 foot max. setback 75 foot max setback if parking is in front</td>
<td>A</td>
</tr>
<tr>
<td>2. Side</td>
<td>0 foot min, no max. setback</td>
<td>B</td>
</tr>
<tr>
<td>3. Rear</td>
<td>0 foot min., no max. setback</td>
<td>C</td>
</tr>
</tbody>
</table>

(c) Building Height

(i) Principal Building Standards

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Building maximum</td>
<td>6 stories or 75 feet (whichever is less)</td>
<td>A</td>
</tr>
<tr>
<td>2. First floor height</td>
<td>12 foot min. for all buildings facing a public space. 10 foot min. for all other frontages.</td>
<td>B</td>
</tr>
<tr>
<td>3. Upper floor(s) height</td>
<td>9 foot min.</td>
<td>C</td>
</tr>
</tbody>
</table>

(ii) Accessory Building Standards

1. Accessory buildings shall meet the standards for principal building standards in the Transit Mixed-Use Zone.
(d) Parking & Service Access

(i) Surface Parking Setbacks

- Shall be located behind the principal building along that street frontage; or
- Min. 3 feet behind the building façade line along that street
- See subsection (h) for screening requirements.

(ii) Structured Parking or Below Grade Parking Setbacks

1. Primary façade
   - Shall be located behind the principal building along that street frontage; or
   - Ground floor: min. of 30 feet from the property line
   - Upper floors: may be built up to the building façade line

2. Secondary façade
   - May be built up to the building façade line; or
   - If no building is located along the street frontage; then the structured parking shall meet the minimum setback standards along that façade.

(iii) Partially Below Grade Parking

1. May be built up to the building façade line along all streets
(12) Neighborhood Mixed-Use Zone (NMU).

(a) Illustrations and intent. The Neighborhood Mixed-Use Zone is intended to provide for a range of small scale residential uses (single family, low-density apartments, live-work, townhomes, multi-unit homes, etc.) in low intensity development at key locations. It also provides for a mix of home occupation, low-impact office and neighborhood services within the zone.

(b) Building Placement

(i) Build-to Zones (BTZs) and Setbacks

<table>
<thead>
<tr>
<th></th>
<th>Build-to Zone (BTZ)</th>
<th>10 foot min. setback; no max. setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Front</td>
<td></td>
<td>A</td>
</tr>
<tr>
<td>2. Side Adjacent to Single-Family detached residentially zoned lot</td>
<td>5 foot min. setback; no max. setback</td>
<td>B</td>
</tr>
<tr>
<td>3. Rear Adjacent to Single-Family detached residentially zoned lot</td>
<td>5 foot min. setback; no max. setback</td>
<td>C</td>
</tr>
</tbody>
</table>

c. Building Height

(i) Principal Building Standards

<p>| | | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>1. Building maximum</td>
<td>3 stories or 45 feet (whichever is less)</td>
<td>A</td>
</tr>
<tr>
<td>2. First floor height</td>
<td>10 foot min. for all frontages</td>
<td>B</td>
</tr>
<tr>
<td>3. Upper floor(s) height</td>
<td>9 foot min.</td>
<td>C</td>
</tr>
</tbody>
</table>

(ii) Accessory Building Standards

(a) Shall be regulated per city standards for accessory buildings
(g) Building design standards.

(1) Building Orientation and Entrances for Commercial Use, Mixed-use and multi-Family Buildings.

a. Buildings shall be oriented towards Main Street, Irving Boulevard and 2nd Street, where the lot has frontage along those streets. If a building has no frontage along these streets, then it shall front a street or civic space.

b. Primary entrances to buildings shall be located on the street along which the building is oriented. At intersections, corner buildings may have their primary entrances oriented at an angle to the intersection. All primary entrances shall be oriented to the public sidewalk for ease of pedestrian access. Secondary and service entrances may be located from parking areas or alleys.

c. Primary Entrance Design: Primary building entrances along pedestrian frontage shall consist of at least two of following design elements so that the main entrance is architecturally prominent and clearly visible from that street:

   1. Architectural details such as arches, friezes, awnings, canopies, arcades, tile work, murals, or moldings; or

   2. Integral planters or wing walls that incorporate landscape or seating elements; or

   3. Prominent three-dimensional, vertical features such as belfries, chimneys, clock towers, domes, spires, steeples, towers, or turrets; or

   4. A repeating pattern of pilasters projecting from the façade wall by a minimum of eight inches or architectural or decorative columns.
(2) Façade Composition.


1. Facades greater than 60 feet in length along Main Street, Irving Boulevard and 2nd Street (West of Britain) shall meet the following façade articulation standards.

   (i) Include facade modulation such that a portion of the facade steps back or extends forward with a depth of at least 24 inches; and

   (ii) The distance from the inside edge of a building projection to the nearest inside edge of an adjacent projection shall not be less than 20 feet and not greater than 60 feet.
2. Façade Transparency Requirements.

(i) All facades shall meet the minimum requirement for façade transparency (percentage of doors and windows) as established in Table 4 below. Ground floor windows and doors along Main Street, Irving Boulevard, 2nd Street facades shall have a rated visible transmittance (VT) of 0.6 or higher.

<table>
<thead>
<tr>
<th>Use and Floor</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Use or Mixed Use Buildings</td>
<td></td>
</tr>
<tr>
<td>Ground Floor</td>
<td>40% (min.)</td>
</tr>
<tr>
<td>Upper Floor(s)</td>
<td>20% (min)</td>
</tr>
<tr>
<td>Residential Use Buildings</td>
<td></td>
</tr>
<tr>
<td>Ground Floor</td>
<td>20% (min.)</td>
</tr>
<tr>
<td>Upper Floor(s)</td>
<td>15% (min.)</td>
</tr>
</tbody>
</table>

1. At least one of the following shall be added along single-family residential use building facades to add pedestrian interest along the street:
   
   (i) Porches;
   
   (ii) Stoops;
   
   (iii) Eaves; or
   
   (iv) Balconies.

2. *Windows and doors.* All building facades of single-family residential use buildings shall meet the transparency requirements established in Table 4.

![Residential buildings with porches, fencing, balconies, and stoops to add interest along the street.](image)

(3) *Commercial-ready Standards for Commercial Use, Mixed-use and Multi-family Use Buildings*

   a. Ground floors of all buildings within Corridor Mixed-Use Zone along Main Street, Irving Boulevard and 2nd Street shall be built to commercial-ready standards. Such ground floor space shall be constructed to accommodate, at a minimum, commercial uses. In addition, the following standards shall apply:

   1. An entrance that opens directly onto the sidewalk according to subsection (g)(1);

   2. A height of not less than 12 feet measured from the entry level finished floor to the bottom of the structural members of the ceiling;

   3. Minimum leasable width of 20 feet wide;

   4. A front facade that meets the window glazing requirements; and

   5. Off-street surface parking shall be prohibited between the sidewalk and the building along Main Street, Irving Boulevard and 2nd Street (west of Britain).
Illustration showing application of Commercial Ready Frontage Requirements

(4) Design of Automobile Related Building and Site Elements.

a. Where permitted under subsection (e), drive-through lanes, auto-service bays, and gas station canopies for commercial uses shall not be located with frontage along Main Street, Irving Boulevard and 2nd Street (west of Britain). Drive-through lanes may be permitted along all other streets or alleys. Drive-through lanes, auto-service bays, and gas station canopies shall be hidden behind a 3 feet high street screen along all streets.

b. No more than 60% of a lot’s frontage along a street may be dedicated to drive through lanes, canopies, service bays, and other auto-related site elements. There shall be no such limitation along alleys.
c. Any automobile-related retail sales or service use of a site or property shall have a primary building entrance along its frontage.

d. Drive through access may be from a street only if the lot has no access to any alley frontage.

![Diagram of a property layout showing pedestrian and vehicular frontages.]

*Image illustrating the appropriate design of retail/restaurant drive-throughs (Corner Lot)*

e. All off-street truck loading and unloading areas shall be screened using a street screen that is at least as tall as service equipment. The street screen shall be made up of (i) a living screen or (iii) a combination living and primary building material screen.

**(5) Design of Parking Structures.**

a. The amount of street frontage devoted to a parking structure shall be minimized by placing the shortest dimension(s) of the parking structure along the street edge(s).

b. Where above ground structured parking is located at the perimeter of a building with street frontage, it shall be screened in such a way that cars on all parking levels are appropriately screened from view. Architectural screens shall be used to articulate the façade, hide parked vehicles, and shield lighting. Parking garage ramps shall not be visible from any street.
Illustrative Examples of Parking Garage Screening

c. Garage parking in a multi-story building shall be behind storefronts or residential units facing any street frontage in order to substantially inhibit and shield views of the garage from adjacent streets.

d. Ground floor façade treatment (building materials, windows, and architectural detailing) shall be continued to the second floor of a parking structure along all streets.

Images showing required façade treatment of parking garages along streets

e. When parking structures are located at street intersections, corner emphasizing elements (such as towers, pedestrian entrances, signage, glazing, etc.) shall be incorporated.

f. Parking structures and adjacent sidewalks shall be designed so pedestrians and bicyclists are clearly visible (through sight distance clearance, signage, and other warning signs) to entering and exiting automobiles.

Images showing appropriate design of Parking Structures

(h) Landscape Standards.

(1) Heritage Tree Preservation.

a. Preservation of existing trees that are twenty-four (24) inch caliper or larger is a high priority and is considered essential in both new development and redevelopment. Developers will be provided a 1.5 to one (1) credit toward the landscaping requirement for new development for preservation of such trees; i.e. keeping one (1) twenty-four (24) inch caliper tree counts towards planting thirty-six (36) inches of new trees. Post Oak and Blackjack Oak trees are considered relic trees worthy of additional protection. Developers will be provided a two (2)
to one (1) credit toward the landscaping requirement for new development for preservation of Post Oak and Blackjack Oak trees of at least six (6) inch caliper.

b. Prior to development or redevelopment of any property, the developer shall prepare and submit to the city a detailed tree survey of the property indicating the location, size, and species of all existing trees six (6) inch caliper or larger measured twelve (12) inches above grade. The developer shall also provide a site plan showing the proposed development overlaying the tree survey indicating which trees are proposed to be removed and which trees will be preserved, along with a table indicating the number of trees and caliper inches proposed to be removed and proposed to be preserved.

c. Where practical and reasonable, existing trees shall be preserved. Where it is not practical or reasonable, a tree may be removed if it is in the footprint of a new building or the driveway or parking area of the new building. Trees outside those areas shall be preserved, and if damaged during construction, or if they die within two (2) years of construction, shall be replaced in addition to the required landscaping on the site, with an equal number of caliper inches at the same location if practical or other locations within the Heritage Crossing area. If a developer attempts to preserve a tree within five (5) feet of the building, driveway or parking area, or within an easement or within five (5) feet of an easement, no credit will be given, but mitigation will not be required if the tree fails to survive.

d. An existing tree that is approved for removal shall not be removed from the property until a building permit has been issued, and development of the site is imminent as evidenced by executed construction-related contracts or other documents acceptable to the director. If a protected tree is removed contrary to the provisions of this subsection (h), the owner of the property from which the tree was removed shall make a payment into a special city account to be known as the Heritage Crossing District Tree Fund. The amount of the payment required is calculated by using the formula for appraising the value of a tree, as derived by the most recent edition of the Guide for Establishing Values of Trees and Other Plants published by the Council of Tree and Landscape Appraisers, unless another publication is designated by the Director. If more than one (1) tree is removed, the values of the trees are added when calculating the payment required. The required payment diminishes equally within each inch replaced through the following alternative approach: the owner of the property from which a tree was removed may mitigate the loss of the tree by the planting of an equal number of caliper inches of new trees with a minimum caliper of six (6) inches each at a location approved by the director within the boundaries of the Heritage Crossing District.

(2) **Screening Standards.**

a. **Street Screen Requirements.** Any frontage along Main Street, Irving Boulevard and 2nd Street (west of Britain) with surface parking at the Build-to Zone shall have a street screen that has a minimum height of three (3) feet and a maximum height of four (4) feet. Furthermore, along all streets (except alleys), service areas shall be screened in such a manner that the service area shall not be visible to a person standing on the property line on the far side of the adjoining street. Required street screens shall be of one of the following:

(i) The same building material as the principal structure on the lot; or

(ii) A vegetative screen composed of shrubs planted to be opaque at maturity; or

(iii) A combination of the two.
b. The required street screen shall be located at the minimum setback line along the corresponding frontage.

c. Street screens cannot block any required sight triangles along a cross street or driveway.

d. Street screens may include breaks to provide pedestrian access from any surface parking or service area to the public sidewalk.

\[\text{Illustration showing required street screen along all frontages without a building within the BTZ}\]

e. All roof mounted mechanical equipment (except solar panels) shall be screened from view of a person standing on the property line on the far side of the adjoining street. The screening material used shall be the same as the primary exterior building material used.

\[\text{Illustration showing required screening of roof and ground mounted equipment}\]
(i) Changes to Nonconforming Structures.

(1) The following illustrations shall provide guidance to property owners on the allowed and prohibited modifications to existing nonconforming structures and sites within the Heritage Crossing District.

a. Allowable additions. The following illustrations show potential allowable additions to nonconforming structures and sites. Additions shall meet the build-to-zone standards of the character zone they are located in.
b. **Non-allowable additions.** The following illustrations show potential non-allowable additions to nonconforming structures and sites since the additions do not comply with the build-to zone standards of the character zone.
gulating Plan

- Corridor Mixed Use
- Transit Mixed Use
- Neighborhood Mixed Use

This product is the information that may not have been prepared for this legal engineering or architectural document. It is not intended for use in the preparation of a final report or for the purposes of lawsuits and should not be relied upon for legal reasons.

This text has been prepared by the City Engineer's Office and may not be used for the preparation of legal documents or for the purposes of lawsuits. It is not intended to be used as a legal document and should not be relied upon for legal reasons.

Packet Pg. 497
SECTION 3. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attached Exhibit A which is presently zoned R-6 Single Family District Use, R-3.5 Two-Family District Use, R-MF-2 Multifamily District Use, P-O Professional Office District Use, C-O Commercial Office District Use, C-N Neighborhood Commercial District Use, C-C Community Commercial District Use, ML-20 Light Industrial District Use, C-OU-2 Commercial Outdoor 2 District Use, and DDD Downtown Development District Use under Ordinance No. 1144, is changed to HCD Heritage Crossing District Use under Ordinance No. 1144 of the City of Irving.

SECTION 4. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 5. That in all other respects the use of the tract or tracts of land described in Exhibit A shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 6. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 7. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 8. Should any paragraph, sentence, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid, illegal, or unconstitutional, and shall not affect the validity of the comprehensive zoning ordinance as a whole.

SECTION 9. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the tract or tracts of land described herein shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.
SECTION 10. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of

SECTION 11. That this ordinance shall take effect immediately from and after its passage and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, ON NOVEMBER 10, 2016.

BETH VAN DUYNE
MAYOR

ATTEST:

City Secretary

APPROVED ASTO FORM:

Kuruvilla Oommen
City Attorney
AGENDA ITEM SUMMARY

Meeting: 6/25/2020  
Recommendation Department: Financial Services  
DOC ID: 11039  
LSR No: A20-0057

Ordinance -- Amending Chapter 16A "Hotel Occupancy Tax" of the Code of Ordinances of the City of Irving, Texas to Update the Penalty Provision

Administrative Comments

1. This item is recommended by Financial Services.

2. Impact: This Ordinance amends the Hotel Occupancy Tax section of the code of ordinances.

3. The penalty and interest charged on delinquent accounts is being changed to match State law. Interest will be charged at a rate of nine percent (9%) per annum beginning the first day of delinquency. A penalty of 15% will be charged beginning once the account is delinquent for a municipal fiscal quarter.

Recommendation

The ordinance be adopted.

ADDITIONAL COMMENTS:

<table>
<thead>
<tr>
<th>Contract Required</th>
<th>Review Completed By</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Christina Weber</td>
</tr>
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<table>
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<tr>
<th>Previous Action</th>
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<tr>
<td></td>
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</table>

CURRENT YEAR FINANCIAL IMPACT:

NONE

REVISION INFORMATION:

Prepared: 5/28/2020 04:13 PM by Anita Gomez  
Last Updated: 6/19/2020 07:20 AM by Christina Weber
ORDINANCE NO. (ID # 11039)

AN ORDINANCE AMENDING SECTION 16A-1 AND 16-A6 OF CHAPTER 16A ENTITLED “STANDARD HOTEL OCCUPANCY TAX” AND SECTION 16A-14 AND 16A-20 OF CHAPTER 16A ENTITLED “COMMUNITY VENUE HOTEL OCCUPANCY TAX” OF THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, BY PROVIDING FOR COLLECTION OF REVENUE GENERATED BY THE HOTEL OCCUPANCY TAX; PROVIDING FOR SAVINGS; DECLARING THE REGULATIONS PROVIDED HEREIN ARE GOVERNMENTAL AND FOR THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC; PROVIDING ANY VIOLATION OF THIS ORDINANCE CAN BE ENJOINED BY SUIT FILED IN A COURT OF COMPETENT JURISDICTION; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council, pursuant to §351.102, TEXAS TAX CODE, as amended, the City has the authority to pledge hotel occupancy tax revenues to the payment of bonds; and

WHEREAS, the allocation of hotel occupancy tax revenues pursuant to Section 16A-1; 16A-4; 16A-6; 16A-14; 16A-17 and 16A-20 of the Code is subject to the City’s authorization to pledge such hotel occupancy tax revenues to bonds;

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

SECTION 1. That Section 16A-1 of Chapter 16A of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, is hereby amended as follows:

Sec. 16A-1. Definitions.

The following definition of Municipal Fiscal Quarter is added.

Municipal Fiscal Quarter shall mean a calendar quarter of the year; the first quarter is October, November, and December; the second quarter is January, February, and March; the third quarter is April, May, and June; and the fourth quarter is July, August, and September.

SECTION 2. That Section 16A-6 of Chapter 16A of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, is replaced in its entirety.

Sec. 16A-6. - Civil penalties for failure to collect or remit.

Any person who shall fail to file a report as required herein, or shall file a false report or shall fail to pay to the chief financial officer the tax as imposed herein when said report or payment is due, shall be liable, in addition to the amount of tax owed under this article, for interest on the principal amount due at the rate of nine percent per annum, and if the amount of tax owed under this article has not been paid for at least one complete Municipal Fiscal Quarter after when the payment is due, a penalty equal to 15% of the tax amount owed, provided, however, that the penalty shall never be less than one dollar ($1.00).
SECTION 3. That Section 16A-14 of Chapter 16A of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, is hereby amended as follows:

Sec. 16A-14 Definitions.

The following definition of Municipal Fiscal Quarter is added.

*Municipal Fiscal Quarter* shall mean a calendar quarter of the year; the first quarter is October, November, and December; the second quarter is January, February, and March; the third quarter is April, May, and June; and the fourth quarter is July, August, and September.

SECTION 4. That Section 16A-20 of Chapter 16A of The Code of Civil and Criminal Ordinances of the City of Irving, Texas, is replaced in its entirety.

Sec. 16A-20. - Civil penalties for failure to collect or remit.

Any person who shall fail to file a report as required herein, or shall file a false report or shall fail to pay to the chief financial officer the tax as imposed herein when said report or payment is due, shall be liable, in addition to the amount of tax owed under this article, for interest on the principal amount due at the rate of nine percent per annum, if the amount of tax owed under this article has not been paid for at least one complete Municipal Fiscal Quarter after when the payment is due, a penalty equal to 15% of the tax amount owed, provided, however, that the penalty shall never be less than one dollar ($1.00).

SECTION 5. All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety, and welfare of the general public.

SECTION 6. Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Irving in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Irving.

SECTION 7. The caption clause of this ordinance shall be published in a newspaper of general circulation in the City of Irving, in compliance with the provisions of Article IV, Section 23, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

SECTION 8. This ordinance shall become effective immediately and shall remain in effect so long as obligations that are payable from the revenues of the tax levied herein are outstanding.
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, on June 25, 2020

________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
Resolution -- Approving the Allocations of the Community Development Block Grant COVID-19 Funds to Non-Profit Organizations in the Amount of $293,400

Administrative Comments

1. This item is recommended by the Planning and Community Development Department.

2. **Impact:** This action will provide funding to local non-profit organizations to prevent, prepare for, and respond to the coronavirus (COVID-19).

3. On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This act allocated additional Community Development Block Grant Funds (CDBG-CV) and Emergency Solutions Grant Funds (ESG-CV) to states, counties, and local governments to address a range of housing and community development activities that prevent, prepare for, and respond to the coronavirus (COVID-19).

4. The City of Irving as an entitlement city received $1,356,438 in CDBG-CV funds and $678,434 in ESG-CV funds.

5. On May 20, 2020, the City Council approved $800,000 of the CDBG-CV funds to be allocated to area agencies to assist with the prevention, preparation for, and response to the coronavirus (COVID-19).

6. The Planning and Community Development Department solicited applications from agencies from May 13 through May 22, 2020. The Housing and Human Services Board sub-committee reviewed all the submitted applications and recommended funding all the requests totaling $293,400.

7. Funding in the amount of $293,400 is available in the Outside Services budget within the Community Development Block Grant COVID-19 Fund.

**Recommendation**

The resolution be approved.

**ADDITIONAL COMMENTS:**

- **Contract Required:** Yes  
- **Review Completed By:** M. Boyle  
- **Previous Action:** Substantial Amendment approved 5/20/2020  
- **Council Action:** RES 2020-165  
- **Discretionary Contract Disclosure Form Required:** No  
- **Certificate of Interested Parties (Form 1295) Required:** Yes  
- **TGC Form 2270 Required:** No
ATTACHMENTS:
CDBG-CV Irving Cares COVID Sheltering  (PDF)
CDBG-CV Draft Agreement_IC Food and Rent (PDF)
CDBG-CV Draft Agreement_IFAC  (PDF)
CDBG-CV Draft Agreement_SA_revised(PDF)

CURRENT YEAR FINANCIAL IMPACT:
N/A
Budget Adjustment/Transfer Required:  No

REVISION INFORMATION:
Prepared:  6/8/2020 03:32 PM by DeLiza Gierling
Last Updated:  6/17/2020 03:32 PM by Steven Reed
CITY OF IRVING

COUNCIL RESOLUTION NO. (ID # 11064)

WHEREAS, on March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act providing additional Community Development Block Grant Funds and Emergency Solutions Grant funds to states, counties, and local governments; and

WHEREAS, the City of Irving as an entitlement city received additional $1,356,538 in Community Development Block Grant and $678,434 in Emergency Solution Grant funds to address a range of housing and community development activities that prevent, prepare for, and respond to the coronavirus (COVID-19); and

WHEREAS, on May 20, 2020, the City Council approved $800,000 of the Community Development Block Grant COVID-19 funds to be allocated to area agencies to assist with the prevention, preparation for, and response to the coronavirus; and

WHEREAS, the Housing and Human Services Board Sub-Committee carefully reviewed all submitted applications and is recommending the following allocations totaling $293,400;

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

SECTION I. THAT the City Council hereby approves a Community Development Block Grant COVID-19 agreement between the City of Irving and The Salvation Army, a Georgia Corporation for Irving Corps (Sub-recipient), whereby Community Development Block Grant COVID-19 funds from the United States Department of Housing and Urban Development will be used to support Sub-recipient’s Homeless Prevention program, and City, subject to sufficient funding from the United States Department of Housing and Urban Development, shall reimburse Sub-recipient in an amount not to exceed $130,000.00, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION II. THAT the City Council hereby approves a Community Development Block Grant COVID-19 agreement between the City of Irving and Irving Cares, Inc. (Sub-recipient), whereby Community Development Block Grant COVID-19 funds from the United States Department of Housing and Urban Development will be used to support Sub-recipient’s Rent Assistance and Food Assistance programs, and City, subject to sufficient funding from the United States Department of Housing and Urban Development, shall reimburse Sub-recipient in an amount not to exceed $55,000.00, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION III. THAT the City Council hereby approves a Community Development Block Grant COVID-19 agreement between the City of Irving and Irving Cares, Inc. (Sub-recipient), whereby Community Development Block Grant COVID-19 funds from the United States Department of Housing and Urban Development will be used to support Sub-recipient’s COVID Sheltering program, and City, subject to sufficient funding from the United States Department of Housing and Urban Development, shall
reimburse Sub-recipient in an amount not to exceed $15,000.00, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION IV. THAT the City Council hereby approves a Community Development Block Grant COVID-19 agreement between the City of Irving and Irving Family Advocacy Center (Sub-recipient), whereby Community Development Block Grant COVID-19 funds from the United States Department of Housing and Urban Development will be used to support Sub-recipient’s Art Therapy Project – Surviving COVID-19 program and City, subject to sufficient funding from the United States Department of Housing and Urban Development, shall reimburse Sub-recipient in an amount not to exceed $43,400.00, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION IV. THAT the City Council hereby approves a Community Development Block Grant COVID-19 agreement between the City of Irving and Family Promise of Irving (Sub-recipient), whereby Community Development Block Grant COVID-19 funds from the United States Department of Housing and Urban Development will be used to support Sub-recipient’s C-Model 2020 program, and City, subject to sufficient funding from the United States Department of Housing and Urban Development, shall reimburse Sub-recipient in an amount not to exceed $50,000.00, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION V. THAT funding for this expenditure is available in the Outside Services budget within the Community Development Block Grant COVID Fund.

SECTION VI. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


_________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
THE STATE OF TEXAS §

COMMUNITY DEVELOPMENT BLOCK - COVID

GRANT AGREEMENT

COUNTY OF DALLAS §

THIS Agreement is made and entered into on this 5th day of May, 2020 by and between Irving Cares, Inc. (hereinafter "SUBRECIPIENT"), and the CITY OF IRVING, TEXAS (hereinafter "CITY"). CITY and SUBRECIPIENT may be referred to individually as a “Party” and jointly as the “Parties”.

WHEREAS, the CITY has received grant from the United States Department of Housing and Urban Development (“HUD”) through the Community Development Block Grant (“CDBG”) Program, Catalog of Domestic Assistance No. 14.218, with which CITY desires to promote public service activities that benefit low and moderate income residents of the City of Irving and the development of partnerships among CITY, local governments, private industry, and non-profit social services agencies; and

WHEREAS, CITY is the administrator of CDBG funds from HUD, the primary purpose of said program pursuant to the Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (“Act”), 24 CFR §570 et seq. (the CDBG regulations or “Regulations”) is to benefit low and moderate income persons; and

WHEREAS, CITY, acting pursuant to the Act, heretofore adopted an Action Plan to carry out activities eligible under the CDBG program; and

WHEREAS, on March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act providing additional Community Development Block Grant Funds and Emergency Solutions Grant funds to states, counties, and local governments; and

WHEREAS, the City of Irving as an entitlement city received additional Community Development Block Grant funds to address a range of housing and community development activities that prevent, prepare for, and respond to the coronavirus (COVID-19); and

WHEREAS, Irving Cares, Inc. is a Texas non-profit corporation managed by a volunteer Board of Directors; and

WHEREAS, CITY has determined that SUBRECIPIENT’s PROJECT provides hotel night stays for homeless Irving residents that are COVID-19 Positive or Presumed Positive; and

WHEREAS, the CITY wishes to engage the SUBRECIPIENT to assist the CITY in utilizing such funds;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenant set forth herein, CITY and SUBRECIPIENT do agree, for themselves and for their respective successors and assigns, as follows:
1. PROJECT

1.1 Project Description

The SUBRECIPIENT shall utilize CITY CDBG-CV funds for the provision of SUBRECIPIENT’S COVID Sheltering Program (“PROJECT”), whereby SUBRECIPIENT will provide hotel stays for homeless Irving residents that are COVID-19 Positive or Presumed Positive. The scope and performance of the services of the PROJECT shall be in accordance with the Scope of work and schedule attached hereto as “Exhibit A: Scope of Work” and incorporated herein by reference.

Objectives to be met by SUBRECIPIENT within the Agreement period shall be as stated in “Exhibit B: Performance Objectives”. The PROJECT Budget shall be as set forth in the attached “Exhibit C: Budget/Authorized Reimbursable Costs”.

It is understood by all Parties hereto that this Agreement and the disbursement of funds pursuant to this Agreement are governed by the provisions of 24 CFR 570, regulations of the Community Development Block Grant (CDBG) Program as is it relates to the prevention, preparation for, and response to the coronavirus (COVID-19), and any amendments thereto; that Parties hereto agree to abide by the applicable provision of CDBG to the extent that other sections which may be applicable are not specifically mentioned herein; and that in the event of any conflict between any provision herein and the requirements of 24 CFR 570, said federal requirements shall take precedence.

1.2 Term

The term of Agreement shall be from May 7, 2020, and shall run until September 30, 2021.

1.2.1 Extension of Agreement

This Agreement may not be extended.

1.3 Tasks and Schedule

To ensure that the PROJECT progresses adequately toward completion, SUBRECIPIENT must achieve the following benchmarks:

1.3.1 Monthly Performance Reporting

PROJECT performance reports will be submitted on a monthly basis, in a format developed and provided by the CITY. Performance reports will summarize PROJECT status in several areas including 1) Status of PROJECT expenditures, 2) Status of PROJECT performance against pre-determined measures, and 3) General status of PROJECT and any other information relevant to the completion of the PROJECT.

1.3.2 Expenditure

Unless alternative arrangements have been approved in writing by CITY staff in advance, grant expenditures shall be evenly expended (approximately 1/12 of the targeted performance achieved each month) over the contract term.
2. FORM OF ASSISTANCE AND DISBURSEMENTS

2.1 Form and Terms of Assistance

In consideration for PROJECT services, CITY shall pay SUBRECIPIENT as disbursement of Fiscal Year 2020-2021 Community Development Block Grant COVID funds for eligible costs for the PROJECT in an amount not to exceed CDBG-CV Allocation of Fifteen Thousand Dollars and No Cents ($15,000.00). Said disbursement is to be paid upon submission to the CITY of appropriate documentation and invoices as stipulated by the CITY. In order to qualify for reimbursement, funds to be disbursed under this Agreement must be spent by SUBRECIPIENT during the term of the Agreement.

SUBRECIPIENT may not request disbursement of funds until the funds are needed for payment of eligible costs. The amount of each request must be equal to the proof of payment submitted for reimbursement and eligible expenditures. Funds allocated by CITY for this PROJECT which have not been invoiced by SUBRECIPIENT within thirty (30) calendar days after the ending date of this Agreement shall revert to the CITY to be allocated for other activities. Invoices shall not be submitted and payment shall not be made more often than once every thirty (30) days throughout the Agreement term. Payments may be contingent upon certification by the CITY that the SUBRECIPIENT's financial management system is in accordance with the standards specified in this Agreement.

The obligations of the City in this Agreement are subject to the receipt of sufficient funding from the U.S. Department of Housing and Urban Development. If such funding is not provided by the U.S. Department of Housing and Urban Development, both parties to this Agreement are relieved of any further obligation to the other. These funds are considered formula grant funds with a Catalog of Federal Domestic Assistance number (CFDA) of 14.218.

2.2 Costs in Compliance with CDBG-CV Regulations and Agreement

SUBRECIPIENT shall be reimbursed for eligible costs for the PROJECT with CDBG-CV funds only if CITY determined in its sole discretion that:

A. Costs are eligible expenditures in accordance with the CDBG regulations that prevent, prepare for, and respond to the coronavirus (COVID-19);

B. Costs are in compliance with this Agreement and are reasonable and consistent with industry norms; and

C. Complete documentation, as applicable, is submitted to CITY by SUBRECIPIENT

2.3 Budget

SUBRECIPIENT agrees that the CDBG-CV funds will be paid on a reimbursement basis in accordance with Exhibit B: Budget/Authorized Reimbursable Costs. SUBRECIPIENT agrees to utilize CBDG-CV funds to supplement rather than supplant funds otherwise available for the
PROJECT. Notwithstanding any provision in this Agreement to the contrary, SUBRECIPIENT’s efforts to identify and secure alternative funding sources shall not delay the performance of any obligations of either CITY or SUBRECIPIENT under this Agreement.

2.3.1 Changes in Budget
SUBRECIPIENT may increase or decrease line-item amounts in the budget with CITY prior written approval, which approval shall be at CITY sole discretion. Any such increase or decrease in line items in the budget shall comply with Exhibit A: Scope of Work and shall not increase the total amount of CBDG-CV funds.

2.4 Disbursement
CITY’s CDBG-CV funding is intended as Public Service PROJECT assistance as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT may request disbursements no more than monthly during the term of the Agreement in accordance with the terms set forth in this section.

SUBRECIPIENT shall be paid up to a total amount not to exceed Fifteen Thousand Dollars and no cents ($15,000.00) in accordance with the proposed budget contained herein. Payment shall be made upon submission of proper documentation, provided that services have been satisfactory, and that any and all service delivery data requested by CITY has been furnished. SUBRECIPIENT shall submit to CITY requests for disbursement on forms acceptable to CITY, accompanied by appropriate source documentation, including copies of third-party invoices, statements of work performed, cancelled checks, payroll information, or other such verification as authorized by 2 CFR §200.405. SUBRECIPIENT may not request disbursement of funds until the funds are needed for reimbursement of payment of eligible costs.

2.4.1 Conditions of Reimbursement
CDBG-CV funding will only be released to SUBRECIPIENT for actually incurred CDBG-CV eligible project costs. The obligation of CITY to approve any request or to make any disbursement of CDBG-CV funds is subject to the satisfaction of the following conditions at the time of making such disbursement:

A. SUBRECIPIENT shall not be in default under the term of this Agreement and no events shall exist, which by notice, passage of time, or otherwise would constitute an event of default under this Agreement

B. CITY shall have received evidence satisfactory to CITY that all funded activities have been carried out in accordance with HUD regulation, the term of this Agreement, and SUBRECIPIENT’s proposed scope of work

C. SUBRECIPIENT shall have submitted on or before the tenth (10th) of the month following each month of service of the Agreement term a completed reimbursement request using such forms as deemed acceptable by CITY and other appropriate source documentation as may be required by CITY including, but not limited to:
   I. SUBRECIPIENT authorization of submittal
   II. Line Item budget information matching reimbursement request detail
III. Population Served Report
IV. Client Service Log(s) which match requested reimbursement amounts
V. Completed performance measure report
VI. Completed client data summary reports which align with requested reimbursement
VII. Such other supporting evidence as may be requested by CITY to substantiate all payments which are to be made out if the relevant disbursement and/or to substantiate all payments then made with respect to the PROJECT

D. No determination shall have been made by CITY that the undisbursed amount of the PROJECT Agreement is less than the amount received to pay all costs and expenses of any kind that reasonably may be anticipated in connection with the completion of the PROJECT.

2.4.2 Conditions of Final Disbursement
In addition to the requirement set forth in Section 2.4.1, CITY shall require the completion of a Year-end Report on CITY-approved documents, prior to the final disbursement of funds, the request for which shall not be submitted before completion of the PROJECT.

2.4.3 Limitations on Reimbursement Requests
The Parties covenant and agree that in the event that CITY discovers a misstatement in any affidavit, statement, or certificate furnished pursuant to this Agreement, it shall make no further disbursements until such misstatement has been corrected.

2.4.4 Acknowledgement of City Payment of CDBG-CV Funds
Within fifteen (15) calendar days after the payment of the final reimbursement request, SUBRECIPIENT shall sign an acknowledgement that CITY has paid all CDBG-CV funds due under this Agreement.

3. INTENDED BENEFICIARIES

The intended beneficiaries of the CDBG-CV funded services in this Agreement are those persons in the City of Irving who are in need of the services provided by SUBRECIPIENT under this Agreement, at least 51% of whom shall be of low or moderate income as defined by the U.S. Department of Housing and Urban Development (HUD) or shall be of a clientele generally presumed by the U.S. Government to be principally low and moderate income. For the purposes of this Agreement, the definition of “low and moderate income” shall be as specified by the U.S. Department of Housing and Urban Development, and may be subject to change without notice. SUBRECIPIENT is responsible for verifying such information prior to the determination of beneficiary eligibility, but CITY, where appropriate, shall advise SUBRECIPIENT of any changes to low and moderate income limits as established by HUD. SUBRECIPIENT shall establish, maintain and submit to City documentation concerning PROJECT beneficiaries in a form acceptable to CITY's Planning and Community Development Department.

3.1 Income Eligibility and Calculation
SUBRECIPIENT shall ensure that annual gross household income of at least 51% of its PROJECT clients does not exceed current income limits for low to moderate income households, as established and periodically revised by HUD

### 3.1.2 Documentation

SUBRECIPIENT shall ensure that all members of an applicant household provide documentation of assets and income. Such documentation, unless differently predetermined through CITY prior written approval, shall include but is not limited to:

- A. Thirty (30) calendar days of employment or other income documentation, preferably in the form of paycheck stubs, for each working member of the household, aged eighteen (18) or older
- B. Verification of any other sources of income for all family members (Social Security, SSI, Medicaid, Child Support (12 month history), Alimony (12 month history), retirement, etc.)
- C. Verifiable documentation for any other sources of income and/or assets.

A letter of explanation, along with documentation supporting the explanation, shall be included in the client file for any unusual circumstances which impacts client income or assets.

### 3.1.2 Residency

SUBRECIPIENT shall obtain documentation of residency in the City of Irving, legal United States residency, and supporting information for all household members as part of the determination of PROJECT eligibility, including current government-issued photo identification from the head(s) of household.

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**4. GENERAL CONDITIONS**

### 4.1 General Compliance

The SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The SUBRECIPIENT also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

### 4.2 Independent Contractor

Nothing contained in this Agreement is intended, nor shall it be construed in any manner, as to create or establish the relationship of employer/employee between the parties. The SUBRECIPIENT shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The CITY shall be exempt from payment of all
Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance as the SUBRECIPIENT is an independent contractor.

### 4.3 Worker’s Compensation

The SUBRECIPIENT shall provide Worker’s Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

### 4.4 Insurance and Bonding

The SUBRECIPIENT shall carry insurance coverage to protect any Agreement assets from loss due to theft, fraud and/or undue physical damage, and at a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to any cash advances from the CITY. The SUBRECIPIENT shall comply with the bonding and insurance requirements of 2 CFR 200.304, Bonding and Insurance, in addition to any other insurance required by CITY.

### 4.5 Amendments

CITY and SUBRECIPIENT may amend this Agreement by mutual agreement at any time provided that such Amendment(s) make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Irving City Council. Such amendments shall not invalidate this Agreement, nor relieve or release the CITY or SUBRECIPIENT from its obligations under this Agreement.

The CITY may, in its sole discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment(s) result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the CITY and SUBRECIPIENT.

### 4.6 Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least sixty (60) days before the effective date of such termination. Partial terminations of activities contained in Exhibit A: Scope of Work may only be undertaken with the prior approval of CITY. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the SUBRECIPIENT under this Agreement shall, at the option of the CITY, become the property of the CITY, and the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The CITY may also suspend or terminate this Agreement at its sole discretion, in whole or in part, if the SUBRECIPIENT materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the CITY may declare the SUBRECIPIENT ineligible for any further participation in the CITY’s contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the SUBRECIPIENT is not in compliance with any applicable rules and regulations, the CITY may withhold said Agreement
funds until such time as the SUBRECIPIENT is found to be in compliance by the CITY, or is otherwise adjudicated to be in compliance.

4.7 Procurement

SUBRECIPIENT shall develop and implement procurement procedures which conform to any procurement guidelines issued by CITY. If SUBRECIPIENT is a unit of local government, it shall also comply with all applicable state and local laws relating to procurement. SUBRECIPIENT shall not procure supplies, equipment, materials or services except in accordance with such procurement procedures.

By signing this Agreement, SUBRECIPIENT certifies that it is not in a state of debarment. Furthermore, SUBRECIPIENT certifies that it will not award any funds provided under this contract to any party with is debarred, suspended, or otherwise excluded for or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. SUBRECIPIENT shall receive the certification provided by the CITY from each proposed subcontractor under this contract and its principals.

4.8 Allowable Costs

For the term of this Agreement, CITY will reimburse SUBRECIPIENT for the hotel stays for homeless Irving residents that are COVID-19 Positive or Presumed Positive as more specifically described in Exhibit C: Budget/Authorized Reimbursable Costs. SUBRECIPIENT shall be reimbursed by CITY’s Planning and Community Development Department in a total amount not to exceed Fifteen Thousand Dollars and No Cents ($15,000.00). SUBRECIPIENT shall establish, maintain, and submit to CITY documentation concerning PROJECT budget and expenditures in a form acceptable to the Planning and Community Development Department. All PROJECT costs must be reasonable and consistent with policies and procedures of the City of Irving, SUBRECIPIENT, and the U.S. Department of Housing and Urban Development. All expenditures must be accorded consistent treatment, and must be determined to be in accordance with generally accepted accounting principles ("GAAP"). CITY reserves the right to audit all budgets, work schedules, and accounts. SUBRECIPIENT further agrees to comply with any applicable provisions of 24 CFR, Part 200.

SUBRECIPIENT shall be liable to the CITY for any costs disallowed by the U.S. Department of Housing and Urban Development pursuant to financial and compliance audit(s) of funds received under this Agreement. Reimbursement to the CITY of such disallowed costs shall be paid by SUBRECIPIENT from funds which were not provided or otherwise made available to SUBRECIPIENT under this Agreement.

4.9 Form 1295

SUBRECIPIENT shall complete the Certificate of Interested Parties form (Form 1295), as outlined in section 2252.908 of the State of Texas Government Code prior to the execution of this contract to ensure that SUBRECIPIENT discloses interested parties to the State. SUBRECIPIENT must use the application provided electronically by the Texas Ethics Commission and print a copy of the complete form, which will include a certification of filing that will contain a unique certification number. Such certification must be signed by an authorizing agent of the SUBRECIPIENT, and the form must be notarized. SUBRECIPIENT shall provide CITY with the completed Form 1295 prior to execution of the Agreement. CITY will acknowledge to the state the receipt of the certification of
filing no later than the 30th day after the date the CITY receives the Form 1295. Agreement may not be fully executed until receiving notice from the State, review by the State of which must occur within seven (7) business days from the date of acknowledgement of receipt from CITY.

4.10 Internal Controls

In compliance with the requirements of 2 CFR §200.303, SUBRECIPIENT shall:

4.10.1 Establish and maintain effective internal control over the CDBG-CV funds that provides reasonable assurance that SUBRECIPIENT is managing the CDBG-CV funds in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement. These internal controls shall be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

4.10.2 Comply with Federal statutes, regulations, and the terms and conditions of this Agreement

4.10.3 Evaluate and self-monitor SUBRECIPIENT’s compliance with statutes, regulations, and the terms and conditions of this Agreement

4.10.4 Take prompt actions when instances of noncompliance are identified including noncompliance identified in audit findings and inform CITY of corrective actions within thirty (30) days of identification of noncompliant action

4.10.5 Take reasonable measures to safeguard protected personally identifiable information and other information that HUD or CITY designates as sensitive or SUBRECIPIENT considers sensitive consistent with applicable Federal, State, local, or tribal laws regarding privacy and obligations of confidentiality.

4.11 Compliance with All Applicable Laws and Regulations

SUBRECIPIENT agrees to comply fully with all applicable laws and regulations that are currently in effect or that are hereafter amended during the performance of this Agreement. Those laws include, but are not limited to:

- Title 1 of the Housing and Community Development Act of 1974 as set out above
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) including provisions requiring recipients of Federal assistance to ensure meaningful access by persons of limited English proficiency
- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.)
- Executive Orders 11063, 11246 as amended by 11375 and 12086 and as supplemented by Department of Labor regulations 41 CFR, Part 60
The Age Discrimination in Employment Act of 1967
The Age Discrimination Act of 1975 (42 U.S.C. Sections 6101 et seq.)
The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Sections 4601 et seq. and 49 CFR Part 24 ("URA")
Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sections 794 et seq.) and 24 CFR Part 8 where applicable
The Clean Air Act, as amended (42 U.S.C. Sections 1251 et seq.) and the Clean Water Act of 1977, as amended (33 U.S.C. Sections 1251 et seq.), related Executive Order 11738 and Environmental Protection Subrecipient Regulations at 40 CFR Part 15. In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility that has given rise to a conviction under the Clean Air Act or the Clean Water Act.
Immigrations Reform and Control Act of 1986 (8 U.S.C. Sections 1101 et seq.), specifically including the provisions requiring employer verifications of legal status of its employees
Regulations at 2 CFR Part 200 related to lobbying, including the requirement that certifications and disclosures be obtained from all covered persons
Executive Order 12549 and 24 CFR Part 5.105(c) pertaining to restrictions on participations by ineligible, debarred, or suspended persons or entities
Regulations at 24 CFR Part 882.708(C) pertaining to site and neighborhood standards for new construction projects
Regulations at 24 CFR Part 983.6 for Site and Neighborhood Standards Review
Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act
Guidelines of the Environmental Protections Subrecipient at 40 CFR Part 247
For contracts and subgrants for construction or repair, Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in 29 CFR Part 5
For construction contracts in excess of $2,000.00, and in excess of $2,500.00 for other contracts which involve the employment of mechanics or laborers, Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 300) as supplemented by 29 CFR Part 5
Regulations at 24 CFR Part 570, Community Development Block Grant
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 et seq.
4.12 Copyright, Patent Rights, and Public Information Act

SUBRECIPIENT acknowledges that the City of Irving is subject to the provisions of the Texas Public Information Act as set forth in Chapter 552 of the Texas Government Code. If a public information request is made to the CITY for information regarding this Agreement, or for any other records provided by SUBRECIPIENT to CITY, the CITY may send a request to the Texas Attorney General for a decision as to whether or not such information may be withheld from disclosure in accordance with the Public Information act, and will release such information if required to do so by Texas of Federal law. In the event that a public information request is made to the CITY for items or documents that may be subject to copyright or patent protection, the CITY will notify SUBRECIPIENT that such public information request has been made so that SUBRECIPIENT can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that SUBRECIPIENT can assert any other rights it may have under law to keep such information from being disclosed; and SUBRECIPIENT can notify the holder of copyright or patents rights to the requested documents that it can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that the holder of said rights can assert any other rights it may have under law to keep such information from being disclosed. If pursuant to a court order, subpoena or summons, the CITY is required to make disclosure of information provided by SUBRECIPIENT to the CITY, the CITY shall notify SUBRECIPIENT to allow SUBRECIPIENT to assert whatever exclusions or exemptions maybe available to SUBRECIPIENT under applicable law; and, so that SUBRECIPIENT can notify the holder of copyright or patent rights so that it can assert whatever exclusions or exemptions may be available to it under applicable law. SUBRECIPIENT acknowledges that the CITY must comply with such court order, subpoena or summons unless otherwise determined by the applicable court. This provisions of this Section shall survive the termination of this Agreement.

4.13 Terms Applicable to Contractors, Subcontractors, and Vendors

SUBRECIPIENT understands and agrees that all terms of this Agreement, whether regulatory or otherwise, shall apply to any and all contractors, subcontractors, and vendors of SUBRECIPIENT which are in any way paid with CDBG-CV funds or who perform any work in connection with the PROJECT. SUBRECIPIENT will cause all applicable provisions of the Agreement to be included in and made a part of any contract or subcontract executed in the performance of its obligations hereunder, including its obligations regarding the CDBG Requirements and the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT shall monitor the services and work performed by its contractors, subcontractors, and vendors on a regular basis for compliance with the CDBG Requirements, the CDBG Regulations, and Agreement provisions. SUBRECIPIENT is responsible to cure all violations of the CDBG Regulations committed by its contractors, subcontractors, or vendors pertaining to this Agreement. CITY maintains the right to insist on SUBRECIPIENT’s full compliance with the terms of this Agreement and the CDBG Regulations and SUBRECIPIENT is responsible for such compliance regardless of whether actions to fulfill the requirements of this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) are taken by SUBRECIPIENT or by SUBRECIPIENT’s contractors, subcontractors, or vendors. SUBRECIPIENT acknowledges that the provisions of this Section shall survive the earlier termination or expiration of this Agreement and be applicable for five (5) years after the termination of this Agreement.
4.14 Meaningful Access For Limited English Proficient Persons

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“Limited English Proficient persons” or “LEP”) may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 (Title VI) in order to receive a particular service, benefit, or encounter. In accordance with Title VI and its implementing regulations, the SUBRECIPIENT agrees to take reasonable steps to ensure meaningful access to activities for LEP persons. Any of, but not limited to, the following actions could constitute “reasonable steps”, depending on the circumstances; acquiring translators to translate vital documents, advertisements and notices, acquiring interpreters for face-to-face interviews with PEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the PROJECT, hiring bilingual employees or volunteer for outreach and intake activities, or contracting with a telephone line interpreter service.

4.15 Other Laws

The failure to list any Federal, State, or City ordinance, law, or regulation that is applicable to SUBRECIPIENT does not excuse or relieve SUBRECIPIENT from the requirements or responsibilities in regard to following the law, nor from the consequences or penalties for SUBRECIPIENT’s failure to follow the law, if applicable.

5. REPORTING, MONITORING, AND RECORDKEEPING

5.1 General Requirements

SUBRECIPIENT agrees to provide reports to CITY and to maintain records documenting compliance with this Agreement, the loan documents and regulatory agreements, the CDBG requirements, and all other applicable federal, state, and local laws and regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT also agrees to provide CITY, HUD, HUD’s Inspector General, the Comptroller General of the United States (aka the U.S. Government Accountability Office or “GAO”), or their representatives, access to the PROJECT and its records for the purpose of monitoring SUBRECIPIENT’s compliance with applicable requirements.

5.2 Reporting Requirements

If SUBRECIPIENT fails to submit, in a timely and satisfactory manner, any report or response required by this Contract as specified in Exhibits ”B” and ”C”, including responses to monitoring reports, CITY may withhold payments otherwise due to SUBRECIPIENT hereunder. If CITY withholds such payments, it shall notify SUBRECIPIENT in writing of its decision and the reasons therefor. Payments may be withheld by CITY until such time as the delinquent obligations for which funds are withheld are fulfilled by SUBRECIPIENT. If the delinquent report or response is
not received within forty-five (45) days of its due date, CITY may suspend or terminate this Contract. If SUBRECIPIENT receives CDBG-CV funds from CITY over two (2) or more Contract Periods, funds may be withheld or this Contract suspended or terminated for SUBRECIPIENT’s failure to submit a report or response (including a report of audit) past due under a prior Planning and Community Development Department contract.

SUBRECIPIENT shall submit a final Program Close-Out Report to the Planning and Community Development Department not later than October 31, 2021.

5.3 Reports

SUBRECIPIENT will submit to CITY all reports and documentation described in this Agreement in such form as CITY may prescribe. SUBRECIPIENT will be required to submit a final performance and/or final financial report as required by CITY at the termination of this Agreement in such form and within such times as CITY may prescribe. Failure to submit any report or documentation described in this Agreement to CITY shall be an event of default of this Agreement, and CITY may exercise all of its remedies for default under this Agreement.

5.3.1 Additional Information
SUBRECIPIENT shall provide CITY with additional information as may be required by State or Federal agencies to substantiate CDBG-CV Program activities and/or expenditure eligibility.

5.3.2 Change in Reporting Requirements and Forms
CITY retains the right to change reporting requirements and forms at its discretion. CITY will notify SUBRECIPIENT in writing at least thirty (30) calendar days prior to the effective date or such change, where practicable, and the Parties shall execute an amendment to this Agreement reflecting such change if necessary.

7.5.3 City Reserves Right to Audit
CITY reserves the right to perform an audit of SUBRECIPIENT’s operations and finances related to this Agreement at any time during the term of this Agreement and for five (5) years after the Agreement terminates if CITY determines that such audit is necessary for CITY’s compliance with CDBG Regulations or other CITY policies, and SUBRECIPIENT agrees to allow access to all pertinent materials as described herein as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If such audit reveals a questioned practice or expenditure, such questions must be resolved within fifteen (15) business days after notice to SUBRECIPIENT of such questioned practice or expenditure. If questions are not resolved within this period, CITY reserves the right to withhold further funding under this Agreement and/or other contracts with SUBRECIPIENT. If as a result of an audit it is determined that SUBRECIPIENT has falsified any documentation or misused, misapplied, or misappropriated CDBG-CV funds or spent CDBG-CV funds on any ineligible activities, SUBRECIPIENT agrees to reimburse CITY the amount of such monies plus the amount of any sanctions, penalty, or other charge levied against CITY by HUD because of such actions.
5.4 Monitoring

CITY will monitor and evaluate SUBRECIPIENT’s progress on project performance on an annual basis, or more frequently as required, against goals and performance standards established herein. Monitoring may take the form of desk review or on-site monitoring. SUBRECIPIENT shall establish and maintain appropriate documentation to verify stated performance objectives and shall submit such documentation to City's Planning and Community Development Department staff on a monthly basis during the Agreement term as provided in Section 2, or more often if deemed necessary. SUBRECIPIENT further agrees to reasonable on-site monitoring by representatives of the City and the U.S. Department of Housing and Urban Development.

SUBRECIPIENT understands and agrees that it will be subject to monitoring by CITY for compliance with the CDBG Regulations and the terms of this Agreement until the PROJECT is closed in IDIS and for four (4) years thereafter. SUBRECIPIENT will provide reports and access to PROJECT files as requested by CITY during the term of the Agreement and for four (4) years after the PROJECT is closed in IDIS. In order to assist CITY with its monitoring, SUBRECIPIENT shall comply with all the reporting requirements set out in this Agreement.

5.4.1 Access
Representatives of CITY, HUD, HUD Office of Inspector General, and the United States Comptroller General shall have access during regular business hours, upon forty-eight (48) hours’ prior notice, to SUBRECIPIENT’s offices and records that are related to the use of the CDBG-CV funds, and to SUBRECIPIENT’s officers, agents, employees, contractors, subcontractors, vendors, and records that are related to the use of CDBG-CV funds for the purpose of such monitoring.

5.4.2 Frequency and Types of Monitoring
In addition to other provisions of this Agreement regarding frequency of monitoring, CITY reserves the right to perform desk reviews or on-site monitoring of SUBRECIPIENT’s compliance with the terms and conditions of this Agreement. CITY shall provide SUBRECIPIENT with a written report of the monitor’s findings after each on-site monitoring visit. If the monitoring report notes deficiencies in SUBRECIPIENT’s performance, the report shall include requirements for the timely correction of said deficiencies by SUBRECIPIENT. Failure by SUBRECIPIENT to take the action specified in the monitoring report may be cause for suspension or termination of this Agreement as provided herein or CITY may require repayment of all CDBG-CV funds related to this Agreement. CITY will evaluate all funded agencies to determine the required frequency of on-site monitoring to be conducted.

5.4.3 Substandard Performance
Substandard performance as determined by City monitoring will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within a reasonable period of time after being notified by the City, Agreement suspension or termination procedures will be initiated. In the event that the City makes a determination that the provisions of this Agreement have not been performed by the SUBRECIPIENT, City may, in accordance with 2 CFR 200.339(a)(1), suspend or terminate this Agreement by notice in writing to SUBRECIPIENT if the SUBRECIPIENT materially fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 2 CFR 200.339.
5.5 Audits

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of an independent financial audit. Such audits shall be completed by an independent auditor in accordance with generally accepted accounting and auditing principles and standards (GAAP) governing financial and compliance audits. Such audits should be completed no later than one hundred fifty (150) days following the end of the SUBRECIPIENT’s fiscal year. However, upon CITY approval of prior written request from SUBRECIPIENT, CITY will allow such audits to be completed no later than one hundred eighty (180) days following the end of the SUBRECIPIENT’s fiscal year. CITY reserves the right to approve this submittal date to mitigate professional charges to SUBRECIPIENT related to conducting such audits. Notwithstanding, all copies of completed audits, together with any management letters or accompanying documentation, shall be submitted to CITY within thirty (30) days of acceptance and review by SUBRECIPIENT. Should SUBRECIPIENT receive Federal funding in an amount exceeding $750,000.00, regardless of source, SUBRECIPIENT must complete an Independent Single Audit in accordance with 2 CFR 200 Subpart F. Such independent Single Audit is subject to the submittal requirements stated above.

In the event SUBRECIPIENT is allocated $750,000.00 or more in federal funds from any agencies of the U.S. Government, SUBRECIPIENT shall also comply with U.S. Government federal audit requirements, including the requirements contained in 2 CFR 200 Subpart F.

5.5 Form 990

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of its submitted Return of Organization Exempt From Income Tax (commonly referred to as IRS Form 990). Such forms shall be submitted to CITY within thirty (30) days of SUBRECIPIENT submittal to the Internal Revenue Service.

5.6 Depository and Record Keeping

Disbursed funds must be deposited in a depository having federal depository insurance. CITY shall require of SUBRECIPIENT that the Department of Housing and Urban Development of the United States Government, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Project, for the purpose of making audit examinations, excerpts and transcriptions. This Agreement and all records pertaining to such Agreement shall be maintained by both SUBRECIPIENT and the CITY for a period of four (4) years after final payment is made and all other pending matters are finalized.

CITY reserves the right to conduct additional financial and compliance audits of the funds received and performance rendered under this Agreement. SUBRECIPIENT agrees to permit CITY or its authorized representatives to audit SUBRECIPIENT’s records and to obtain any documents, materials or information necessary to facilitate such audit.
6 PROJECT INCOME

No PROJECT income, commonly referred to as Program Income, is anticipated. In the event there is program income derived from the use of CDBG-CV funds disbursed under this Agreement such program income shall be returned to the Planning and Community Development Department for further reallocation.

7 ENFORCEMENT AND TERMINATION

If CITY determines that the required PROJECT elements have not been completed within the timelines of this Agreement or have been provided for ineligible activities or to a preponderance of ineligible persons, CITY shall have the right to terminate this Agreement effectively immediately upon written notice to SUBRECIPIENT of such intent with no penalty or liability to CITY after giving SUBRECIPIENT thirty (30) calendar days to cure. CITY shall also be entitled to demand repayment of the CDBG-CV funds already disbursed to SUBRECIPIENT and enforce any of the provisions of this Agreement for default.

7.1 Failure to Submit Complete Documentation During PROJECT

7.1.1 Complete Documentation

If SUBRECIPIENT fails to submit complete documentation during PROJECT, or if any report or documentation submitted as part of complete documentation is not in compliance with this Agreement or CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY in its sole discretion, CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have thirty (30) calendar days from the date of CITY’s written notice to submit or resubmit any such report or documentation. If SUBRECIPIENT fails to submit or resubmit any such report or documentation within such time, CITY shall have the right to withhold payments. If such failure continues for an additional thirty (30) calendar days (a total of sixty (60) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such report or documentation is missing or otherwise not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

7.1.2 Incomplete or Noncompliant Reimbursement Requests

If any of SUBRECIPIENT’s Reimbursement Requests are incomplete or otherwise not in compliance with this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY on its sole discretion, CITY will notify SUBRECIPIENT in writing of such default and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to resubmit any such Reimbursement Request to cure the default. If SUBRECIPIENT fails to cure the default within
such time, SUBRECIPIENT shall forfeit any payments otherwise due under such Reimbursement Request. If such failure to resubmit such Reimbursement Request continues for an additional fifteen (15) calendar days (for a total of thirty (30) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such Reimbursement Request is not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

7.1.3 Multiple Instances
In the event of more than two (2) instances of default, cured or uncured, CITY reserves the right at its sole option to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY.

7.1.4 Payment of CDBG-CV Funds to SUBRECIPIENT
Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV Funds to SUBRECIPIENT pursuant to this Agreement during the period that any Reimbursement Request, report, or other documentation is missing, past due, or is not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19), or during any period during which SUBRECIPIENT is in default of this Agreement.

7.1.5 Unpaid Funds
In the event of termination under this Section, all CDBG-CV Funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately forfeited and SUBRECIPIENT shall have no further right to such funds. If CITY determines that a repayment of CDBG-CV funds paid to SUBRECIPIENT must be repaid, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section. Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

7.2 Failure to Maintain or Submit Required Reports and Documentation
If SUBRECIPIENT fails to maintain all records and documentation as required in Section 6, or fails to submit any report or documentation required by this Agreement after the PROJECT is completed, or if the submitted report or documentation is not in compliance with this Agreement or the CDBG Regulations as determined by CITY in its sole discretion as it relates to prevent, prepare for, and respond to the coronavirus (COVID-19), CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to obtain or recreate the missing records or documentation, or submit or resubmit any such report or documentation to CITY. If SUBRECIPIENT fails to maintain the required reports or documentation, or submit or resubmit any such report or documentation within such time, CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY.

7.3 Additional Time to Cure
Unless specifically provided otherwise in this Agreement, SUBRECIPIENT shall be in default under this Agreement if SUBRECIPIENT breaches any term or condition of this Agreement. In the event that such a breach remains uncured after thirty (30) calendar days following written notice by CITY (or other such notice period as may be specified herein), or if SUBRECIPIENT has diligently and continuously attempted to cure following receipt of such written notice but reasonably required more than thirty (30) calendar days to cure, as determined by both Parties mutually and in good faith, CITY shall have the right to elect, in CITY’s sole discretion, to (i) extend SUBRECIPIENT’s time to cure, (ii) terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT, or (iii) pursue any other legal remedies available to CITY under this Agreement.

7.4 Remedies
City’s remedies may include:

A. Direct SUBRECIPIENT to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities.

B. Direct SUBRECIPIENT to establish and follow a management plan that assigns responsibilities for carrying out the remedial activities.

C. Cancel or revise activities likely to be affected by the performance deficiency, before expending CDBG-CV funds for the activities.

D. Reprogram CDBG-CV funds that have not yet been expended from the affected activities to other eligible activities or withhold CDBG-CV funds.

E. Direct SUBRECIPIENT to reimburse CITY in any amount of CDBG-CV funds not used in accordance with the HOME regulations.

F. Suspend reimbursement of CDBG-CV funds for affected activities.

G. Suspend or terminate this Contract.

H. Any other appropriate action including but not limited to any remedial action legally available such as declaratory judgement, specific performance, damages, temporary or permanent injunctions, termination of this Agreement or any other Agreements with SUBRECIPIENTs, and any other available remedies.

7.5 Repayment
In the event of termination under this Section, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds and, as determined by CITY, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.
**7.6 No Funds Disbursed While in Breach**

SUBRECIPIENT understands and agrees that no CDBG-CV funds will be paid to SUBRECIPIENT until all defaults are cured to the satisfaction of CITY.

**7.7 No Compensation after Date of Termination**

SUBRECIPIENT will not receive any CDBG-CV funds for work undertaken after the date of termination.

**7.8 Rights of CITY Not Affected**

Termination shall not affect or terminate any of the existing rights of CITY against SUBRECIPIENT, or which may thereafter accrue because of such default, and this provision shall be in addition to any and all other rights and remedies available to CITY under the law including, but not limited to, compelling SUBRECIPIENT to complete the PROJECT in accordance with the terms of the Agreement. Such termination does not terminate any applicable provisions of this Agreement that have been expressly noted as surviving the term of termination of this Agreement. No delay or omission by CITY in exercising any right or remedy available to it under this Agreement shall impair such right or remedy or constitute a waiver or acquiescence in any SUBRECIPIENT default.

**7.9 Waiver of Breach Not Waiver of Subsequent Breach**

The waiver of a default of breach of any term, covenant, or condition of this Agreement shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof or thereof.

**7.10 Civil, Criminal, and Administrative Penalties**

Failure to perform all Agreement terms may result in civil, criminal, or administrative penalties, including, but not limited to those set out in this Agreement.

**7.11 Termination for Cause**

CITY may terminate this Agreement in the event of SUBRECIPIENT’s default, inability, or failure to perform subject to notice, grace, and cure periods. In the event CITY terminates this Agreement for cause, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds, and any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG-CV funds will result in exercising all legal remedies available to City under this Agreement. SUBRECIPIENT acknowledges and agrees that if CITY terminates this Agreement for cause, neither SUBRECIPIENT nor any affiliates of SUBRECIPIENT will be considered for any other CITY contract for CDBG-CV funds for a minimum of five (5) years from the date of termination.

**7.11.1 Loss of Nonprofit Status**

This Agreement shall be terminated immediately in the event SUBRECIPIENT loses its nonprofit certification or status after the cure period stated in this Section.
7.11.2 No Available CDBG-CV Funds
SUBRECIPIENT may terminate this Agreement if CITY does not provide the CDBG-CV funds substantially in accordance with this Agreement.

7.12 Termination for Convenience
In terminating in accordance with 2 CFR 200, Appendix II, this Agreement may be terminated in whole or in part only as follows:

7.12.1
By CITY with the consent of SUBRECIPIENT in which case the Parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

7.12.2
By SUBRECIPIENT upon written notification to CITY setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of a partial termination, CITY may terminate the Agreement in its entirety if CITY determines in its sole discretion that the remaining portion of the Agreement to be performed or CDBG-CV funds to be spent will not accomplish the purposes for which this Agreement was made.

7.13 Dissolution of SUBRECIPIENT Organization Terminates Contract
This Agreement shall terminate in the event SUBRECIPIENT organization is dissolved or ceases to exist. In the event of termination under this Section, all CDBG-CV funds are subject to repayment and/or CITY may exercise all of its remedies under this Agreement.

7.14 REPAYMENT OF CDBG-CV FUNDS
All CDBG-CV funds are subject to repayment in the event the PROJECT does not meet the requirements of this Agreement or of the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If SUBRECIPIENT takes any action that results in CITY being required to repay all or any portion of the CDBG-CV funds to HUD, SUBRECIPIENT agrees it will reimburse CITY for such repayment.

7.15 MATERIAL OWNERSHIP CHANGE
If ownership of SUBRECIPIENT materially changes after the date of this Agreement, CITY may, but is not obligated to, terminate this Agreement. CITY has thirty (30) calendar days to make such determination after receipt of written notice from SUBRECIPIENT, and failure to make such determination will constitute a waiver. In the event of termination by CITY under this Section, all CDBG-CV funds awarded but not yet paid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds. Any CDBG-CV
funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section.

8 REVERSION OF ASSETS/DISPOSITION OF EQUIPMENT

Upon expiration of this Agreement, SUBRECIPIENT shall transfer to the CITY any CDBG-CV funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-CV funds, except as provided in Section VII herein. In addition, any real property under the SUBRECIPIENT’s control that was acquired or improved in whole or in part with CDBG-CV funds in excess of $25,000 shall either be:

A. Used to meet one (1) of the national objectives listed in 24 CFR 570.208 (benefit at least 51% low and moderate income persons, aid in the prevention or elimination of slums or blight or meet community development needs having a particular urgency because they pose a serious and immediate threat to the health or welfare of the community) until five (5) years after expiration of the Agreement; however, in compliance with 24 CFR 570.505, should the SUBRECIPIENT propose to change the use of the property/equipment from that for which it was originally intended, affected citizens must be provided with reasonable notice of and opportunity to comment on the proposed change; or

B. Disposed of in a manner that results in the CITY being reimbursed in the amount of the current fair market value of the property/equipment less any portion of the value attributable to expenditures of non-CDBG-CV funds for acquisition of or improvement to the property. Such reimbursement shall not be required if disposition occurs more than five (5) years after expiration of this Agreement. In all cases in which property/equipment is sold, the proceeds shall be program income, the use of which shall be recorded in compliance with 24 CFR 570.504 and Section VII herein.

To document this requirement, SUBRECIPIENT shall maintain appropriate written records as approved by CITY’s Planning and Community Development Department regarding use of the property for the five (5) year period following expiration of this Agreement.

9. CONDITIONS FOR RELIGIOUS ORGANIZATIONS

The SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, in accordance with the Federal regulations specified in 24 CFR 570.200 (j).

10. INDEMNIFICATION

SUBRECIPIENT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF IRVING, ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES,
DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES
OF LITIGATION, COURT COSTS AND ATTORNEYS FEES FOR INJURY TO OR DEATH OF ANY
PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH
SUBRECIPIENT’S OPERATION, THE PROJECT, OR THE EXPENDITURE OF FUNDS AUTHORIZED BY
THIS AGREEMENT, OR ANY SERVICES PROVIDED BY SUBRECIPIENT FUNDED OR PARTIALLY
FUNDED BY THIS AGREEMENT. SUCH INDEMNIFICATION SHALL APPLY WHERE THE CLAIMS,
LOSSES, DAMAGES, CAUSE OF ACTION, SUITS OR LIABILITY ARISE IN WHOLE OR IN PART FROM
THE NEGLIGENCE OF SUBRECIPIENT OR CITY, THEIR OFFICERS, OFFICIALS, AGENTS AND
EMPLOYEES.

IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH SUBRECIPIENT AND CITY, THAT
THE INDEMNITY PROVIDED FOR IN THIS SECTION INCLUDES INDEMNITY BY SUBRECIPIENT TO
INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF CITY’S OWN NEGLIGENCE,
WHETHER THAT NEGLIGENCE IS ALLEGED TO BE THE SOLE OR CONCURRING CAUSE OF THE
INJURY, DEATH, OR DAMAGE.

11. PERSONNEL AND PARTICIPANT CONDITIONS

11.1 Civil Rights

11.1.1 Compliance
The SUBRECIPIENT agrees to comply with all applicable State and local laws and with Title VI
of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended,
Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of
1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with
Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with
Executive Order 11246 as amended by Executive Orders 11375 and 12086, and E.O. 13279.

11.1.2 Nondiscrimination
The SUBRECIPIENT will not discriminate against any employee or applicant for employment
because of race, color, creed, ancestry, national origin, sex, disability or other handicap, age,
marital/familial status, or status with regard to public assistance. The SUBRECIPIENT will take
affirmative action to insure that all employment practices are free from such discrimination.
Such employment practices include but are not limited to the following: hiring, upgrading,
demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay
or other forms of compensation, and selection for training, including apprenticeship. The
SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants
for employment, notices to be provided by the contracting Subrecipient setting forth the
provisions of this nondiscrimination clause.

11.1.3 Land Covenants
This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L.
88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land
acquired, cleared or improved with assistance provided under this Agreement, the
SUBRECIPIENT shall cause or require a covenant running with the land to be inserted in the
deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease
or rental, or in the use or occupancy of such land, or in any improvements erected or to be
erected thereon, providing that the CITY and the United States are beneficiaries of and
entitled to enforce such covenants. The SUBRECIPIENT, in undertaking its obligation to carry
out the program assisted hereunder, agrees to take such measures as are necessary to
enforce such covenant, and will not itself so discriminate.

11.1.4 Section 504
The SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to
compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits
discrimination against the handicapped in any Federally assisted program. The CITY shall
provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of
the regulations in force during the term of this Agreement.

11.2 Employment Restrictions

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

11.2.2 Labor Standards
The SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in
accordance with the Davis-Bacon Act as amended, the provisions of the Contract Work Hours
and Safety Standards Act, the Copeland "Anti Kickback" Act (40 U.S.C. 276a-5; 40 USC 327 and
40 USC 276) and all other applicable Federal, State and local laws and regulations pertaining
to labor standards insofar as those acts apply to the performance of this Agreement. The
SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and
wage requirements of this part. Such documentation shall be made available to the CITY for
review upon request.

The SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of
residential property containing less than eight (8) units, all contractors engaged under
contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole
or in part with assistance provided under this Agreement, shall comply with Federal
requirements adopted by the CITY pertaining to such contracts and with the applicable
requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and
7, governing the payment of wages and ratio of apprentices and trainees to journeyworkers;
provided that if wage rates higher than those required under the regulations are imposed by
state or local law, nothing hereunder is intended to relieve the SUBRECIPIENT of its obligation,
if any, to require payment of the higher wage. The SUBRECIPIENT shall cause or require to be
inserted in full, in all such contracts subject to such regulations, provisions meeting the
requirements of this paragraph.

11.3 "Section 3" Clause

11.3.1 Compliance
Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT's subcontractors. Failure to fulfill these requirements shall subject the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT's subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The SUBRECIPIENT certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

11.3.2 Subcontract Language
SUBRECIPIENT agrees to comply with these "Section 3" requirements: The SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the CITY. The SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low income persons residing in the metropolitan area in which the project is located."

11.3.3 Training and Employment
SUBRECIPIENT agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low and very low-income persons residing within the metropolitan area in which the CDBG-CV funded project is located; where feasible, priority should be given to low and very low income persons within the service area of the project of the neighborhood in which the PROJECT is located, and to low and very low income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low and very low income persons residing within the metropolitan area in which the CDBG-CV funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low and very low income residents within the service area or the neighborhood in which the project is located, and to low and very low income participants in other HUD programs.

11.3.4 Non Incapacity
The SUBRECIPIENT certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

11.4 Conduct

11.4.1 Subcontracts
A. Approvals
The SUBRECIPIENT shall not enter into any subcontracts with any Subrecipient or individual in the performance of this Agreement without the written consent of the CITY prior to the execution of such agreement.

B. Monitoring
The SUBRECIPIENT will monitor all subcontracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

C. Content
The SUBRECIPIENT shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

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

11.4.3 Conflict of Interest
SUBRECIPIENT agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. SUBRECIPIENT further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the SUBRECIPIENT hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY, or of any designated public agencies or SUBRECIPIENTS which are receiving funds under the CDBG Entitlement program.

SUBRECIPIENT further agrees to execute an Affidavit Against Prohibited Acts, in the form attached as Exhibit F: Affidavit Against Prohibited Acts, certifying that it will adhere to the provisions of the Texas Penal Code, attached as Exhibit E: Texas Penal Code Title 8: Offenses Against Public Administration, which prohibits bribery and gifts to public servants.

11.4.4 Lobbying
SUBRECIPIENT hereby certifies, attached as Exhibit D: Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, that:
A. No Federal appropriated funds have been or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

B. If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

C. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subcontractors or subgrantees shall certify and disclose accordingly; and

D. Lobbying Certification
   This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

12. APPLICABLE LAW

SUBRECIPIENT shall comply with all applicable local, State and Federal laws and shall carry out each activity hereunder in compliance with all Federal laws and regulations described in Subpart K of 24 CFR Chapter V, as described in Section 570.503(b)(5) of 24 CFR Chapter V.

13. ASSIGNMENT

No assignment or delegation of duties under this Agreement shall be effective without the written consent of CITY.
14. NOTICES

All notices required or permitted by this Agreement must be in writing and shall be effective upon receipt when (i) sent by United States postal service with proper postage, certified mail return receipt requested or by a nationally recognized overnight delivery service; and (ii) addressed to the other Party at the address set out below or as such other address as the receiving Party designates by proper notice to the sending Party.

SUBRECIPIENT: Kyle Taylor, CEO
Irving Cares, Inc.
440 S. Nursery Rd., Suite 101
Irving, Texas 75061

CITY: Steven A. Reed, Director
Planning and Community Development Department
City of Irving
825 W. Irving Blvd.
Irving, Texas 75060

When applicable, copies shall be sent to:

Chris Hillman
City of Irving
825 W. Irving Blvd.
Irving, Texas 75060

Doris Harris, Board Chair
Irving Cares, Inc.
440 S. Nursery Rd., Suite 101
Irving, Texas 75060

In Witness Whereof, the parties have hereunto set their hands by the representatives hereunto duly authorized on the date first stated above.

CITY OF IRVING, TEXAS

BY: ____________________________
Richard H. Stopfer, Mayor

DATE SIGNED: ____________________________

ATTEST: ____________________________

IRVING CARES, INC.

BY: ____________________________
Irving Cares, Board President

DATE SIGNED: ____________________________

ATTEST: ____________________________
Shanae Jennings
City Secretary

APPROVED TO AS FORM:

_______________________________
Kuruvilla Oommen
City Attorney
EXHIBIT A
SCOPE OF WORK

SUBRECIPIENT INFORMATION

SUBRECIPIENT Name: Irving Cares, Inc.
Federal Tax ID Number: 75-1436937
DUNS Number: 020636283
Activities funded by this grant will be carried out at 440 S. Nursery Rd, Suite 101, Irving, Texas 75061.

SUBRECIPIENT will be responsible for administering PROJECT in a manner consistent with the federal requirements governing the provision of Community Development Block Grant funds. SUBRECIPIENT will provide the following activities eligible under the Community Development Block Grant Program.

PROGRAM DESCRIPTION:

COVID Sheltering Program:
Irving Cares will provide hotel night stays for up to ten (10) homeless Irving residents that are COVID Positive or Presumed Positive for up to 15 days for each individual.

10 individuals x 15 days = 150 days
150 days x $100 a day = $15,000

PROGRAM ACTIVITIES:

| Activity #1 | Provide hotel night stays for homeless Irving residents that are COVID positive or Presumed Positive |

National Objective

SUBRECIPIENT certifies that the activities carried out with funds provided under this Agreement will meet the Department of Housing and Urban Development’s National Objective of benefit to at least 51% low/moderate income persons as defined in 24 CFR Part 570.208.

SUBRECIPIENT is responsible for maintaining and reporting to the Planning and Community Development Department PROJECT records documenting the income eligibility of each participant.

The Planning and Community Development Department will monitor the performance of the SUBRECIPIENT against the National Objective stated above.
EXHIBIT B
PERFORMANCE OBJECTIVES

In addition to meeting the administrative requirements included in this Agreement, the SUBRECIPIENT agrees to provide the following levels of program services:

A. Number of Persons To Be Assisted: 10

B. Number of Households To Be Assisted: 10

C. Number of Service Units to be Provided:

<table>
<thead>
<tr>
<th>Services</th>
<th>Total Units Per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hotel night stays</td>
<td>150 days</td>
</tr>
</tbody>
</table>

City staff will monitor the performance of the Subrecipient against the goals and performance objectives stated above.

D. Evaluation Results Regarding Quality/Outcome of Services Provided
   1. 80% of homeless individuals remain in their hotel for the 15 days or are no longer COVID-19 positive or presumed positive to help prevent the spread of COVID-19

E. SUBRECIPIENT will submit monthly Performance Reports to the Planning and Community Development Department by the 10th of the month following each month of service of the Contract term.

F. SUBRECIPIENT will submit a final Program Close-Out Report to the Planning and Community Development Department no later than October 31, 2021.

G. The Planning and Community Development Department requires that all grant performance, including evaluation performance, be reflected in monthly Performance Objectives Reports.
EXHIBIT C
BUDGET/AUTHORIZED REIMBURSABLE COSTS

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
<th>Leverage Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hotel Night Stays</td>
<td>$15,000.00</td>
<td></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>$15,000.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

Total reimbursement for eligible expenses will not exceed the amount specified and will be contingent upon City receipt of source documentation of expenditures (time sheets, copies of direct deposit notices, copies of canceled checks, bank statements, etc.).

The Planning and Community Development Department requires that, unless alternative arrangements have been approved by Planning and Community Development Department staff in advance, funds be evenly expended (approximately 1/12 of the funds each month) for the contract term in order to meet HUD's timeliness requirements.
EXHIBIT D
Certification Regarding Lobbying
for Contracts, Grants, Loans, and Cooperative Agreements

THE UNDERSIGNED CERTIFIES TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF THAT:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

IRVING CARES, INC.

By: ____________________________

Signature

______________________________

Typed or Printed Name

______________________________

Title

______________________________

Date
Chapter 36. Bribery and Corrupt Influence

36.02 Bribery
   (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
      (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
      (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
      (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
      (4) any benefit that is a political contribution as defined by Title 15, Election Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
   (b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
   (c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
      (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
      (2) the public servant ceases to be a public servant.
   (d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) of this Section that the benefit is a political contribution accepted as defined by Title 15, Election Code.
   (e) An offense under this section is a felony of the second degree.

36.08 Gift to Public Servant by Person Subject to His Jurisdiction
   (a) A public servant in an Subrecipient performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his Subrecipient.
   (b) A public servant in an Subrecipient having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his Subrecipient.
   (c) A public servant in an Subrecipient carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit
from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his Subrecipient.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decisions, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an Subrecipient of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.

(g) A public servant who is a hearing examiner employed by an Subrecipient performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the Subrecipient in a contested case, who is doing business with the Subrecipient, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) of this code does not apply to a benefit under this subsection.

(h) An offense under this section is a Class A misdemeanor.

36.09 Offering Gift to Public Servant

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

(b) An offense under this section is a Class A misdemeanor.

36.10 Non‐Applicable

(a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) of this code do not apply to:

1. a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

2. a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

3. a benefit to a public servant required to file a statement under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252‐9b, Vernon's Texas Civil Statutes), or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

   A. the benefit and the source of any benefit in excess of $50 is reported in the statement; and

   B. the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non‐reimbursable by the state or political subdivision;
(4) a political contribution as defined by Title 15, Election Code; or
(5) a gift, award, or memento to a member of the legislative or executive branch
that is required to be reported under Chapter 805, Government Code.

(b) Section 36.08 (Gift to Public Servant) of this code does not apply to food, lodging,
transportation, or entertainment accepted as a guest and, if the donee is required by
law to report those items, reported by the donee in accordance with that law.

(c) Section 36.09 (Offering Gift to Public Servant) of this code does not apply to food,
lodging, transportation, or entertainment accepted as a guest and, if the donor is
required by law to report those items, reported by the donor in accordance with that
law.
EXHIBIT F

THE STATE OF TEXAS

AFFIDAVIT AGAINST PROHIBITED ACTS

COUNTY OF DALLAS

My name is ________________________________. I hereby affirm that I am aware of the provisions of Texas Penal Code Title 8, Sections 36.02, 36.08, 36.09, and 36.10 (a copy of which is attached hereto), dealing with Bribery and Gifts to Public Servants.

I further affirm that I will adhere to such rules and instruct and require all agents, employees, and subcontractors to do the same. I am further aware that any violation of these rules subjects this agreement to revocation, my removal from bid lists, prohibiting future contract/subcontract work, revocation of permits, and prosecution.

IRVING CARES, INC.

By: _____________________________

Signature

________________________________

Typed or Printed Name

________________________________

Title

Date signed: ________________________
THE STATE OF TEXAS § COMMUNITY DEVELOPMENT BLOCK - COVID GRANT AGREEMENT

COUNTY OF DALLAS §

This Agreement is made and entered into on this 5th day of May, 2020 by and between Irving Cares, Inc. (hereinafter "SUBRECIPIENT"), and the CITY OF IRVING, TEXAS (hereinafter "CITY"). CITY and SUBRECIPIENT may be referred to individually as a “Party” and jointly as the “Parties”.

WHEREAS, the CITY has received grant from the United States Department of Housing and Urban Development ("HUD") through the Community Development Block Grant ("CDBG") Program, Catalog of Domestic Assistance No. 14.218, with which CITY desires to promote public service activities that benefit low and moderate income residents of the City of Irving and the development of partnerships amount CITY, local governments, private industry, and non-profit social services agencies; and

WHEREAS, CITY is the administrator of CDBG funds from HUD, the primary purpose of said program pursuant to the Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended ("Act"), 24 CFR §570 et seq. (the CDBG regulations or "Regulations") is to benefit low and moderate income persons; and

WHEREAS, CITY, acting pursuant to the Act, heretofore adopted an Action Plan to carry out activities eligible under the CDBG program; and

WHEREAS, CITY, on March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act providing additional Community Development Block Grant Funds and Emergency Solutions Grant funds to states, counties, and local governments; and

WHEREAS, the City of Irving as an entitlement city received additional Community Development Block Grant funds to address a range of housing and community development activities that prevent, prepare for, and respond to the coronavirus (COVID-19); and

WHEREAS, Irving Cares, Inc. is a Texas non-profit corporation managed by a volunteer Board of Directors; and

WHEREAS, CITY has determined that SUBRECIPIENT’s PROJECT provides food and rent assistance for Irving residents impacted by COVID-19; and

WHEREAS, the CITY wishes to engage the SUBRECIPIENT to assist the CITY in utilizing such funds;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenant set forth herein, CITY and SUBRECIPIENT do agree, for themselves and for their respective successors and assigns, as follows:
1. PROJECT

1.1 Project Description

The SUBRECIPIENT shall utilize CITY CDBG-CV funds for the provision of SUBRECIPIENT’S Rent Assistance and Food Assistance programs (“PROJECT”), whereby SUBRECIPIENT will provide **food and rent assistance for Irving residents impacted by COVID-19**. The scope and performance of the services of the PROJECT shall be in accordance with the Scope of work and schedule attached hereto as “Exhibit A: Scope of Work” and incorporated herein by reference.

Objectives to be met by SUBRECIPIENT within the Agreement period shall be as stated in “Exhibit B: Performance Objectives”. The PROJECT Budget shall be as set forth in the attached “Exhibit C: Budget/Authorized Reimbursable Costs”.

It is understood by all Parties hereto that this Agreement and the disbursement of funds pursuant to this Agreement are governed by the provisions of 24 CFR 570, regulations of the Community Development Block Grant (CDBG) Program as it relates to the prevention, preparation for, and response to the coronavirus (COVID-19), and any amendments thereto; that Parties hereto agree to abide by the applicable provision of CDBG to the extent that other sections which may be applicable are not specifically mentioned herein; and that in the event of any conflict between any provision herein and the requirements of 24 CFR 570, said federal requirements shall take precedence.

1.2 Term

The term of Agreement shall be from May 7, 2020, and shall run until September 30, 2021.

1.2.1 Extension of Agreement

This Agreement may not be extended.

1.3 Tasks and Schedule

To ensure that the PROJECT progresses adequately toward completion, SUBRECIPIENT must achieve the following benchmarks:

**1.3.1 Monthly Performance Reporting**

PROJECT performance reports will be submitted on a monthly basis, in a format developed and provided by the CITY. Performance reports will summarize PROJECT status in several areas including 1) Status of PROJECT expenditures, 2) Status of PROJECT performance against pre-determined measures, and 3) General status of PROJECT and any other information relevant to the completion of the PROJECT.

**1.3.2 Expenditure**

Unless alternative arrangements have been approved in writing by CITY staff in advance, grant expenditures shall be evenly expended (approximately 1/12 of the targeted performance achieved each month) over the contract term.
2. FORM OF ASSISTANCE AND DISBURSEMENTS

2.1 Form and Terms of Assistance

In consideration for PROJECT services, CITY shall pay SUBRECIPIENT as disbursement of Fiscal Year 2020-2021 Community Development Block Grant COVID funds for eligible costs for the PROJECT in an amount not to exceed CDBG-CV Allocation of Fifty Five Thousand Dollars and No Cents ($55,000.00). Said disbursement is to be paid upon submission to the CITY of appropriate documentation and invoices as stipulated by the CITY. In order to qualify for reimbursement, funds to be disbursed under this Agreement must be spent by SUBRECIPIENT during the term of the Agreement.

SUBRECIPIENT may not request disbursement of funds until the funds are needed for payment of eligible costs. The amount of each request must be equal to the proof of payment submitted for reimbursement and eligible expenditures. Funds allocated by CITY for this PROJECT which have not been invoiced by SUBRECIPIENT within thirty (30) calendar days after the ending date of this Agreement shall revert to the CITY to be allocated for other activities. Invoices shall not be submitted and payment shall not be made more often than once every thirty (30) days throughout the Agreement term. Payments may be contingent upon certification by the CITY that the SUBRECIPIENT’s financial management system is in accordance with the standards specified in this Agreement.

The obligations of the City in this Agreement are subject to the receipt of sufficient funding from the U.S. Department of Housing and Urban Development. If such funding is not provided by the U.S. Department of Housing and Urban Development, both parties to this Agreement are relieved of any further obligation to the other. These funds are considered formula grant funds with a Catalog of Federal Domestic Assistance number (CFDA) of 14.218.

2.2 Costs in Compliance with CDBG-CV Regulations and Agreement

SUBRECIPIENT shall be reimbursed for eligible costs for the PROJECT with CDBG-CV funds only if CITY determined in its sole discretion that:

A. Costs are eligible expenditures in accordance with the CDBG regulations that prevent, prepare for, and respond to the coronavirus (COVID-19);

B. Costs are in compliance with this Agreement and are reasonable and consistent with industry norms; and

C. Complete documentation, as applicable, is submitted to CITY by SUBRECIPIENT

2.3 Budget

SUBRECIPIENT agrees that the CDBG-CV funds will be paid on a reimbursement basis in accordance with Exhibit B: Budget/Authorized Reimbursable Costs. SUBRECIPIENT agrees to utilize CBDG-CV funds to supplement rather than supplant funds otherwise available for the PROJECT. Notwithstanding any provision in this Agreement to the contrary, SUBRECIPIENT’s
efforts to identify and secure alternative funding sources shall not delay the performance of any obligations of either CITY or SUBRECIPIENT under this Agreement.

2.3.1 Changes in Budget
SUBRECIPIENT may increase or decrease line-item amounts in the budget with CITY prior written approval, which approval shall be at CITY sole discretion. Any such increase or decrease in line items in the budget shall comply with Exhibit A: Scope of Work and shall not increase the total amount of CBDG-CV funds.

2.4 Disbursement
CITY’s CDBG-CV funding is intended as Public Service PROJECT assistance as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT may request disbursements no more than monthly during the term of the Agreement in accordance with the terms set forth in this section.

SUBRECIPIENT shall be paid up to a total amount not to exceed **Fifty Five Thousand Dollars and no cents ($55,000.00)** in accordance with the proposed budget contained herein. Payment shall be made upon submission of proper documentation, provided that services have been satisfactory, and that any and all service delivery data requested by CITY has been furnished. SUBRECIPIENT shall submit to CITY requests for disbursement on forms acceptable to CITY, accompanied by appropriate source documentation, including copies of third-party invoices, statements of work performed, cancelled checks, payroll information, or other such verification as authorized by 2 CFR §200.405. SUBRECIPIENT may not request disbursement of funds until the funds are needed for reimbursement of payment of eligible costs.

2.4.1 Conditions of Reimbursement
CDBG-CV funding will only be released to SUBRECIPIENT for actually incurred CDBG-CV eligible project costs. The obligation of CITY to approve any request or to make any disbursement of CDBG-CV funds is subject to the satisfaction of the following conditions at the time of making such disbursement:

A. SUBRECIPIENT shall not be in default under the term of this Agreement and no events shall exist, which by notice, passage of time, or otherwise would constitute an event of default under this Agreement

B. CITY shall have received evidence satisfactory to CITY that all funded activities have been carried out in accordance with HUD regulation, the term of this Agreement, and SUBRECIPIENT’s proposed scope of work

C. SUBRECIPIENT shall have submitted on or before the tenth (10th) of the month following each month of service of the Agreement term a completed reimbursement request using such forms as deemed acceptable by CITY and other appropriate source documentation as may be required by CITY including, but not limited to:

   I. SUBRECIPIENT authorization of submittal
   II. Line Item budget information matching reimbursement request detail
   III. Population Served Report
IV. Client Service Log(s) which match requested reimbursement amounts
V. Completed performance measure report
VI. Completed client data summary reports which align with requested reimbursement
VII. Such other supporting evidence as may be requested by CITY to substantiate all payments which are to be made out if the relevant disbursement and/or to substantiate all payments then made with respect to the PROJECT

D. No determination shall have been made by CITY that the undisbursed amount of the PROJECT Agreement is less than the amount received to pay all costs and expenses of any kind that reasonably may be anticipated in connection with the completion of the PROJECT.

2.4.2 Conditions of Final Disbursement
In addition to the requirement set forth in Section 2.4.1, CITY shall require the completion of a Year-end Report on CITY-approved documents, prior to the final disbursement of funds, the request for which shall not be submitted before completion of the PROJECT.

2.4.3 Limitations on Reimbursement Requests
The Parties covenant and agree that in the event that CITY discovers a misstatement in any affidavit, statement, or certificate furnished pursuant to this Agreement, it shall make no further disbursements until such misstatement has been corrected.

2.4.4 Acknowledgement of City Payment of CDBG-CV Funds
Within fifteen (15) calendar days after the payment of the final reimbursement request, SUBRECIPIENT shall sign an acknowledgement that CITY has paid all CDBG-CV funds due under this Agreement.

3. INTENDED BENEFICIARIES

The intended beneficiaries of the CDBG-CV funded services in this Agreement are those persons in the City of Irving who are in need of the services provided by SUBRECIPIENT under this Agreement, at least 51% of whom shall be of low or moderate income as defined by the U.S. Department of Housing and Urban Development (HUD) or shall be of a clientele generally presumed by the U.S. Government to be principally low and moderate income. For the purposes of this Agreement, the definition of "low and moderate income" shall be as specified by the U.S. Department of Housing and Urban Development, and may be subject to change without notice. SUBRECIPIENT is responsible for verifying such information prior to the determination of beneficiary eligibility, but CITY, where appropriate, shall advise SUBRECIPIENT of any changes to low and moderate income limits as established by HUD. SUBRECIPIENT shall establish, maintain and submit to City documentation concerning PROJECT beneficiaries in a form acceptable to CITY's Planning and Community Development Department.

3.1 Income Eligibility and Calculation
SUBRECIPIENT shall ensure that annual gross household income of at least 51% of its PROJECT clients does not exceed current income limits for low to moderate income households, as established and periodically revised by HUD.

**3.1.2 Documentation**

SUBRECIPIENT shall ensure that all members of an applicant household provide documentation of assets and income. Such documentation, unless differently predetermined through CITY prior written approval, shall include but is not limited to:

A. Thirty (30) calendar days of employment or other income documentation, preferably in the form of paycheck stubs, for each working member of the household, aged eighteen (18) or older.

B. Verification of any other sources of income for all family members (Social Security, SSI, Medicaid, Child Support (12 month history), Alimony (12 month history), retirement, etc.)

C. Verifiable documentation for any other sources of income and/or assets.

A letter of explanation, along with documentation supporting the explanation, shall be included in the client file for any unusual circumstances which impacts client income or assets.

**3.1.2 Residency**

SUBRECIPIENT shall obtain documentation of residency in the City of Irving, legal United States residency, and supporting information for all household members as part of the determination of PROJECT eligibility, including current government-issued photo identification from the head(s) of household.

**4. GENERAL CONDITIONS**

**4.1 General Compliance**

The SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The SUBRECIPIENT also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

**4.2 Independent Contractor**

Nothing contained in this Agreement is intended, nor shall it be construed in any manner, as to create or establish the relationship of employer/employee between the parties. The SUBRECIPIENT shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The CITY shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the SUBRECIPIENT is an independent contractor.
4.3 Worker's Compensation

The SUBRECIPIENT shall provide Worker’s Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

4.4 Insurance and Bonding

The SUBRECIPIENT shall carry insurance coverage to protect any Agreement assets from loss due to theft, fraud and/or undue physical damage, and at a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to any cash advances from the CITY. The SUBRECIPIENT shall comply with the bonding and insurance requirements of 2 CFR 200.304, Bonding and Insurance, in addition to any other insurance required by CITY.

4.5 Amendments

CITY and SUBRECIPIENT may amend this Agreement by mutual agreement at any time provided that such Amendment(s) make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Irving City Council. Such amendments shall not invalidate this Agreement, nor relieve or release the CITY or SUBRECIPIENT from its obligations under this Agreement.

The CITY may, in its sole discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment(s) result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the CITY and SUBRECIPIENT.

4.6 Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least sixty (60) days before the effective date of such termination. Partial terminations of activities contained in Exhibit A: Scope of Work may only be undertaken with the prior approval of CITY. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the SUBRECIPIENT under this Agreement shall, at the option of the CITY, become the property of the CITY, and the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The CITY may also suspend or terminate this Agreement at its sole discretion, in whole or in part, if the SUBRECIPIENT materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the CITY may declare the SUBRECIPIENT ineligible for any further participation in the CITY’s contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the SUBRECIPIENT is not in compliance with any applicable rules and regulations, the CITY may withhold said Agreement funds until such time as the SUBRECIPIENT is found to be in compliance by the CITY, or is otherwise adjudicated to be in compliance.
4.7 Procurement

SUBRECIPIENT shall develop and implement procurement procedures which conform to any procurement guidelines issued by CITY. If SUBRECIPIENT is a unit of local government, it shall also comply with all applicable state and local laws relating to procurement. SUBRECIPIENT shall not procure supplies, equipment, materials or services except in accordance with such procurement procedures.

By signing this Agreement, SUBRECIPIENT certifies that it is not in a state of debarment. Furthermore, SUBRECIPIENT certifies that it will not award any funds provided under this contract to any party with is debarred, suspended, or otherwise excluded for or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. SUBRECIPIENT shall receive the certification provided by the CITY from each proposed subcontractor under this contract and its principals.

4.8 Allowable Costs

For the term of this Agreement, CITY will reimburse SUBRECIPIENT for **food and rent assistance for Irving residents impacted by COVID-19.** as more specifically described in Exhibit C: Budget/Authorized Reimbursable Costs. SUBRECIPIENT shall be reimbursed by CITY’s Planning and Community Development Department in a total amount not to exceed **Fifty Five Thousand Dollars and No Cents ($55,000.00).** SUBRECIPIENT shall establish, maintain, and submit to CITY documentation concerning PROJECT budget and expenditures in a form acceptable to the Planning and Community Development Department. All PROJECT costs must be reasonable and consistent with policies and procedures of the City of Irving, SUBRECIPIENT, and the U.S. Department of Housing and Urban Development. All expenditures must be accorded consistent treatment, and must be determined to be in accordance with generally accepted accounting principles (“GAAP”). CITY reserves the right to audit all budgets, work schedules, and accounts. SUBRECIPIENT further agrees to comply with any applicable provisions of 24 CFR, Part 200.

SUBRECIPIENT shall be liable to the CITY for any costs disallowed by the U.S. Department of Housing and Urban Development pursuant to financial and compliance audit(s) of funds received under this Agreement. Reimbursement to the CITY of such disallowed costs shall be paid by SUBRECIPIENT from funds which were not provided or otherwise made available to SUBRECIPIENT under this Agreement.

4.9 Form 1295

SUBRECIPIENT shall complete the Certificate of Interested Parties form (Form 1295), as outlined in section 2252.908 of the State of Texas Government Code prior to the execution of this contract to ensure that SUBRECIPIENT discloses interested parties to the State. SUBRECIPIENT must use the application provided electronically by the Texas Ethics Commission and print a copy of the complete form, which will include a certification of filing that will contain a unique certification number. Such certification must be signed by an authorizing agent of the SUBRECIPIENT, and the form must be notarized. SUBRECIPIENT shall provide CITY with the completed Form 1295 prior to execution of the Agreement. CITY will acknowledge to the state the receipt of the certification of filing no later than the 30th day after the date the CITY receives the Form 1295. Agreement may not be fully executed until receiving notice from the State, review by the State of which must occur within seven (7) business days from the date of acknowledgement of receipt from CITY.
4.10 Internal Controls

In compliance with the requirements of 2 CFR §200.303, SUBRECIPIENT shall:

4.10.1 Establish and maintain effective internal control over the CDBG-CV funds that provides reasonable assurance that SUBRECIPIENT is managing the CDBG-CV funds in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement. These internal controls shall be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

4.10.2 Comply with Federal statutes, regulations, and the terms and conditions of this Agreement

4.10.3 Evaluate and self-monitor SUBRECIPIENT’s compliance with statutes, regulations, and the terms and conditions of this Agreement

4.10.4 Take prompt actions when instances of noncompliance are identified including noncompliance identified in audit findings and inform CITY of corrective actions within thirty (30) days of identification of noncompliant action

4.10.5 Take reasonable measures to safeguard protected personally identifiable information and other information that HUD or CITY designates as sensitive or SUBRECIPIENT considers sensitive consistent with applicable Federal, State, local, or tribal laws regarding privacy and obligations of confidentiality.

4.11 Compliance with All Applicable Laws and Regulations

SUBRECIPIENT agrees to comply fully with all applicable laws and regulations that are currently in effect or that are hereafter amended during the performance of this Agreement. Those laws include, but are not limited to:

- Title 1 of the Housing and Community Development Act of 1974 as set out above
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) including provisions requiring recipients of Federal assistance to ensure meaningful access by persons of limited English proficiency
- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.)
- Executive Orders 11063, 11246 as amended by 11375 and 12086 and as supplemented by Department of Labor regulations 41 CFR, Part 60
- The Age Discrimination in Employment Act of 1967
- The Age Discrimination Act of 1975 (42 U.S.C. Sections 6101 et seq.)
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42
U.S.C. Sections 4601 et seq. and 49 CFR Part 24 ("URA")

- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sections 794 et seq.) and 24 CFR Part 8 where applicable
- The Clean Air Act, as amended (42 U.S.C. Sections 1251 et seq.) and the Clean Water Act of 1977, as amended (33 U.S.C. Sections 1251 et seq.), related Executive Order 11738 and Environmental Protection Subrecipient Regulations at 40 CFR Part 15. In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility that has given rise to a conviction under the Clean Air Act or the Clean Water Act.
- Immigration Reform and Control Act of 1986 (8 U.S.C. Sections 1101 et seq.), specifically including the provisions requiring employer verifications of legal status of its employees
- Regulations at 2 CFR Part 200 related to lobbying, including the requirement that certifications and disclosures be obtained from all covered persons
- Executive Order 12549 and 24 CFR Part 5.105(c) pertaining to restrictions on participations by ineligible, debarred, or suspended persons or entities
- Regulations at 24 CFR Part 882.708(C) pertaining to site and neighborhood standards for new construction projects
- Regulations at 24 CFR Part 983.6 for Site and Neighborhood Standards Review
- Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act
- Guidelines of the Environmental Protections Subrecipient at 40 CFR Part 247
- For contracts and subgrants for construction or repair, Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in 29 CFR Part 5
- For construction contracts in excess of $2,000.00, and in excess of $2,500.00 for other contracts which involve the employment of mechanics or laborers, Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 300) as supplemented by 29 CFR Part 5
- Regulations at 24 CFR Part 570, Community Development Block Grant
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 et seq.
4.12 Copyright, Patent Rights, and Public Information Act

SUBRECIPIENT acknowledges that the City of Irving is subject to the provisions of the Texas Public Information Act as set forth in Chapter 552 of the Texas Government Code. If a public information request is made to the CITY for information regarding this Agreement, or for any other records provided by SUBRECIPIENT to CITY, the CITY may send a request to the Texas Attorney General for a decision as to whether or not such information may be withheld from disclosure in accordance with the Public Information act, and will release such information if required to do so by Texas of Federal law. In the event that a public information request is made to the CITY for items or documents that may be subject to copyright or patent protection, the CITY will notify SUBRECIPIENT that such public information request has been made so that SUBRECIPIENT can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that SUBRECIPIENT can assert any other rights it may have under law to keep such information from being disclosed; and SUBRECIPIENT can notify the holder of copyright or patents rights to the requested documents that it can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that the holder of said rights can assert any other rights it may have under law to keep such information from being disclosed. If pursuant to a court order, subpoena or summons, the CITY is required to make disclosure of information provided by SUBRECIPIENT to the CITY, the CITY shall notify SUBRECIPIENT to allow SUBRECIPIENT to assert whatever exclusions or exemptions maybe available to SUBRECIPIENT under applicable law; and, so that SUBRECIPIENT can notify the holder of copyright or patent rights so that it can assert whatever exclusions or exemptions may be available to it under applicable law. SUBRECIPIENT acknowledges that the CITY must comply with such court order, subpoena or summons unless otherwise determined by the applicable court. This provisions of this Section shall survive the termination of this Agreement.

4.13 Terms Applicable to Contractors, Subcontractors, and Vendors

SUBRECIPIENT understands and agrees that all terms of this Agreement, whether regulatory or otherwise, shall apply to any and all contractors, subcontractors, and vendors of SUBRECIPIENT which are in any way paid with CDBG-CV funds or who perform any work in connection with the PROJECT. SUBRECIPIENT shall cause all applicable provisions of the Agreement to be included in and made a part of any contract or subcontract executed in the performance of its obligations hereunder, including its obligations regarding the CDBG Requirements and the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT shall monitor the services and work performed by its contractors, subcontractors, and vendors on a regular basis for compliance with the CDBG Requirements, the CDBG Regulations, and Agreement provisions. SUBRECIPIENT is responsible to cure all violations of the CDBG Regulations committed by its contractors, subcontractors, or vendors pertaining to this Agreement. CITY maintains the right to insist on SUBRECIPIENT’s full compliance with the terms of this Agreement and the CDBG Regulations and SUBRECIPIENT is responsible for such compliance regardless of whether actions to fulfil the requirements of this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) are taken by SUBRECIPIENT or by SUBRECIPIENT’s contractors, subcontractors, or vendors. SUBRECIPIENT acknowledges that the provisions of this Section shall survive the earlier termination or expiration of this Agreement and be applicable for five (5) years after the termination of this Agreement.
4.14 Meaningful Access For Limited English Proficient Persons

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“Limited English Proficient persons” or “LEP”) may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 (Title VI) in order to receive a particular service, benefit, or encounter. In accordance with Title VI and its implementing regulations, the SUBRECIPIENT agrees to take reasonable steps to ensure meaningful access to activities for LEP persons. Any of, but not limited to, the following actions could constitute “reasonable steps”, depending on the circumstances; acquiring translators to translate vital documents, advertisements and notices, acquiring interpreters for face-to-face interviews with PEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the PROJECT, hiring bilingual employees or volunteer for outreach and intake activities, or contracting with a telephone line interpreter service.

4.15 Other Laws

The failure to list any Federal, State, or City ordinance, law, or regulation that is applicable to SUBRECIPIENT does not excuse or relieve SUBRECIPIENT from the requirements or responsibilities in regard to following the law, nor from the consequences or penalties for SUBRECIPIENT’s failure to follow the law, if applicable.

5. REPORTING, MONITORING, AND RECORDKEEPING

5.1 General Requirements

SUBRECIPIENT agrees to provide reports to CITY and to maintain records documenting compliance with this Agreement, the loan documents and regulatory agreements, the CDBG requirements, and all other applicable federal, state, and local laws and regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT also agrees to provide CITY, HUD, HUD’s Inspector General, the Comptroller General of the United States (aka the U.S. Government Accountability Office or “GAO”), or their representatives, access to the PROJECT and its records for the purpose of monitoring SUBRECIPIENT’s compliance with applicable requirements.

5.2 Reporting Requirements

If SUBRECIPIENT fails to submit, in a timely and satisfactory manner, any report or response required by this Contract as specified in Exhibits "B" and "C", including responses to monitoring reports, CITY may withhold payments otherwise due to SUBRECIPIENT hereunder. If CITY withholds such payments, it shall notify SUBRECIPIENT in writing of its decision and the reasons therefor. Payments may be withheld by CITY until such time as the delinquent obligations for which funds are withheld are fulfilled by SUBRECIPIENT. If the delinquent report or response is not received within forty-five (45) days of its due date, CITY may suspend or terminate this Contract. If SUBRECIPIENT receives CDBG-CV funds from CITY over two (2) or more Contract Periods, funds may be withheld or this Contract suspended or terminated for SUBRECIPIENT's
failure to submit a report or response (including a report of audit) past due under a prior Planning and Community Development Department contract.

SUBRECIPIENT shall submit a final Program Close-Out Report to the Planning and Community Development Department not later than October 31, 2021.

5.3 Reports

SUBRECIPIENT will submit to CITY all reports and documentation described in this Agreement in such form as CITY may prescribe. SUBRECIPIENT will be required to submit a final performance and/or final financial report as required by CITY at the termination of this Agreement in such form and within such times as CITY may prescribe. Failure to submit any report or documentation described in this Agreement to CITY shall be an event of default of this Agreement, and CITY may exercise all of its remedies for default under this Agreement.

5.3.1 Additional Information

SUBRECIPIENT shall provide CITY with additional information as may be required by State or Federal agencies to substantiate CDBG-CV Program activities and/or expenditure eligibility.

5.3.2 Change in Reporting Requirements and Forms

CITY retains the right to change reporting requirements and forms at its discretion. CITY will notify SUBRECIPIENT in writing at least thirty (30) calendar days prior to the effective date or such change, where practicable, and the Parties shall execute an amendment to this Agreement reflecting such change if necessary.

7.5.3 City Reserves Right to Audit

CITY reserves the right to perform an audit of SUBRECIPIENT’s operations and finances related to this Agreement at any time during the term of this Agreement and for five (5) years after the Agreement terminates if CITY determines that such audit is necessary for CITY’s compliance with CDBG Regulations or other CITY policies, and SUBRECIPIENT agrees to allow access to all pertinent materials as described herein as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If such audit reveals a questioned practice or expenditure, such questions must be resolved within fifteen (15) business days after notice to SUBRECIPIENT of such questioned practice or expenditure. If questions are not resolved within this period, CITY reserves the right to withhold further funding under this Agreement and/or other contracts with SUBRECIPIENT. If as a result of an audit it is determined that SUBRECIPIENT has falsified any documentation or misused, misapplied, or misappropriated CDBG-CV funds or spent CDBG-CV funds on any ineligible activities, SUBRECIPIENT agrees to reimburse CITY the amount of such monies plus the amount of any sanctions, penalty, or other charge levied against CITY by HUD because of such actions.

5.4 Monitoring

CITY will monitor and evaluate SUBRECIPIENT’s progress on project performance on an annual basis, or more frequently as required, against goals and performance standards established herein. Monitoring may take the form of desk review or on-site monitoring. SUBRECIPIENT shall establish and maintain appropriate documentation to verify stated performance objectives and
shall submit such documentation to City’s Planning and Community Development Department staff on a monthly basis during the Agreement term as provided in Section 2, or more often if deemed necessary. SUBRECIPIENT further agrees to reasonable on-site monitoring by representatives of the City and the U.S. Department of Housing and Urban Development.

SUBRECIPIENT understands and agrees that it will be subject to monitoring by CITY for compliance with the CDBG Regulations and the terms of this Agreement until the PROJECT is closed in IDIS and for four (4) years thereafter. SUBRECIPIENT will provide reports and access to PROJECT files as requested by CITY during the term of the Agreement and for four (4) years after the PROJECT is closed in IDIS. In order to assist CITY with its monitoring, SUBRECIPIENT shall comply with all the reporting requirements set out in this Agreement.

5.4.1 Access
Representatives of CITY, HUD, HUD Office of Inspector General, and the United States Comptroller General shall have access during regular business hours, upon forty-eight (48) hours’ prior notice, to SUBRECIPIENT’s offices and records that are related to the use of the CDBG-CV funds, and to SUBRECIPIENT’s officers, agents, employees, contractors, subcontractors, vendors, and records that are related to the use of CDBG-CV funds for the purpose of such monitoring.

5.4.2 Frequency and Types of Monitoring
In addition to other provisions of this Agreement regarding frequency of monitoring, CITY reserves the right to perform desk reviews or on-site monitoring of SUBRECIPIENT’s compliance with the terms and conditions of this Agreement. CITY shall provide SUBRECIPIENT with a written report of the monitor’s findings after each on-site monitoring visit. If the monitoring report notes deficiencies in SUBRECIPIENT’s performance, the report shall include requirements for the timely correction of said deficiencies by SUBRECIPIENT. Failure by SUBRECIPIENT to take the action specified in the monitoring report may be cause for suspension or termination of this Agreement as provided herein or CITY may require repayment of all CDBG-CV funds related to this Agreement. CITY will evaluate all funded agencies to determine the required frequency of on-site monitoring to be conducted.

5.4.3 Substandard Performance
Substandard performance as determined by City monitoring will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within a reasonable period of time after being notified by the City, Agreement suspension or termination procedures will be initiated. In the event that the City makes a determination that the provisions of this Agreement have not been performed by the SUBRECIPIENT, City may, in accordance with 2 CFR 200.339(a)(1), suspend or terminate this Agreement by notice in writing to SUBRECIPIENT if the SUBRECIPIENT materially fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 2 CFR 200.339.

5.5 Audits
SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of an independent financial audit. Such audits shall be
completed by an independent auditor in accordance with generally accepted accounting and auditing principles and standards (GAAP) governing financial and compliance audits. Such audits should be completed no later than one hundred fifty (150) days following the end of the SUBRECIPIENT’s fiscal year. However, upon CITY approval of prior written request from SUBRECIPIENT, CITY will allow such audits to be completed no later than one hundred eighty (180) days following the end of the SUBRECIPIENT’s fiscal year. CITY reserves the right to approve this submittal date to mitigate professional charges to SUBRECIPIENT related to conducting such audits. Notwithstanding, all copies of completed audits, together with any management letters or accompanying documentation, shall be submitted to CITY within thirty (30) days of acceptance and review by SUBRECIPIENT. Should SUBRECIPIENT receive Federal funding in an amount exceeding $750,000.00, regardless of source, SUBRECIPIENT must complete an Independent Single Audit in accordance with 2 CFR 200 Subpart F. Such independent Single Audit is subject to the submittal requirements stated above.

In the event SUBRECIPIENT is allocated $750,000.00 or more in federal funds from any agencies of the U.S. Government, SUBRECIPIENT shall also comply with U.S. Government federal audit requirements, including the requirements contained in 2 CFR 200 Subpart F.

5.5 Form 990

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of its submitted Return of Organization Exempt From Income Tax (commonly referred to as IRS Form 990). Such forms shall be submitted to CITY within thirty (30) days of SUBRECIPIENT submittal to the Internal Revenue Service.

5.6 Depository and Record Keeping

Disbursed funds must be deposited in a depository having federal depository insurance. CITY shall require of SUBRECIPIENT that the Department of Housing and Urban Development of the United States Government, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Project, for the purpose of making audit examinations, excerpts and transcriptions. This Agreement and all records pertaining to such Agreement shall be maintained by both SUBRECIPIENT and the CITY for a period of four (4) years after final payment is made and all other pending matters are finalized.

CITY reserves the right to conduct additional financial and compliance audits of the funds received and performance rendered under this Agreement. SUBRECIPIENT agrees to permit CITY or its authorized representatives to audit SUBRECIPIENT’s records and to obtain any documents, materials or information necessary to facilitate such audit.

6 PROJECT INCOME

No PROJECT income, commonly referred to as Program Income, is anticipated. In the event there is program income derived from the use of CDBG-CV funds disbursed under this Agreement such
program income shall be returned to the Planning and Community Development Department for further reallocation.

7 ENFORCEMENT AND TERMINATION

If CITY determines that the required PROJECT elements have not been completed within the timelines of this Agreement or have been provided for ineligible activities or to a preponderance of ineligible persons, CITY shall have the right to terminate this Agreement effectively immediately upon written notice to SUBRECIPIENT of such intent with no penalty or liability to CITY after giving SUBRECIPIENT thirty (30) calendar days to cure. CITY shall also be entitled to demand repayment of the CDBG-CV funds already disbursed to SUBRECIPIENT and enforce any of the provisions of this Agreement for default.

7.1 Failure to Submit Complete Documentation During PROJECT

7.1.1 Complete Documentation
If SUBRECIPIENT fails to submit complete documentation during PROJECT, or if any report or documentation submitted as part of complete documentation is not in compliance with this Agreement or CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY in its sole discretion, CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have thirty (30) calendar days from the date of CITY’s written notice to submit or resubmit any such report or documentation. If SUBRECIPIENT fails to submit or resubmit any such report or documentation within such time, CITY shall have the right to withhold payments. If such failure continues for an additional thirty (30) calendar days (a total of sixty (60) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such report or documentation is missing or otherwise not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

7.1.2 Incomplete or Noncompliant Reimbursement Requests
If any of SUBRECIPIENT’s Reimbursement Requests are incomplete or otherwise not in compliance with this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY on its sole discretion, CITY will notify SUBRECIPIENT in writing of such default and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to resubmit any such Reimbursement Request to cure the default. If SUBRECIPIENT fails to cure the default within such time, SUBRECIPIENT shall forfeit any payments otherwise due under such Reimbursement Request. Is such failure to resubmit such Reimbursement Request continues for an additional fifteen (15) calendar days (for a total of thirty (30) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such Reimbursement Request is not in compliance with this Agreement or the CDBG
Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

7.1.3 Multiple Instances
In the event of more than two (2) instances of default, cured or uncured, CITY reserves the right at its sole option to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY.

7.1.4 Payment of CDBG-CV Funds to SUBRECIPIENT
Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV Funds to SUBRECIPIENT pursuant to this Agreement during the period that any Reimbursement Request, report, or other documentation is missing, past due, or is not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19), or during any period during which SUBRECIPIENT is in default of this Agreement.

7.1.5 Unpaid Funds
In the event of termination under this Section, all CDBG-CV Funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately forfeited and SUBRECIPIENT shall have no further right to such funds. If CITY determines that a repayment of CDBG-CV funds paid to SUBRECIPIENT must be repaid, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section. Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

7.2 Failure to Maintain or Submit Required Reports and Documentation
If SUBRECIPIENT fails to maintain all records and documentation as required in Section 6, or fails to submit any report or documentation required by this Agreement after the PROJECT is completed, or if the submitted report or documentation is not in compliance with this Agreement or the CDBG Regulations as determined by CITY in its sole discretion as it relates to prevent, prepare for, and respond to the coronavirus (COVID-19), CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to obtain or recreate the missing records or documentation, or submit or resubmit any such report or documentation to CITY. If SUBRECIPIENT fails to maintain the required reports or documentation, or submit or resubmit any such report or documentation within such time, CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY.

7.3 Additional Time to Cure
Unless specifically provided otherwise in this Agreement, SUBRECIPIENT shall be in default under this Agreement if SUBRECIPIENT breaches any term or condition of this Agreement. In the event that such a breach remains uncured after thirty (30) calendar days following written notice by CITY (or other such notice period as may be specified herein), or if SUBRECIPIENT has diligently and continuously attempted to cure following receipt of such written notice but reasonably required more than thirty (30) calendar days to cure, as determined by both Parties mutually and in good faith, CITY shall have the right to elect, in CITY’s sole discretion, to (i) extend
SUBRECIPIENT’s time to cure, (ii) terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT, or (iii) pursue any other legal remedies available to CITY under this Agreement.

7.4 Remedies
City’s remedies may include:

A. Direct SUBRECIPIENT to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities.

B. Direct SUBRECIPIENT to establish and follow a management plan that assigns responsibilities for carrying out the remedial activities.

C. Cancel or revise activities likely to be affected by the performance deficiency, before expending CDBG-CV funds for the activities.

D. Reprogram CDBG-CV funds that have not yet been expended from the affected activities to other eligible activities or withhold CDBG-CV funds.

E. Direct SUBRECIPIENT to reimburse CITY in any amount of CDBG-CV funds not used in accordance with the HOME regulations.

F. Suspend reimbursement of CDBG-CV funds for affected activities.

G. Suspend or terminate this Contract.

H. Any other appropriate action including but not limited to any remedial action legally available such as declaratory judgement, specific performance, damages, temporary or permanent injunctions, termination of this Agreement or any other Agreements with SUBRECIPIENTS, and any other available remedies.

7.5 Repayment
In the event of termination under this Section, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds and, as determined by CITY, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

7.6 No Funds Disbursed While in Breach
SUBRECIPIENT understands and agrees that no CDBG-CV funds will be paid to SUBRECIPIENT until all defaults are cured to the satisfaction of CITY.
7.7 No Compensation after Date of Termination

SUBRECIPIENT will not receive any CDBG-CV funds for work undertaken after the date of termination.

7.8 Rights of CITY Not Affected

Termination shall not affect or terminate any of the existing rights of CITY against SUBRECIPIENT, or which may thereafter accrue because of such default, and this provision shall be in addition to any and all other rights and remedies available to CITY under the law including, but not limited to, compelling SUBRECIPIENT to complete the PROJECT in accordance with the terms of the Agreement. Such termination does not terminate any applicable provisions of this Agreement that have been expressly noted as surviving the term of termination of this Agreement. No delay or omission by CITY in exercising any right or remedy available to it under this Agreement shall impair such right or remedy or constitute a waiver or acquiescence in any SUBRECIPIENT default.

7.9 Waiver of Breach Not Waiver of Subsequent Breach

The waiver of a default of breach of any term, covenant, or condition of this Agreement shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof or thereof.

7.10 Civil, Criminal, and Administrative Penalties

Failure to perform all Agreement terms may result in civil, criminal, or administrative penalties, including, but not limited to those set out in this Agreement.

7.11 Termination for Cause

CITY may terminate this Agreement in the event of SUBRECIPIENT’s default, inability, or failure to perform subject to notice, grace, and cure periods. In the event CITY terminates this Agreement for cause, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds, and any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG-CV funds will result in exercising all legal remedies available to City under this Agreement. SUBRECIPIENT acknowledges and agrees that if CITY terminates this Agreement for cause, neither SUBRECIPIENT nor any affiliates of SUBRECIPIENT will be considered for any other CITY contract for CDBG-CV funds for a minimum of five (5) years from the date of termination.

7.11.1 Loss of Nonprofit Status

This Agreement shall be terminated immediately in the event SUBRECIPIENT loses its nonprofit certification or status after the cure period stated in this Section.

7.11.2 No Available CDBG-CV Funds

SUBRECIPIENT may terminate this Agreement if CITY does not provide the CDBG-CV funds substantially in accordance with this Agreement.
7.12 Termination for Convenience

In terminating in accordance with 2 CFR 200, Appendix II, this Agreement may be terminated in whole or in part only as follows:

7.12.1
By CITY with the consent of SUBRECIPIENT in which case the Parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

7.12.2
By SUBRECIPIENT upon written notification to CITY setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of a partial termination, CITY may terminate the Agreement in its entirety if CITY determines in its sole discretion that the remaining portion of the Agreement to be performed or CDBG-CV funds to be spent will not accomplish the purposes for which this Agreement was made.

7.13 Dissolution of SUBRECIPIENT Organization Terminates Contract

This Agreement shall terminate in the event SUBRECIPIENT organization is dissolved or ceases to exist. In the event of termination under this Section, all CDBG-CV funds are subject to repayment and/or CITY may exercise all of its remedies under this Agreement.

7.14 REPAYMENT OF CDBG-CV FUNDS

All CDBG-CV funds are subject to repayment in the event the PROJECT does not meet the requirements of this Agreement or of the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If SUBRECIPIENT takes any action that results in CITY being required to repay all or any portion of the CDBG-CV funds to HUD, SUBRECIPIENT agrees it will reimburse CITY for such repayment.

7.15 MATERIAL OWNERSHIP CHANGE

If ownership of SUBRECIPIENT materially changes after the date of this Agreement, CITY may, but is not obligated to, terminate this Agreement. CITY has thirty (30) calendar days to make such determination after receipt of written notice from SUBRECIPIENT, and failure to make such determination will constitute a waiver. In the event of termination by CITY under this Section, all CDBG-CV funds awarded but not yet paid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds. Any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section.
8 REVERSION OF ASSETS/DISPOSITION OF EQUIPMENT

Upon expiration of this Agreement, SUBRECIPIENT shall transfer to the CITY any CDBG-CV funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-CV funds, except as provided in Section VII herein. In addition, any real property under the SUBRECIPIENT’s control that was acquired or improved in whole or in part with CDBG-CV funds in excess of $25,000 shall either be:

A. Used to meet one (1) of the national objectives listed in 24 CFR 570.208 (benefit at least 51% low and moderate income persons, aid in the prevention or elimination of slums or blight or meet community development needs having a particular urgency because they pose a serious and immediate threat to the health or welfare of the community) until five (5) years after expiration of the Agreement; however, in compliance with 24 CFR 570.505, should the SUBRECIPIENT propose to change the use of the property/equipment from that for which it was originally intended, affected citizens must be provided with reasonable notice of and opportunity to comment on the proposed change; or

B. Disposed of in a manner that results in the CITY being reimbursed in the amount of the current fair market value of the property/equipment less any portion of the value attributable to expenditures of non-CDBG-CV funds for acquisition of or improvement to the property. Such reimbursement shall not be required if disposition occurs more than five (5) years after expiration of this Agreement. In all cases in which property/equipment is sold, the proceeds shall be program income, the use of which shall be recorded in compliance with 24 CFR 570.504 and Section VII herein.

To document this requirement, SUBRECIPIENT shall maintain appropriate written records as approved by CITY’s Planning and Community Development Department regarding use of the property for the five (5) year period following expiration of this Agreement.

9. CONDITIONS FOR RELIGIOUS ORGANIZATIONS

The SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, in accordance with the Federal regulations specified in 24 CFR 570.200 (j).

10. INDEMNIFICATION

SUBRECIPIENT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF IRVING, ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS FEES FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH SUBRECIPIENT’S OPERATION, THE PROJECT, OR THE EXPENDITURE OF FUNDS AUTHORIZED BY THIS AGREEMENT, OR ANY SERVICES PROVIDED BY SUBRECIPIENT FUNDED OR PARTIALLY FUNDED BY THIS AGREEMENT. SUCH INDEMNIFICATION SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSE OF ACTION, SUITS OR LIABILITY ARISE IN WHOLE OR IN PART FROM
THE NEGLIGENCE OF SUBRECIPIENT OR CITY, THEIR OFFICERS, OFFICIALS, AGENTS AND
EMPLOYEES.

IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH SUBRECIPIENT AND CITY, THAT
THE INDEMNITY PROVIDED FOR IN THIS SECTION INCLUDES INDEMNITY BY SUBRECIPIENT TO
INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF CITY’S OWN NEGLIGENCE,
WHETHER THAT NEGLIGENCE IS ALLEGED TO BE THE SOLE OR CONCURRING CAUSE OF THE
INJURY, DEATH, OR DAMAGE.

11. PERSONNEL AND PARTICIPANT CONDITIONS

11.1 Civil Rights

11.1.1 Compliance
The SUBRECIPIENT agrees to comply with all applicable State and local laws and with Title VI
of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended,
Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of
1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans
With Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with
Executive Order 11246 as amended by Executive Orders 11375 and 12086, and E.O. 13279.

11.1.2 Nondiscrimination
The SUBRECIPIENT will not discriminate against any employee or applicant for employment
because of race, color, creed, ancestry, national origin, sex, disability or other handicap, age,
marital/familial status, or status with regard to public assistance. The SUBRECIPIENT will take
affirmative action to insure that all employment practices are free from such discrimination.
Such employment practices include but are not limited to the following: hiring, upgrading,
demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay
or other forms of compensation, and selection for training, including apprenticeship. The
SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants
for employment, notices to be provided by the contracting Subrecipient setting forth the
provisions of this nondiscrimination clause.

11.1.3 Land Covenants
This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L.
88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land
acquired, cleared or improved with assistance provided under this Agreement, the
SUBRECIPIENT shall cause or require a covenant running with the land to be inserted in the
deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease
or rental, or in the use or occupancy of such land, or in any improvements erected or to be
erected thereon, providing that the CITY and the United States are beneficiaries of and
entitled to enforce such covenants. The SUBRECIPIENT, in undertaking its obligation to carry
out the program assisted hereunder, agrees to take such measures as are necessary to
enforce such covenant, and will not itself so discriminate.
11.1.4 Section 504
The SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The CITY shall provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

11.2 Employment Restrictions

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

11.2.2 Labor Standards
The SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of the Contract Work Hours and Safety Standards Act, the Copeland "Anti Kickback" Act (40 U.S.C. 276a-5; 40 USC 327 and 40 USC 276) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the CITY for review upon request.

The SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the CITY pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7, governing the payment of wages and ratio of apprentices and trainees to journeymen; provided that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. The SUBRECIPIENT shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

11.3 "Section 3" Clause

11.3.1 Compliance
Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT’s subcontractors. Failure to fulfill these requirements shall subject the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT’s subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The SUBRECIPIENT certifies and agrees that no
contractual or other disability exists which would prevent compliance with these requirements.

11.3.2 Subcontract Language
SUBRECIPIENT agrees to comply with these "Section 3" requirements: The SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the CITY. The SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low income persons residing in the metropolitan area in which the project is located."

11.3.3 Training and Employment
SUBRECIPIENT agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low and very low-income persons residing within the metropolitan area in which the CDBG-CV funded project is located; where feasible, priority should be given to low and very low income persons within the service area of the project of the neighborhood in which the PROJECT is located, and to low and very low income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low and very low income persons residing within the metropolitan area in which the CDBG-CV funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low and very low income residents within the service area or the neighborhood in which the project is located, and to low and very low income participants in other HUD programs.

11.3.4 Non Incapacity
The SUBRECIPIENT certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

11.4 Conduct

11.4.1 Subcontracts
A. Approvals
The SUBRECIPIENT shall not enter into any subcontracts with any Subrecipient or individual in the performance of this Agreement without the written consent of the CITY prior to the execution of such agreement.

B. Monitoring
The SUBRECIPIENT will monitor all subcontracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

C. Content
The SUBRECIPIENT shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

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

11.4.3 Conflict of Interest
SUBRECIPIENT agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. SUBRECIPIENT further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the SUBRECIPIENT hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY, or of any designated public agencies or SUBRECIPIENTS which are receiving funds under the CDBG Entitlement program.

SUBRECIPIENT further agrees to execute an Affidavit Against Prohibited Acts, in the form attached as Exhibit F: Affidavit Against Prohibited Acts, certifying that it will adhere to the provisions of the Texas Penal Code, attached as Exhibit E: Texas Penal Code Title 8: Offenses Against Public Administration, which prohibits bribery and gifts to public servants.

11.4.4 Lobbying
SUBRECIPIENT hereby certifies, attached as Exhibit D: Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, that:

A. No Federal appropriated funds have been or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
B. If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

C. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subcontractors or subgrantees shall certify and disclose accordingly; and

D. Lobbying Certification
   This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

12. APPLICABLE LAW

SUBRECIPIENT shall comply with all applicable local, State and Federal laws and shall carry out each activity hereunder in compliance with all Federal laws and regulations described in Subpart K of 24 CFR Chapter V, as described in Section 570.503(b)(5) of 24 CFR Chapter V.

13. ASSIGNMENT

No assignment or delegation of duties under this Agreement shall be effective without the written consent of CITY.

14. NOTICES

All notices required or permitted by this Agreement must be in writing and shall be effective upon receipt when (i) sent by United States postal service with proper postage, certified mail return receipt requested or by a nationally recognized overnight delivery service; and (ii) addressed to the other Party at the address set out below or as such other address as the receiving Party designates by proper notice to the sending Party.

SUBRECIPIENT: Kyle Taylor, CEO
Irving cares, Inc.
440 S. Nursery Rd., Suite 101
Irving, Texas 75061
CITY:                      Steven A. Reed, Director  
                             Planning and Community Development Department  
                             City of Irving  
                             825 W. Irving Blvd.  
                             Irving, Texas 75060

When applicable, copies shall be sent to:

Chris Hillman              Doris Harris
City of Irving             Irving Cares, Inc.
825 W. Irving Blvd.        440 S. Nursery Rd., Suite 101
Irving, Texas 75060        Irving, Texas 75061

In Witness Whereof, the parties have hereunto set their hands by the representatives hereunto duly authorized on the date first stated above.

CITY OF IRVING, TEXAS      IRVING CARES, INC.

BY: ___________________________  By: ___________________________
Richard H. Stopfer, Mayor    Irving Cares, Board President/Chair

DATE SIGNED:                DATE SIGNED:

___________________________  __________________________________

ATTEST:                    ATTEST:

___________________________  _________________________________
Shanae Jennings             _________________________________
City Secretary              City Secretary

APPROVED TO AS FORM:

___________________________
Kuruvilla Oommen
City Attorney
EXHIBIT A
SCOPE OF WORK

SUBRECIPIENT INFORMATION

SUBRECIPIENT Name: Irving Cares, Inc.
Federal Tax ID Number: 75-1436937
DUNS Number: 020636283
Activities funded by this grant will be carried out at 440 S. Nursery Rd, Suite 101, Irving, Texas 75061.

SUBRECIPIENT will be responsible for administering PROJECT in a manner consistent with the federal requirements governing the provision of Community Development Block Grant funds. SUBRECIPIENT will provide the following activities eligible under the Community Development Block Grant Program.

PROGRAM DESCRIPTION:

Food Assistance:
CDBG-CV funds will be used to purchase food (primarily perishable items) to provide food assistance for eligible households in Irving affected by the COVID-19 crisis.

Rent Assistance:
CDBG-CV funds will be used to provide one-time rent assistance for 52 households impacted by the COVID-19 crisis. 100% of funding will be used to provide assistance for eligible households that are delinquent on their rent and have received an eviction notice.

PROGRAM ACTIVITIES:

<table>
<thead>
<tr>
<th>Activity #1</th>
<th>Provide rent assistance for households in Irving.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity #2</td>
<td>Provide food purchases for eligible households in Irving.</td>
</tr>
</tbody>
</table>

National Objective

SUBRECIPIENT certifies that the activities carried out with funds provided under this Agreement will meet the Department of Housing and Urban Development's National Objective of benefit to at least 51% low/moderate income persons as defined in 24 CFR Part 570.208.

SUBRECIPIENT is responsible for maintaining and reporting to the Planning and Community Development Department PROJECT records documenting the income eligibility of each participant.

The Planning and Community Development Department will monitor the performance of the SUBRECIPIENT against the National Objective stated above.
EXHIBIT B
PERFORMANCE OBJECTIVES

In addition to meeting the administrative requirements included in this Agreement, the SUBRECIPIENT agrees to provide the following levels of program services:

A. Number of Persons To Be Assisted: 111 8,000
B. Number of Households To Be Assisted: 52 2,000
C. Number of Service Units to be Provided:

<table>
<thead>
<tr>
<th>Services</th>
<th>Total Units Per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent assistance to eligible households</td>
<td>52</td>
</tr>
<tr>
<td>Food assistance to eligible households</td>
<td>2,000</td>
</tr>
</tbody>
</table>

City staff will monitor the performance of the Subrecipient against the goals and performance objectives stated above.

D. Evaluation Results Regarding Quality/Outcome of Services Provided

**Rent Assistance:**
1. At least 90% of households that receive rent assistance will maintain their housing for at least 90 days.
2. At least 90% of clients who take Money Management training will be able to identify three new pieces of information.

**Food Assistance:**
1. At least 90% of households surveyed will agree that the food assistance prevented hunger in their household.
2. At least 90% of households surveyed will agree that the food assistance improved their ability to deal with a financial crisis.

E. SUBRECIPIENT will submit monthly Performance Reports to the Planning and Community Development Department by the 10th of the month following each month of service of the Contract term.

F. SUBRECIPIENT will submit a final Program Close-Out Report to the Planning and Community Development Department no later than October 31, 2021.

G. The Planning and Community Development Department requires that all grant performance, including evaluation performance, be reflected in monthly Performance Objectives Reports.
EXHIBIT C
BUDGET/AUTHORIZED REIMBURSABLE COSTS

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
<th>Leverage Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent Assistance</td>
<td>$40,000</td>
<td>$90,750</td>
</tr>
<tr>
<td>Food Purchases</td>
<td>$15,000</td>
<td>$67,500</td>
</tr>
<tr>
<td></td>
<td>$55,000</td>
<td>$158,250</td>
</tr>
</tbody>
</table>

Total reimbursement for eligible expenses will not exceed the amount specified and will be contingent upon City receipt of source documentation of expenditures (time sheets, copies of direct deposit notices, copies of canceled checks, bank statements, etc.).

The Planning and Community Development Department requires that, unless alternative arrangements have been approved by Planning and Community Development Department staff in advance, funds be evenly expended (approximately 1/12 of the funds each month) for the contract term in order to meet HUD’s timeliness requirements.
EXHIBIT D
Certification Regarding Lobbying
for Contracts, Grants, Loans, and Cooperative Agreements

THE UNDERSIGNED CERTIFIES TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF THAT:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

IRVING CARES, INC.

By: __________________________
     Signature

_____________________________
     Typed or Printed Name

_____________________________
     Title

_____________________________
     Date
Chapter 36. Bribery and Corrupt Influence

36.02 Bribery
(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
   (1) any benefit as consideration for the recipient’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
   (2) any benefit as consideration for the recipient’s decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
   (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
   (4) any benefit that is a political contribution as defined by Title 15, Election Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
(c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
   (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
   (2) the public servant ceases to be a public servant.
(d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) of this Section that the benefit is a political contribution accepted as defined by Title 15, Election Code.
(e) An offense under this section is a felony of the second degree.

36.08 Gift to Public Servant by Person Subject to His Jurisdiction
(a) A public servant in an Subrecipient performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his Subrecipient.
(b) A public servant in an Subrecipient having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his Subrecipient.
(c) A public servant in an Subrecipient carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit.
from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his Subrecipient.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decisions, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an Subrecipient of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.

(g) A public servant who is a hearing examiner employed by an Subrecipient performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the Subrecipient in a contested case, who is doing business with the Subrecipient, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) of this code does not apply to a benefit under this subsection.

(h) An offense under this section is a Class A misdemeanor.

36.09 Offering Gift to Public Servant

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

(b) An offense under this section is a Class A misdemeanor.

36.10 Non-Applicable

(a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) of this code do not apply to:

(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

(3) a benefit to a public servant required to file a statement under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of $50 is reported in the statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision;
(4) a political contribution as defined by Title 15, Election Code; or
(5) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 805, Government Code.

(b) Section 36.08 (Gift to Public Servant) of this code does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

(c) Section 36.09 (Offering Gift to Public Servant) of this code does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.
EXHIBIT F

THE STATE OF TEXAS
COUNTY OF DALLAS

AFFIDAVIT AGAINST PROHIBITED ACTS

My name is __________________________________________________________. I hereby affirm that I am aware of the provisions of Texas Penal Code Title 8, Sections 36.02, 36.08, 36.09, and 36.10 (a copy of which is attached hereto), dealing with Bribery and Gifts to Public Servants.

I further affirm that I will adhere to such rules and instruct and require all agents, employees, and subcontractors to do the same. I am further aware that any violation of these rules subjects this agreement to revocation, my removal from bid lists, prohibiting future contract/subcontract work, revocation of permits, and prosecution.

IRVING CARES, INC.

By:_____________________________
Signature

__________________________
Typed or Printed Name

__________________________
Title

Date signed: _________________
THIS Agreement is made and entered into on this 5th day of May, 2020 by and between the Irving Family Advocacy Center, Inc (hereinafter "SUBRECIPIENT"), and the CITY OF IRVING, TEXAS (hereinafter "CITY"). CITY and SUBRECIPIENT may be referred to individually as a “Party” and jointly as the “Parties”.

WHEREAS, the CITY has received grant from the United States Department of Housing and Urban Development ("HUD") through the Community Development Block Grant ("CDBG") Program, Catalog of Domestic Assistance No. 14.218, with which CITY desires to promote public service activities that benefit low and moderate income residents of the City of Irving and the development of partnerships amount CITY, local governments, private industry, and non-profit social services agencies; and

WHEREAS, CITY is the administrator of CDBG funds from HUD, the primary purpose of said program pursuant to the Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended ("Act"), 24 CFR §570 et seq. (the CDBG regulations or “Regulations”) is to benefit low and moderate income persons; and

WHEREAS, CITY, acting pursuant to the Act, heretofore adopted an Action Plan to carry out activities eligible under the CDBG program; and

WHEREAS, on March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act providing additional Community Development Block Grant Funds and Emergency Solutions Grant funds to states, counties, and local governments; and

WHEREAS, the City of Irving as an entitlement city received additional Community Development Block Grant funds to address a range of housing and community development activities that prevent, prepare for, and respond to the coronavirus (COVID-19); and

WHEREAS, Irving Family Advocacy Center, Inc. is a Texas non-profit corporation managed by a volunteer Board of Directors; and

WHEREAS, CITY has determined that SUBRECIPIENT’s PROJECT provides counseling through an art therapy project for Irving residents who have been emotionally impacted by the COVID-19 pandemic; and

WHEREAS, the CITY wishes to engage the SUBRECIPIENT to assist the CITY in utilizing such funds;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenant set forth herein, CITY and SUBRECIPIENT do agree, for themselves and for their respective successors and assigns, as follows:
1. PROJECT

1.1 Project Description

The SUBRECIPIENT shall utilize CITY CDBG-CV funds for the provision of SUBRECIPIENT’S **Art Therapy Project-Surviving COVID-19** (“PROJECT”), whereby SUBRECIPIENT will provide counseling through an art therapy project for Irving residents who have been emotionally impacted by the COVID-19 pandemic. The scope and performance of the services of the PROJECT shall be in accordance with the Scope of work and schedule attached hereto as “Exhibit A: Scope of Work” and incorporated herein by reference.

Objectives to be met by SUBRECIPIENT within the Agreement period shall be as stated in “Exhibit B: Performance Objectives”. The PROJECT Budget shall be as set forth in the attached “Exhibit C: Budget/Authorized Reimbursable Costs”.

It is understood by all Parties hereto that this Agreement and the disbursement of funds pursuant to this Agreement are governed by the provisions of 24 CFR 570, regulations of the Community Development Block Grant (CDBG) Program as it relates to the prevention, preparation for, and response to the coronavirus (COVID-19), and any amendments thereto; that Parties hereto agree to abide by the applicable provision of CDBG to the extent that other sections which may be applicable are not specifically mentioned herein; and that in the event of any conflict between any provision herein and the requirements of 24 CFR 570, said federal requirements shall take precedence.

1.2 Term

The term of Agreement shall be from **May 7, 2020, and shall run until September 30, 2021.**

**1.2.1 Extension of Agreement**

This Agreement may not be extended.

1.3 Tasks and Schedule

To ensure that the PROJECT progresses adequately toward completion, SUBRECIPIENT must achieve the following benchmarks:

**1.3.1 Monthly Performance Reporting**

PROJECT performance reports will be submitted on a monthly basis, in a format developed and provided by the CITY. Performance reports will summarize PROJECT status in several areas including 1) Status of PROJECT expenditures, 2) Status of PROJECT performance against pre-determined measures, and 3) General status of PROJECT and any other information relevant to the completion of the PROJECT.

**1.3.2 Expenditure**

Unless alternative arrangements have been approved in writing by CITY staff in advance, grant expenditures shall be evenly expended (approximately 1/12 of the targeted performance achieved each month) over the contract term.
2. FORM OF ASSISTANCE AND DISBURSEMENTS

2.1 Form and Terms of Assistance

In consideration for PROJECT services, CITY shall pay SUBRECIPIENT as disbursement of Fiscal Year 2020-2021 Community Development Block Grant COVID funds for eligible costs for the PROJECT in an amount not to exceed CDBG-CV Allocation of Forty Three Thousand Four Hundred Dollars and No Cents ($43,400.00). Said disbursement is to be paid upon submission to the CITY of appropriate documentation and invoices as stipulated by the CITY. In order to qualify for reimbursement, funds to be disbursed under this Agreement must be spent by SUBRECIPIENT during the term of the Agreement.

SUBRECIPIENT may not request disbursement of funds until the funds are needed for payment of eligible costs. The amount of each request must be equal to the proof of payment submitted for reimbursement and eligible expenditures. Funds allocated by CITY for this PROJECT which have not been invoiced by SUBRECIPIENT within thirty (30) calendar days after the ending date of this Agreement shall revert to the CITY to be allocated for other activities. Invoices shall not be submitted and payment shall not be made more often than once every thirty (30) days throughout the Agreement term. Payments may be contingent upon certification by the CITY that the SUBRECIPIENT’s financial management system is in accordance with the standards specified in this Agreement.

The obligations of the City in this Agreement are subject to the receipt of sufficient funding from the U.S. Department of Housing and Urban Development. If such funding is not provided by the U.S. Department of Housing and Urban Development, both parties to this Agreement are relieved of any further obligation to the other. These funds are considered formula grant funds with a Catalog of Federal Domestic Assistance number (CFDA) of 14.218.

2.2 Costs in Compliance with CDBG-CV Regulations and Agreement

SUBRECIPIENT shall be reimbursed for eligible costs for the PROJECT with CDBG-CV funds only if CITY determined in its sole discretion that:

A. Costs are eligible expenditures in accordance with the CDBG regulations that prevent, prepare for, and respond to the coronavirus (COVID-19);

B. Costs are in compliance with this Agreement and are reasonable and consistent with industry norms; and

C. Complete documentation, as applicable, is submitted to CITY by SUBRECIPIENT

2.3 Budget

SUBRECIPIENT agrees that the CDBG-CV funds will be paid on a reimbursement basis in accordance with Exhibit B: Budget/Authorized Reimbursable Costs. SUBRECIPIENT agrees to utilize CBDG-CV funds to supplement rather than supplant funds otherwise available for the PROJECT. Notwithstanding any provision in this Agreement to the contrary, SUBRECIPIENT’s
efforts to identify and secure alternative funding sources shall not delay the performance of any obligations of either CITY or SUBRECIPIENT under this Agreement.

2.3.1 Changes in Budget
SUBRECIPIENT may increase or decrease line-item amounts in the budget with CITY prior written approval, which approval shall be at CITY sole discretion. Any such increase or decrease in line items in the budget shall comply with Exhibit A: Scope of Work and shall not increase the total amount of CBDG-CV funds.

2.4 Disbursement

CITY’s CDBG-CV funding is intended as Public Service PROJECT assistance as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT may request disbursements no more than monthly during the term of the Agreement in accordance with the terms set forth in this section.

SUBRECIPIENT shall be paid up to a total amount not to exceed Forty Three Thousand Four Hundred Dollars and no cents ($43,400.00) in accordance with the proposed budget contained herein. Payment shall be made upon submission of proper documentation, provided that services have been satisfactory, and that any and all service delivery data requested by CITY has been furnished. SUBRECIPIENT shall submit to CITY requests for disbursement on forms acceptable to CITY, accompanied by appropriate source documentation, including copies of third-party invoices, statements of work performed, cancelled checks, payroll information, or other such verification as authorized by 2 CFR §200.405. SUBRECIPIENT may not request disbursement of funds until the funds are needed for reimbursement of payment of eligible costs.

2.4.1 Conditions of Reimbursement
CDBG-CV funding will only be released to SUBRECIPIENT for actually incurred CDBG-CV eligible project costs. The obligation of CITY to approve any request or to make any disbursement of CDBG-CV funds is subject to the satisfaction of the following conditions at the time of making such disbursement:

A. SUBRECIPIENT shall not be in default under the term of this Agreement and no events shall exist, which by notice, passage of time, or otherwise would constitute an event of default under this Agreement

B. CITY shall have received evidence satisfactory to CITY that all funded activities have been carried out in accordance with HUD regulation, the term of this Agreement, and SUBRECIPIENT’s proposed scope of work

C. SUBRECIPIENT shall have submitted on or before the tenth (10th) of the month following each month of service of the Agreement term a completed reimbursement request using such forms as deemed acceptable by CITY and other appropriate source documentation as may be required by CITY including, but not limited to:

   I. SUBRECIPIENT authorization of submittal
   II. Line Item budget information matching reimbursement request detail
   III. Population Served Report
IV. Client Service Log(s) which match requested reimbursement amounts
V. Completed performance measure report
VI. Completed client data summary reports which align with requested reimbursement
VII. Such other supporting evidence as may be requested by CITY to substantiate all payments which are to be made out if the relevant disbursement and/or to substantiate all payments then made with respect to the PROJECT

D. No determination shall have been made by CITY that the undisbursed amount of the PROJECT Agreement is less than the amount received to pay all costs and expenses of any kind that reasonably may be anticipated in connection with the completion of the PROJECT.

2.4.2 Conditions of Final Disbursement
In addition to the requirement set forth in Section 2.4.1, CITY shall require the completion of a Year-end Report on CITY-approved documents, prior to the final disbursement of funds, the request for which shall not be submitted before completion of the PROJECT

2.4.3 Limitations on Reimbursement Requests
The Parties covenant and agree that in the event that CITY discovers a misstatement in any affidavit, statement, or certificate furnished pursuant to this Agreement, it shall make no further disbursements until such misstatement has been corrected.

2.4.4 Acknowledgement of City Payment of CDBG-CV Funds
Within fifteen (15) calendar days after the payment of the final reimbursement request, SUBRECIPIENT shall sign an acknowledgement that CITY has paid all CDBG-CV funds due under this Agreement.

3. INTENDED BENEFICIARIES

The intended beneficiaries of the CDBG-CV funded services in this Agreement are those persons in the City of Irving who are in need of the services provided by SUBRECIPIENT under this Agreement, at least 51% of whom shall be of low or moderate income as defined by the U.S. Department of Housing and Urban Development (HUD) or shall be of a clientele generally presumed by the U.S. Government to be principally low and moderate income. For the purposes of this Agreement, the definition of "low and moderate income" shall be as specified by the U.S. Department of Housing and Urban Development, and may be subject to change without notice. SUBRECIPIENT is responsible for verifying such information prior to the determination of beneficiary eligibility, but CITY, where appropriate, shall advise SUBRECIPIENT of any changes to low and moderate income limits as established by HUD. SUBRECIPIENT shall establish, maintain and submit to City documentation concerning PROJECT beneficiaries in a form acceptable to CITY's Planning and Community Development Department.
3.1 Income Eligibility and Calculation

SUBRECIPIENT shall ensure that annual gross household income of at least 51% of its PROJECT clients does not exceed current income limits for low to moderate income households, as established and periodically revised by HUD.

3.1.2 Documentation

SUBRECIPIENT shall ensure that all members of an applicant household provide documentation of assets and income. Such documentation, unless differently predetermined through CITY prior written approval, shall include but is not limited to:

A. Thirty (30) calendar days of employment or other income documentation, preferably in the form of paycheck stubs, for each working member of the household, aged eighteen (18) or older.

B. Verification of any other sources of income for all family members (Social Security, SSI, Medicaid, Child Support (12 month history), Alimony (12 month history), retirement, etc.)

C. Verifiable documentation for any other sources of income and/or assets.

A letter of explanation, along with documentation supporting the explanation, shall be included in the client file for any unusual circumstances which impacts client income or assets.

3.1.2 Residency

SUBRECIPIENT shall obtain documentation of residency in the City of Irving, legal United States residency, and supporting information for all household members as part of the determination of PROJECT eligibility, including current government-issued photo identification from the head(s) of household.

4. GENERAL CONDITIONS

4.1 General Compliance

The SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The SUBRECIPIENT also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

4.2 Independent Contractor

Nothing contained in this Agreement is intended, nor shall it be construed in any manner, as to create or establish the relationship of employer/employee between the parties. The SUBRECIPIENT shall at all times remain an "independent contractor" with respect to the services.
to be performed under this Agreement. The CITY shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the SUBRECIPIENT is an independent contractor.

4.3 Worker's Compensation

The SUBRECIPIENT shall provide Worker’s Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

4.4 Insurance and Bonding

The SUBRECIPIENT shall carry insurance coverage to protect any Agreement assets from loss due to theft, fraud and/or undue physical damage, and at a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to any cash advances from the CITY. The SUBRECIPIENT shall comply with the bonding and insurance requirements of 2 CFR 200.304, Bonding and Insurance, in addition to any other insurance required by CITY.

4.5 Amendments

CITY and SUBRECIPIENT may amend this Agreement by mutual agreement at any time provided that such Amendment(s) make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Irving City Council. Such amendments shall not invalidate this Agreement, nor relieve or release the CITY or SUBRECIPIENT from its obligations under this Agreement.

The CITY may, in its sole discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment(s) result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the CITY and SUBRECIPIENT.

4.6 Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least sixty (60) days before the effective date of such termination. Partial terminations of activities contained in Exhibit A: Scope of Work may only be undertaken with the prior approval of CITY. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the SUBRECIPIENT under this Agreement shall, at the option of the CITY, become the property of the CITY, and the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The CITY may also suspend or terminate this Agreement at its sole discretion, in whole or in part, if the SUBRECIPIENT materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the CITY may declare the SUBRECIPIENT ineligible for any further participation in the CITY's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the SUBRECIPIENT is not in
compliance with any applicable rules and regulations, the CITY may withhold said Agreement funds until such time as the SUBRECIPIENT is found to be in compliance by the CITY, or is otherwise adjudicated to be in compliance.

4.7 Procurement

SUBRECIPIENT shall develop and implement procurement procedures which conform to any procurement guidelines issued by CITY. If SUBRECIPIENT is a unit of local government, it shall also comply with all applicable state and local laws relating to procurement. SUBRECIPIENT shall not procure supplies, equipment, materials or services except in accordance with such procurement procedures.

By signing this Agreement, SUBRECIPIENT certifies that it is not in a state of debarment. Furthermore, SUBRECIPIENT certifies that it will not award any funds provided under this contract to any party with is debarred, suspended, or otherwise excluded for or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. SUBRECIPIENT shall receive the certification provided by the CITY from each proposed subcontractor under this contract and its principals.

4.8 Allowable Costs

For the term of this Agreement, CITY will reimburse SUBRECIPIENT for the counseling through an art therapy project for Irving residents who have been emotionally impacted by the COVID-19 pandemic as more specifically described in Exhibit C: Budget/Authorized Reimbursable Costs. SUBRECIPIENT shall be reimbursed by CITY’s Planning and Community Development Department in a total amount not to exceed Forty Three Thousand Four Hundred Dollars and No Cents ($43,400.00). SUBRECIPIENT shall establish, maintain, and submit to CITY documentation concerning PROJECT budget and expenditures in a form acceptable to the Planning and Community Development Department. All PROJECT costs must be reasonable and consistent with policies and procedures of the City of Irving, SUBRECIPIENT, and the U.S. Department of Housing and Urban Development. All expenditures must be accorded consistent treatment, and must be determined to be in accordance with generally accepted accounting principles (“GAAP”). CITY reserves the right to audit all budgets, work schedules, and accounts. SUBRECIPIENT further agrees to comply with any applicable provisions of 24 CFR, Part 200.

SUBRECIPIENT shall be liable to the CITY for any costs disallowed by the U.S. Department of Housing and Urban Development pursuant to financial and compliance audit(s) of funds received under this Agreement. Reimbursement to the CITY of such disallowed costs shall be paid by SUBRECIPIENT from funds which were not provided or otherwise made available to SUBRECIPIENT under this Agreement.

4.9 Form 1295

SUBRECIPIENT shall complete the Certificate of Interested Parties form (Form 1295), as outlined in section 2252.908 of the State of Texas Government Code prior to the execution of this contract to ensure that SUBRECIPIENT discloses interested parties to the State. SUBRECIPIENT must use the application provided electronically by the Texas Ethics Commission and print a copy of the complete form, which will include a certification of filing that will contain a unique certification number. Such certification must be signed by an authorizing agent of the SUBRECIPIENT, and the
form must be notarized. SUBRECIPIENT shall provide CITY with the completed Form 1295 prior to execution of the Agreement. CITY will acknowledge to the state the receipt of the certification of filing no later than the 30th day after the date the CITY receives the Form 1295. Agreement may not be fully executed until receiving notice from the State, review by the State of which must occur within seven (7) business days from the date of acknowledgement of receipt from CITY.

4.10 Internal Controls

In compliance with the requirements of 2 CFR §200.303, SUBRECIPIENT shall:

4.10.1 Establish and maintain effective internal control over the CDBG-CV funds that provides reasonable assurance that SUBRECIPIENT is managing the CDBG-CV funds in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement. These internal controls shall be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

4.10.2 Comply with Federal statutes, regulations, and the terms and conditions of this Agreement

4.10.3 Evaluate and self-monitor SUBRECIPIENT’s compliance with statutes, regulations, and the terms and conditions of this Agreement

4.10.4 Take prompt actions when instances of noncompliance are identified including noncompliance identified in audit findings and inform CITY of corrective actions within thirty (30) days of identification of noncompliant action

4.10.5 Take reasonable measures to safeguard protected personally identifiable information and other information that HUD or CITY designates as sensitive or SUBRECIPIENT considers sensitive consistent with applicable Federal, State, local, or tribal laws regarding privacy and obligations of confidentiality.

4.11 Compliance with All Applicable Laws and Regulations

SUBRECIPIENT agrees to comply fully with all applicable laws and regulations that are currently in effect or that are hereafter amended during the performance of this Agreement. Those laws include, but are not limited to:

- Title 1 of the Housing and Community Development Act of 1974 as set out above
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) including provisions requiring recipients of Federal assistance to ensure meaningful access by persons of limited English proficiency
- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.)
- Executive Orders 11063, 11246 as amended by 11375 and 12086 and as supplemented by Department of Labor regulations 41 CFR, Part 60
- The Age Discrimination in Employment Act of 1967
- The Age Discrimination Act of 1975 (42 U.S.C. Sections 6101 et seq.)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sections 794 et seq.) and 24 CFR Part 8 where applicable
- The Clean Air Act, as amended (42 U.S.C. Sections 1251 et seq.) and the Clean Water Act of 1977, as amended (33 U.S.C. Sections 1251 et seq.), related Executive Order 11738 and Environmental Protection Subrecipient Regulations at 40 CFR Part 15. In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility that has given rise to a conviction under the Clean Air Act or the Clean Water Act.
- Immigrations Reform and Control Act of 1986 (8 U.S.C. Sections 1101 et seq.), specifically including the provisions requiring employer verifications of legal status of its employees
- Regulations at 2 CFR Part 200 related to lobbying, including the requirement that certifications and disclosures be obtained from all covered persons
- Executive Order 12549 and 24 CFR Part 5.105(c) pertaining to restrictions on participations by ineligible, debarred, or suspended persons or entities
- Regulations at 24 CFR Part 882.708(C) pertaining to site and neighborhood standards for new construction projects
- Regulations at 24 CFR Part 983.6 for Site and Neighborhood Standards Review
- Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act
- Guidelines of the Environmental Protections Subrecipient at 40 CFR Part 247
- For contracts and subgrants for construction or repair, Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in 29 CFR Part 5
- For construction contracts in excess of $2,000.00, and in excess of $2,500.00 for other contracts which involve the employment of mechanics or laborers, Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 300) as supplemented by 29 CFR Part 5
- Regulations at 24 CFR Part 570, Community Development Block Grant
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 et seq.
4.12 Copyright, Patent Rights, and Public Information Act

SUBRECIPIENT acknowledges that the City of Irving is subject to the provisions of the Texas Public Information Act as set forth in Chapter 552 of the Texas Government Code. If a public information request is made to the CITY for information regarding this Agreement, or for any other records provided by SUBRECIPIENT to CITY, the CITY may send a request to the Texas Attorney General for a decision as to whether or not such information may be withheld from disclosure in accordance with the Public Information act, and will release such information if required to do so by Texas of Federal law. In the event that a public information request is made to the CITY for items or documents that may be subject to copyright or patent protection, the CITY will notify SUBRECIPIENT that such public information request has been made so that SUBRECIPIENT can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that SUBRECIPIENT can assert any other rights it may have under law to keep such information from being disclosed; and SUBRECIPIENT can notify the holder of copyright or patents rights to the requested documents that it can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that the hold of said rights can assert any other rights it may have under law to keep such information from being disclosed. If pursuant to a court order, subpoena or summons, the CITY is required to make disclosure of information provided by SUBRECIPIENT to the CITY, the CITY shall notify SUBRECIPIENT to allow SUBRECIPIENT to assert whatever exclusions or exemptions maybe available to SUBRECIPIENT under applicable law; and, so that SUBRECIPIENT can notify the holder of copyright or patent rights so that it can assert whatever exclusions or exemptions may be available to it under applicable law. SUBRECIPIENT acknowledges that the CITY must comply with such court order, subpoena or summons unless otherwise determined by the applicable court. This provisions of this Section shall survive the termination of this Agreement.

4.13 Terms Applicable to Contractors, Subcontractors, and Vendors

SUBRECIPIENT understands and agrees that all terms of this Agreement, whether regulatory or otherwise, shall apply to any and all contractors, subcontractors, and vendors of SUBRECIPIENT which are in any way paid with CDBG-CV funds or who perform any work in connection with the PROJECT. SUBRECIPIENT shall cause all applicable provisions of the Agreement to be included in and made a part of any contract or subcontract executed in the performance of its obligations hereunder, including its obligations regarding the CDBG Requirements and the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT shall monitor the services and work performed by its contractors, subcontractors, and vendors on a regular basis for compliance with the CDBG Requirements, the CDBG Regulations, and Agreement provisions. SUBRECIPIENT is responsible to cure all violations of the CDBG Regulations committed by its contractors, subcontractors, or vendors pertaining to this Agreement. CITY maintains the right to insist on SUBRECIPIENT’s full compliance with the terms of this Agreement and the CDBG Regulations and SUBRECIPIENT is responsible for such compliance regardless of whether actions to fulfil the requirements of this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) are taken by SUBRECIPIENT or by SUBRECIPIENT’s contractors, subcontractors, or vendors. SUBRECIPIENT acknowledges that the provisions of this Section shall survive the earlier
termination or expiration of this Agreement and be applicable for five (5) years after the termination of this Agreement.

4.14 Meaningful Access For Limited English Proficient Persons

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“Limited English Proficient persons” or “LEP”) may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 (Title VI) in order to receive a particular service, benefit, or encounter. In accordance with Title VI and its implementing regulations, the SUBRECIPIENT agrees to take reasonable steps to ensure meaningful access to activities for LEP persons. Any of, but not limited to, the following actions could constitute “reasonable steps”, depending on the circumstances; acquiring translators to translate vital documents, advertisements and notices, acquiring interpreters for face-to-face interviews with PEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the PROJECT, hiring bilingual employees or volunteer for outreach and intake activities, or contracting with a telephone line interpreter service.

4.15 Other Laws

The failure to list any Federal, State, or City ordinance, law, or regulation that is applicable to SUBRECIPIENT does not excuse or relieve SUBRECIPIENT from the requirements or responsibilities in regard to following the law, nor from the consequences or penalties for SUBRECIPIENT’s failure to follow the law, if applicable.

5. REPORTING, MONITORING, AND RECORDKEEPING

5.1 General Requirements

SUBRECIPIENT agrees to provide reports to CITY and to maintain records documenting compliance with this Agreement, the loan documents and regulatory agreements, the CDBG requirements, and all other applicable federal, state, and local laws and regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT also agrees to provide CITY, HUD, HUD’s Inspector General, the Comptroller General of the United States (aka the U.S. Government Accountability Office or “GAO”), or their representatives, access to the PROJECT and its records for the purpose of monitoring SUBRECIPIENT’s compliance with applicable requirements.

5.2 Reporting Requirements

If SUBRECIPIENT fails to submit, in a timely and satisfactory manner, any report or response required by this Contract as specified in Exhibits "B" and "C", including responses to monitoring reports, CITY may withhold payments otherwise due to SUBRECIPIENT hereunder. If CITY withholds such payments, it shall notify SUBRECIPIENT in writing of its decision and the reasons
therefor. Payments may be withheld by CITY until such time as the delinquent obligations for which funds are withheld are fulfilled by SUBRECIPIENT. If the delinquent report or response is not received within forty-five (45) days of its due date, CITY may suspend or terminate this Contract. If SUBRECIPIENT receives CDBG-CV funds from CITY over two (2) or more Contract Periods, funds may be withheld or this Contract suspended or terminated for SUBRECIPIENT’s failure to submit a report or response (including a report of audit) past due under a prior Planning and Community Development Department contract.

SUBRECIPIENT shall submit a final Program Close-Out Report to the Planning and Community Development Department not later than October 31, 2021.

5.3 Reports

SUBRECIPIENT will submit to CITY all reports and documentation described in this Agreement in such form as CITY may prescribe. SUBRECIPIENT will be required to submit a final performance and/or final financial report as required by CITY at the termination of this Agreement in such form and within such times as CITY may prescribe. Failure to submit any report or documentation described in this Agreement to CITY shall be an event of default of this Agreement, and CITY may exercise all of its remedies for default under this Agreement.

5.3.1 Additional Information

SUBRECIPIENT shall provide CITY with additional information as may be required by State or Federal agencies to substantiate CDBG-CV Program activities and/or expenditure eligibility.

5.3.2 Change in Reporting Requirements and Forms

CITY retains the right to change reporting requirements and forms at its discretion. CITY will notify SUBRECIPIENT in writing at least thirty (30) calendar days prior to the effective date or such change, where practicable, and the Parties shall execute an amendment to this Agreement reflecting such change if necessary.

7.5.3 City Reserves Right to Audit

CITY reserves the right to perform an audit of SUBRECIPIENT’s operations and finances related to this Agreement at any time during the term of this Agreement and for five (5) years after the Agreement terminates if CITY determines that such audit is necessary for CITY’s compliance with CDBG Regulations or other CITY policies, and SUBRECIPIENT agrees to allow access to all pertinent materials as described herein as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If such audit reveals a questioned practice or expenditure, such questions must be resolved within fifteen (15) business days after notice to SUBRECIPIENT of such questioned practice or expenditure. If questions are not resolved within this period, CITY reserves the right to withhold further funding under this Agreement and/or other contracts with SUBRECIPIENT. If as a result of an audit it is determined that SUBRECIPIENT has falsified any documentation or misused, misapplied, or misappropriated CDBG-CV funds or spent CDBG-CV funds on any ineligible activities, SUBRECIPIENT agrees to reimburse CITY the amount of such monies plus the amount of any sanctions, penalty, or other charge levied against CITY by HUD because of such actions.
5.4 Monitoring

CITY will monitor and evaluate SUBRECIPIENT’s progress on project performance on an annual basis, or more frequently as required, against goals and performance standards established herein. Monitoring may take the form of desk review or on-site monitoring. SUBRECIPIENT shall establish and maintain appropriate documentation to verify stated performance objectives and shall submit such documentation to City's Planning and Community Development Department staff on a monthly basis during the Agreement term as provided in Section 2, or more often if deemed necessary. SUBRECIPIENT further agrees to reasonable on-site monitoring by representatives of the City and the U.S. Department of Housing and Urban Development.

SUBRECIPIENT understands and agrees that it will be subject to monitoring by CITY for compliance with the CDBG Regulations and the terms of this Agreement until the PROJECT is closed in IDIS and for four (4) years thereafter. SUBRECIPIENT will provide reports and access to PROJECT files as requested by CITY during the term of the Agreement and for four (4) years after the PROJECT is closed in IDIS. In order to assist CITY with its monitoring, SUBRECIPIENT shall comply with all the reporting requirements set out in this Agreement.

5.4.1 Access
Representatives of CITY, HUD, HUD Office of Inspector General, and the United States Comptroller General shall have access during regular business hours, upon forty-eight (48) hours’ prior notice, to SUBRECIPIENT’s offices and records that are related to the use of the CDBG-CV funds, and to SUBRECIPIENT’s officers, agents, employees, contractors, subcontractors, vendors, and records that are related to the use of CDBG-CV funds for the purpose of such monitoring.

5.4.2 Frequency and Types of Monitoring
In addition to other provisions of this Agreement regarding frequency of monitoring, CITY reserves the right to perform desk reviews or on-site monitoring of SUBRECIPIENT’s compliance with the terms and conditions of this Agreement. CITY shall provide SUBRECIPIENT with a written report of the monitor’s findings after each on-site monitoring visit. If the monitoring report notes deficiencies in SUBRECIPIENT’s performance, the report shall include requirements for the timely correction of said deficiencies by SUBRECIPIENT. Failure by SUBRECIPIENT to take the action specified in the monitoring report may be cause for suspension or termination of this Agreement as provided herein or CITY may require repayment of all CDBG-CV funds related to this Agreement. CITY will evaluate all funded agencies to determine the required frequency of on-site monitoring to be conducted.

5.4.3 Substandard Performance
Substandard performance as determined by City monitoring will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within a reasonable period of time after being notified by the City, Agreement suspension or termination procedures will be initiated. In the event that the City makes a determination that the provisions of this Agreement have not been performed by the SUBRECIPIENT, City may, in accordance with 2 CFR 200.339(a)(1), suspend or terminate this Agreement by notice in writing to SUBRECIPIENT if the SUBRECIPIENT materially fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 2 CFR 200.339.
5.5 Audits

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of an independent financial audit. Such audits shall be completed by an independent auditor in accordance with generally accepted accounting and auditing principles and standards (GAAP) governing financial and compliance audits. Such audits should be completed no later than one hundred fifty (150) days following the end of the SUBRECIPIENT’s fiscal year. However, upon CITY approval of prior written request from SUBRECIPIENT, CITY will allow such audits to be completed no later than one hundred eighty (180) days following the end of the SUBRECIPIENT’s fiscal year. CITY reserves the right to approve this submittal date to mitigate professional charges to SUBRECIPIENT related to conducting such audits. Notwithstanding, all copies of completed audits, together with any management letters or accompanying documentation, shall be submitted to CITY within thirty (30) days of acceptance and review by SUBRECIPIENT. Should SUBRECIPIENT receive Federal funding in an amount exceeding $750,000.00, regardless of source, SUBRECIPIENT must complete an Independent Single Audit in accordance with 2 CFR 200 Subpart F. Such independent Single Audit is subject to the submittal requirements stated above.

In the event SUBRECIPIENT is allocated $750,000.00 or more in federal funds from any agencies of the U.S. Government, SUBRECIPIENT shall also comply with U.S. Government federal audit requirements, including the requirements contained in 2 CFR 200 Subpart F.

5.5 Form 990

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of its submitted Return of Organization Exempt From Income Tax (commonly referred to as IRS Form 990). Such forms shall be submitted to CITY within thirty (30) days of SUBRECIPIENT submittal to the Internal Revenue Service.

5.6 Depository and Record Keeping

Disbursed funds must be deposited in a depository having federal depository insurance. CITY shall require of SUBRECIPIENT that the Department of Housing and Urban Development of the United States Government, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Project, for the purpose of making audit examinations, excerpts and transcriptions. This Agreement and all records pertaining to such Agreement shall be maintained by both SUBRECIPIENT and the CITY for a period of four (4) years after final payment is made and all other pending matters are finalized.

CITY reserves the right to conduct additional financial and compliance audits of the funds received and performance rendered under this Agreement. SUBRECIPIENT agrees to permit CITY or its authorized representatives to audit SUBRECIPIENT’s records and to obtain any documents, materials or information necessary to facilitate such audit.
6 PROJECT INCOME

No PROJECT income, commonly referred to as Program Income, is anticipated. In the event there is program income derived from the use of CDBG-CV funds disbursed under this Agreement such program income shall be returned to the Planning and Community Development Department for further reallocation.

7 ENFORCEMENT AND TERMINATION

If CITY determines that the required PROJECT elements have not been completed within the timelines of this Agreement or have been provided for ineligible activities or to a preponderance of ineligible persons, CITY shall have the right to terminate this Agreement effectively immediately upon written notice to SUBRECIPIENT of such intent with no penalty or liability to CITY after giving SUBRECIPIENT thirty (30) calendar days to cure. CITY shall also be entitled to demand repayment of the CDBG-CV funds already disbursed to SUBRECIPIENT and enforce any of the provisions of this Agreement for default.

7.1 Failure to Submit Complete Documentation During PROJECT

7.1.1 Complete Documentation
If SUBRECIPIENT fails to submit complete documentation during PROJECT, or if any report or documentation submitted as part of complete documentation is not in compliance with this Agreement or CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY in its sole discretion, CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have thirty (30) calendar days from the date of CITY’s written notice to submit or resubmit any such report or documentation. If SUBRECIPIENT fails to submit or resubmit any such report or documentation within such time, CITY shall have the right to withhold payments. If such failure continues for an additional thirty (30) calendar days (a total of sixty (60) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such report or documentation is missing or otherwise not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

7.1.2 Incomplete or Noncompliant Reimbursement Requests
If any of SUBRECIPIENT’s Reimbursement Requests are incomplete or otherwise not in compliance with this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY on its sole discretion, CITY will notify SUBRECIPIENT in writing of such default and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to resubmit any such Reimbursement Request to cure the default. If SUBRECIPIENT fails to cure the default within such time, SUBRECIPIENT shall forfeit any payments otherwise due under such Reimbursement Request. Is such failure to resubmit such Reimbursement Request continues...
for an additional fifteen (15) calendar days (for a total of thirty (30) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such Reimbursement Request is not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

7.1.3 Multiple Instances
In the event of more than two (2) instances of default, cured or uncured, CITY reserves the right at its sole option to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY.

7.1.4 Payment of CDBG-CV Funds to SUBRECIPIENT
Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV Funds to SUBRECIPIENT pursuant to this Agreement during the period that any Reimbursement Request, report, or other documentation is missing, past due, or is not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19), or during any period during which SUBRECIPIENT is in default of this Agreement.

7.1.5 Unpaid Funds
In the event of termination under this Section, all CDBG-CV Funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately forfeited and SUBRECIPIENT shall have no further right to such funds. If CITY determines that a repayment of CDBG-CV funds paid to SUBRECIPIENT must be repaid, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section. Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

7.2 Failure to Maintain or Submit Required Reports and Documentation
If SUBRECIPIENT fails to maintain all records and documentation as required in Section 6, or fails to submit any report or documentation required by this Agreement after the PROJECT is completed, or if the submitted report or documentation is not in compliance with this Agreement or the CDBG Regulations as determined by CITY in its sole discretion as it is relates to prevent, prepare for, and respond to the coronavirus (COVID-19), CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to obtain or recreate the missing records or documentation, or submit or resubmit any such report or documentation to CITY. If SUBRECIPIENT fails to maintain the required reports or documentation, or submit or resubmit any such report or documentation within such time, CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY.
7.3 Additional Time to Cure

Unless specifically provided otherwise in this Agreement, SUBRECIPIENT shall be in default under this Agreement if SUBRECIPIENT breaches any term or condition of this Agreement. In the event that such a breach remains uncured after thirty (30) calendar days following written notice by CITY (or other such notice period as may be specified herein), or if SUBRECIPIENT has diligently and continuously attempted to cure following receipt of such written notice but reasonably required more than thirty (30) calendar days to cure, as determined by both Parties mutually and in good faith, CITY shall have the right to elect, in CITY’s sole discretion, to (i) extend SUBRECIPIENT’s time to cure, (ii) terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT, or (iii) pursue any other legal remedies available to CITY under this Agreement.

7.4 Remedies

City’s remedies may include:

A. Direct SUBRECIPIENT to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities.

B. Direct SUBRECIPIENT to establish and follow a management plan that assigns responsibilities for carrying out the remedial activities.

C. Cancel or revise activities likely to be affected by the performance deficiency, before expending CDBG-CV funds for the activities.

D. Reprogram CDBG-CV funds that have not yet been expended from the affected activities to other eligible activities or withhold CDBG-CV funds.

E. Direct SUBRECIPIENT to reimburse CITY in any amount of CDBG-CV funds not used in accordance with the HOME regulations.

F. Suspend reimbursement of CDBG-CV funds for affected activities.

G. Suspend or terminate this Contract.

H. Any other appropriate action including but not limited to any remedial action legally available such as declaratory judgement, specific performance, damages, temporary or permanent injunctions, termination of this Agreement or any other Agreements with SUBRECIPIENTS, and any other available remedies.

7.5 Repayment

In the event of termination under this Section, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds and, as determined by CITY, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination.
Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

7.6 No Funds Disbursed While in Breach

SUBRECIPIENT understands and agrees that no CDBG-CV funds will be paid to SUBRECIPIENT until all defaults are cured to the satisfaction of CITY.

7.7 No Compensation after Date of Termination

SUBRECIPIENT will not receive any CDBG-CV funds for work undertaken after the date of termination.

7.8 Rights of CITY Not Affected

Termination shall not affect or terminate any of the existing rights of CITY against SUBRECIPIENT, or which may thereafter accrue because of such default, and this provision shall be in addition to any and all other rights and remedies available to CITY under the law including, but not limited to, compelling SUBRECIPIENT to complete the PROJECT in accordance with the terms of the Agreement. Such termination does not terminate any applicable provisions of this Agreement that have been expressly noted as surviving the term of termination of this Agreement. No delay or omission by CITY in exercising any right or remedy available to it under this Agreement shall impair such right or remedy or constitute a waiver or acquiescence in any SUBRECIPIENT default.

7.9 Waiver of Breach Not Waiver of Subsequent Breach

The waiver of a default of breach of any term, covenant, or condition of this Agreement shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof or thereof.

7.10 Civil, Criminal, and Administrative Penalties

Failure to perform all Agreement terms may result in civil, criminal, or administrative penalties, including, but not limited to those set out in this Agreement.

7.11 Termination for Cause

CITY may terminate this Agreement in the event of SUBRECIPIENT’s default, inability, or failure to perform subject to notice, grace, and cure periods. In the event CITY terminates this Agreement for cause, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds, and any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG-CV funds will result in exercising all legal remedies available to City under this Agreement. SUBRECIPIENT acknowledges and agrees that if CITY terminates this Agreement for cause, neither SUBRECIPIENT nor any affiliates of SUBRECIPIENT will be considered for any other CITY contract for CDBG-CV funds for a minimum of five (5) years from the date of termination.
7.11.1 Loss of Nonprofit Status
This Agreement shall be terminated immediately in the event SUBRECIPIENT loses its nonprofit certification or status after the cure period stated in this Section.

7.11.2 No Available CDBG-CV Funds
SUBRECIPIENT may terminate this Agreement if CITY does not provide the CDBG-CV funds substantially in accordance with this Agreement.

7.12 Termination for Convenience

In terminating in accordance with 2 CFR 200, Appendix II, this Agreement may be terminated in whole or in part only as follows:

7.12.1 By CITY with the consent of SUBRECIPIENT in which case the Parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

7.12.2 By SUBRECIPIENT upon written notification to CITY setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of a partial termination, CITY may terminate the Agreement in its entirety if CITY determines in its sole discretion that the remaining portion of the Agreement to be performed or CDBG-CV funds to be spent will not accomplish the purposes for which this Agreement was made.

7.13 Dissolution of SUBRECIPIENT Organization Terminates Contract

This Agreement shall terminate in the event SUBRECIPIENT organization is dissolved or ceases to exist. In the event of termination under this Section, all CDBG-CV funds are subject to repayment and/or CITY may exercise all of its remedies under this Agreement.

7.14 REPAYMENT OF CDBG-CV FUNDS

All CDBG-CV funds are subject to repayment in the event the PROJECT does not meet the requirements of this Agreement or of the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If SUBRECIPIENT takes any action that results in CITY being required to repay all or any portion of the CDBG-CV funds to HUD, SUBRECIPIENT agrees it will reimburse CITY for such repayment.

7.15 MATERIAL OWNERSHIP CHANGE

If ownership of SUBRECIPIENT materially changes after the date of this Agreement, CITY may, but is not obligated to, terminate this Agreement. CITY has thirty (30) calendar days to make such determination after receipt of written notice from SUBRECIPIENT, and failure to make such determination will constitute a waiver. In the event of termination by CITY under this Section, all
CDBG-CV funds awarded but not yet paid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds. Any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section.

8 REVERSION OF ASSETS/DISPOSITION OF EQUIPMENT

Upon expiration of this Agreement, SUBRECIPIENT shall transfer to the CITY any CDBG-CV funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-CV funds, except as provided in Section VII herein. In addition, any real property under the SUBRECIPIENT’s control that was acquired or improved in whole or in part with CDBG-CV funds in excess of $25,000 shall either be:

A. Used to meet one (1) of the national objectives listed in 24 CFR 570.208 (benefit at least 51% low and moderate income persons, aid in the prevention or elimination of slums or blight or meet community development needs having a particular urgency because they pose a serious and immediate threat to the health or welfare of the community) until five (5) years after expiration of the Agreement; however, in compliance with 24 CFR 570.505, should the SUBRECIPIENT propose to change the use of the property/equipment from that for which it was originally intended, affected citizens must be provided with reasonable notice of and opportunity to comment on the proposed change; or

B. Disposed of in a manner that results in the CITY being reimbursed in the amount of the current fair market value of the property/equipment less any portion of the value attributable to expenditures of non-CDBG-CV funds for acquisition of or improvement to the property. Such reimbursement shall not be required if disposition occurs more than five (5) years after expiration of this Agreement. In all cases in which property/equipment is sold, the proceeds shall be program income, the use of which shall be recorded in compliance with 24 CFR 570.504 and Section VII herein.

To document this requirement, SUBRECIPIENT shall maintain appropriate written records as approved by CITY’s Planning and Community Development Department regarding use of the property for the five (5) year period following expiration of this Agreement.

9. CONDITIONS FOR RELIGIOUS ORGANIZATIONS

The SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, in accordance with the Federal regulations specified in 24 CFR 570.200 (j).

10. INDEMNIFICATION

SUBRECIPIENT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF IRVING, ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES,
DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS FEES FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH SUBRECIPIENT’S OPERATION, THE PROJECT, OR THE EXPENDITURE OF FUNDS AUTHORIZED BY THIS AGREEMENT, OR ANY SERVICES PROVIDED BY SUBRECIPIENT FUNDED OR PARTIALLY FUNDED BY THIS AGREEMENT. SUCH INDEMNIFICATION SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSE OF ACTION, SUITS OR LIABILITY ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF SUBRECIPIENT OR CITY, THEIR OFFICERS, OFFICIALS, AGENTS AND EMPLOYEES.

IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH SUBRECIPIENT AND CITY, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION INCLUDES INDEMNITY BY SUBRECIPIENT TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF CITY’S OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS ALLEGED TO BE THE SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGE.

11. PERSONNEL AND PARTICIPANT CONDITIONS

11.1 Civil Rights

11.1.1 Compliance
The SUBRECIPIENT agrees to comply with all applicable State and local laws and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086, and E.O. 13279.

11.1.2 Nondiscrimination
The SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting Subrecipient setting forth the provisions of this nondiscrimination clause.

11.1.3 Land Covenants
This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the SUBRECIPIENT shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease
or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the CITY and the United States are beneficiaries of and entitled to enforce such covenants. The SUBRECIPIENT, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

11.1.4 Section 504
The SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The CITY shall provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

11.2 Employment Restrictions

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

11.2.2 Labor Standards
The SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of the Contract Work Hours and Safety Standards Act, the Copeland “Anti Kickback” Act (40 U.S.C. 276a-5; 40 USC 327 and 40 USC 276) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the CITY for review upon request.

The SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the CITY pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7, governing the payment of wages and ratio of apprentices and trainees to journeymen; provided that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. The SUBRECIPIENT shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

11.3 "Section 3" Clause

11.3.1 Compliance
Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701, the regulations set forth in 24 CFR 135, and all applicable
rules and orders issued hereunder prior to the execution of this Agreement, shall be a
condition of the Federal financial assistance provided under this Agreement and binding upon
the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT’s subcontractors. Failure to fulfill
these requirements shall subject the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT’s
subcontractors, their successors and assigns, to those sanctions specified by the Agreement
through which Federal assistance is provided. The SUBRECIPIENT certifies and agrees that no
contractual or other disability exists which would prevent compliance with these
requirements.

11.3.2 Subcontract Language
SUBRECIPIENT agrees to comply with these "Section 3" requirements: The SUBRECIPIENT will
include this Section 3 clause in every subcontract and will take appropriate action pursuant
to the subcontract upon a finding that the subcontractor is in violation of regulations issued
by the CITY. The SUBRECIPIENT will not subcontract with any entity where it has notice or
knowledge that the latter has been found in violation of regulations under 24 CFR 135 and
will not let any subcontract unless the entity has first provided it with a preliminary statement
of ability to comply with the requirements of these regulations.

"The work to be performed under this Agreement is a project assisted under a
program providing direct Federal financial assistance from HUD and is subject to the
requirements of Section 3 of the Housing and Urban Development Act of 1968, as
amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible
opportunities for training and employment be given to low and very low income
residents of the project area and contracts for work in connection with the project be
awarded to business concerns that provide economic opportunities for low and very
low income persons residing in the metropolitan area in which the project is located."

11.3.3 Training and Employment
SUBRECIPIENT agrees to ensure that opportunities for training and employment arising in
connection with a housing rehabilitation (including reduction and abatement of lead-based
paint hazards), housing construction, or other public construction project are given to low and
very low-income persons residing within the metropolitan area in which the CDBG-CV funded
project is located; where feasible, priority should be given to low and very low income persons
within the service area of the project of the neighborhood in which the PROJECT is located,
and to low and very low income participants in other HUD programs; and award contracts for
work undertaken in connection with a housing rehabilitation (including reduction and
abatement of lead-based paint hazards), housing construction, or other public construction
project are given to business concerns that provide economic opportunities for low and very
low income persons residing within the metropolitan area in which the CDBG-CV funded
project is located; where feasible, priority should be given to business concerns which provide
economic opportunities to low and very low income residents within the service area or the
neighborhood in which the project is located, and to low and very low income participants in
other HUD programs.

11.3.4 Non Incapacity
The SUBRECIPIENT certifies and agrees that no contractual or other legal incapacity exists
which would prevent compliance with these requirements.
11.4 Conduct

11.4.1 Subcontracts
   A. Approvals
      The SUBRECIPIENT shall not enter into any subcontracts with any Subrecipient or individual in the performance of this Agreement without the written consent of the CITY prior to the execution of such agreement.

   B. Monitoring
      The SUBRECIPIENT will monitor all subcontracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

   C. Content
      The SUBRECIPIENT shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

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

11.4.3 Conflict of Interest
   SUBRECIPIENT agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. SUBRECIPIENT further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the SUBRECIPIENT hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY, or of any designated public agencies or SUBRECIPIENTS which are receiving funds under the CDBG Entitlement program.

   SUBRECIPIENT further agrees to execute an Affidavit Against Prohibited Acts, in the form attached as Exhibit F: Affidavit Against Prohibited Acts, certifying that it will adhere to the provisions of the Texas Penal Code, attached as Exhibit E: Texas Penal Code Title 8: Offenses Against Public Administration, which prohibits bribery and gifts to public servants.

11.4.4 Lobbying
   SUBRECIPIENT hereby certifies, attached as Exhibit D: Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, that:

   A. No Federal appropriated funds have been or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal
contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

B. If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

C. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subcontractors or subgrantees shall certify and disclose accordingly; and

D. Lobbying Certification
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

12. APPLICABLE LAW

SUBRECIPIENT shall comply with all applicable local, State and Federal laws and shall carry out each activity hereunder in compliance with all Federal laws and regulations described in Subpart K of 24 CFR Chapter V, as described in Section 570.503(b)(5) of 24 CFR Chapter V.

13. ASSIGNMENT

No assignment or delegation of duties under this Agreement shall be effective without the written consent of CITY.

14. NOTICES

All notices required or permitted by this Agreement must be in writing and shall be effective upon receipt when (i) sent by United States postal service with proper postage, certified mail return receipt requested or by a nationally recognized overnight delivery service; and (ii) addressed to the other Party at the address set out below or as such other address as the receiving Party designates by proper notice to the sending Party.
SUBRECIPIENT: Mildred Betancourt, Clinical Director
Irving Family Advocacy Center, Inc.
600 West Pioneer Drive
Irving, Texas 75061

CITY: Steven A. Reed, Director
Planning and Community Development Department
City of Irving
825 W. Irving Blvd.
Irving, Texas 75060

When applicable, copies shall be sent to:

Chris Hillman
City of Irving
825 W. Irving Blvd.
Irving, Texas 75060

Carter Holston
Irving Family Advocacy Center
600 West Pioneer Dr.
Irving, Texas 75061

In Witness Whereof, the parties have hereunto set their hands by the representatives hereunto duly authorized on the date first stated above.

CITY OF IRVING, TEXAS

BY: __________________________
Richard H. Stopfer, Mayor

DATE SIGNED: __________________________

ATTEST: __________________________
Shanae Jennings
City Secretary

APPROVED TO AS FORM:

__________________________
Kuruvilla Oommen
City Attorney
EXHIBIT A
SCOPE OF WORK

SUBRECIPIENT INFORMATION

SUBRECIPIENT Name: Irving Family Advocacy Center, Inc.
Federal Tax ID Number: 75-1737598
DUNS Number: 164564663
Activities funded by this grant will be carried out at 600 West Pioneer Dr, Irving, Texas 75061.

SUBRECIPIENT will be responsible for administering PROJECT in a manner consistent with the federal requirements governing the provision of Community Development Block Grant funds. SUBRECIPIENT will provide the following activities eligible under the Community Development Block Grant Program.

PROGRAM DESCRIPTION:

CDBG-CV funds will be used for the FAC’s COVID-19 Art Project which is intended to serve individuals of all ages who have been emotionally impacted by the COVID-19 pandemic. This project will allow different groups (i.e., children, teens, parents, teachers, counselor, mental health professionals, etc.) in the community to process their experience through art. At the end of the program the art will be part of an art exhibit for the Irving community.

PROGRAM ACTIVITIES:

<table>
<thead>
<tr>
<th>Activity #1</th>
<th>The art project will include a 3 hour art therapy workshop which will include a psychoeducation component about the short and long term effects of trauma, and coping skills (i.e., mindfulness, breathing).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity #2</td>
<td>The project will grant each participant the opportunity to enter their art work in the art exhibit activity at the end of the project.</td>
</tr>
</tbody>
</table>

National Objective

SUBRECIPIENT certifies that the activities carried out with funds provided under this Agreement will meet the Department of Housing and Urban Development’s National Objective of benefit to at least 51% low/moderate income persons as defined in 24 CFR Part 570.208.

SUBRECIPIENT is responsible for maintaining and reporting to the Planning and Community Development Department PROJECT records documenting the income eligibility of each participant.

The Planning and Community Development Department will monitor the performance of the SUBRECIPIENT against the National Objective stated above.
EXHIBIT B
PERFORMANCE OBJECTIVES

In addition to meeting the administrative requirements included in this Agreement, the SUBRECIPIENT agrees to provide the following levels of program services:

A. Number of Persons To Be Assisted: 200

B. Number of Households To Be Assisted: 75

C. Number of Service Units to be Provided:

<table>
<thead>
<tr>
<th>Services</th>
<th>Total Units Per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education, assessment, screenings/intake, coordination and access to other supportive services (i.e., individual, family, group counseling).</td>
<td>750 hours</td>
</tr>
</tbody>
</table>

City staff will monitor the performance of the Subrecipient against the goals and performance objectives stated above.

D. Evaluation Results Regarding Quality/Outcome of Services Provided

1. 75% of the clients will report a decrease in symptomology at the end of the workshop measured by the Beck Depression Inventory-II; Beck anxiety inventory; Children Depression Inventory-2; and the Children Depression Inventory-Parent, and a client satisfaction survey at the end of the workshop, and at two weeks after the workshop.

2. 75% of the program participants will maintain or improve one level in the domain of mental health by increasing knowledge of healthy coping skills.

E. SUBRECIPIENT will submit monthly Performance Reports to the Planning and Community Development Department by the 10th of the month following each month of service of the Contract term.

F. SUBRECIPIENT will submit a final Program Close-Out Report to the Planning and Community Development Department no later than October 31, 2021.

G. The Planning and Community Development Department requires that all grant performance, including evaluation performance, be reflected in monthly Performance Objectives Reports.
### EXHIBIT C
BUDGET/AUTHORIZED REIMBURSABLE COSTS

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
<th>Leverage Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG CV Grant</td>
<td>$43,400</td>
<td></td>
</tr>
<tr>
<td>Office space, maintenance, utilities</td>
<td></td>
<td>50,400</td>
</tr>
<tr>
<td>Supplies for play therapy room, groups</td>
<td></td>
<td>3,500</td>
</tr>
<tr>
<td>Supervision provided for interns</td>
<td></td>
<td>15,000</td>
</tr>
<tr>
<td>Therapy provided by interns</td>
<td></td>
<td>15,000</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>$43,400 (allocation)</strong></td>
<td><strong>$83,900</strong></td>
</tr>
</tbody>
</table>

Total reimbursement for eligible expenses will not exceed the amount specified and will be contingent upon City receipt of source documentation of expenditures (time sheets, copies of direct deposit notices, copies of canceled checks, bank statements, etc.).

The Planning and Community Development Department requires that, unless alternative arrangements have been approved by Planning and Community Development Department staff in advance, funds be evenly expended (approximately 1/12 of the funds each month) for the contract term in order to meet HUD’s timeliness requirements.
EXHIBIT D
Certification Regarding Lobbying
for Contracts, Grants, Loans, and Cooperative Agreements

THE UNDERSIGNED CERTIFIES TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF THAT:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

IRVING FAMILY ADVOCACY CENTER, INC

By:_____________________________
    Signature

________________________________
Typed or Printed Name

________________________________
Title

________________________________
Date
Chapter 36. Bribery and Corrupt Influence

36.02 Bribery
(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
   (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
   (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
   (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
   (4) any benefit that is a political contribution as defined by Title 15, Election Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
(c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not so solicited or accepted until after:
   (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
   (2) the public servant ceases to be a public servant.
(d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) of this Section that the benefit is a political contribution accepted as defined by Title 15, Election Code.
(e) An offense under this section is a felony of the second degree.

36.08 Gift to Public Servant by Person Subject to His Jurisdiction
(a) A public servant in an Subrecipient performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his Subrecipient.
(b) A public servant in an Subrecipient having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his Subrecipient.
(c) A public servant in an Subrecipient carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit.
from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his Subrecipient.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decisions, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an Subrecipient of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.

(g) A public servant who is a hearing examiner employed by an Subrecipient performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the Subrecipient in a contested case, who is doing business with the Subrecipient, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) of this code does not apply to a benefit under this subsection.

(h) An offense under this section is a Class A misdemeanor.

36.09 Offering Gift to Public Servant

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

(b) An offense under this section is a Class A misdemeanor.

36.10 Non-Applicable

(a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) of this code do not apply to:

(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

(3) a benefit to a public servant required to file a statement under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of $50 is reported in the statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision;
(4) a political contribution as defined by Title 15, Election Code; or
(5) a gift, award, or memento to a member of the legislative or executive branch
     that is required to be reported under Chapter 805, Government Code.
(b) Section 36.08 (Gift to Public Servant) of this code does not apply to food, lodging,
     transportation, or entertainment accepted as a guest and, if the donee is required by
     law to report those items, reported by the donee in accordance with that law.
(c) Section 36.09 (Offering Gift to Public Servant) of this code does not apply to food,
     lodging, transportation, or entertainment accepted as a guest and, if the donor is
     required by law to report those items, reported by the donor in accordance with that
     law.
EXHIBIT F

THE STATE OF TEXAS
COUNTY OF DALLAS

AFFIDAVIT AGAINST PROHIBITED ACTS

My name is ________________________________. I hereby affirm that I am aware of the provisions of Texas Penal Code Title 8, Sections 36.02, 36.08, 36.09, and 36.10 (a copy of which is attached hereto), dealing with Bribery and Gifts to Public Servants.

I further affirm that I will adhere to such rules and instruct and require all agents, employees, and subcontractors to do the same. I am further aware that any violation of these rules subjects this agreement to revocation, my removal from bid lists, prohibiting future contract/subcontract work, revocation of permits, and prosecution.

IRVING FAMILY ADVOCACY CENTER, INC.

By:___________________________

Signature

__________________________

Typed or Printed Name

__________________________

Title

Date signed: ____________________
THIS Agreement is made and entered into on this 5th day of May, 2020 by and between The Salvation Army, A Georgia Corporation-Irving (hereinafter "SUBRECIPIENT"), and the CITY OF IRVING, TEXAS (hereinafter "CITY"). CITY and SUBRECIPIENT may be referred to individually as a “Party” and jointly as the “Parties”.

WHEREAS, the CITY has received grant from the United States Department of Housing and Urban Development ("HUD") through the Community Development Block Grant ("CDBG") Program, Catalog of Domestic Assistance No. 14.218, with which CITY desires to promote public service activities that benefit low and moderate income residents of the City of Irving and the development of partnerships amount CITY, local governments, private industry, and non-profit social services agencies; and

WHEREAS, CITY is the administrator of CDBG funds from HUD, the primary purpose of said program pursuant to the Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended ("Act"), 24 CFR §570 et seq. (the CDBG regulations or “Regulations”) is to benefit low and moderate income persons; and

WHEREAS, CITY, acting pursuant to the Act, heretofore adopted an Action Plan to carry out activities eligible under the CDBG program; and

WHEREAS, CITY has determined that SUBRECIPIENT’s PROJECT provides short term housing and utility assistance, case management and financial education classes for Irving residents impacted by COVID-19; and

WHEREAS, the CITY wishes to engage the SUBRECIPIENT to assist the CITY in utilizing such funds;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenant set forth herein, CITY and SUBRECIPIENT do agree, for themselves and for their respective successors and assigns, as follows:
1. PROJECT

1.1 Project Description

The SUBRECIPIENT shall utilize CITY CDBG-CV funds for the provision of SUBRECIPIENT’S Homeless Prevention Program (“PROJECT”), whereby SUBRECIPIENT will provide short term housing and utility assistance, case management and financial education classes for Irving residents impacted by COVID-19. The scope and performance of the services of the PROJECT shall be in accordance with the Scope of work and schedule attached hereto as “Exhibit A: Scope of Work” and incorporated herein by reference.

Objectives to be met by SUBRECIPIENT within the Agreement period shall be as stated in “Exhibit B: Performance Objectives”. The PROJECT Budget shall be as set forth in the attached “Exhibit C: Budget/Authorized Reimbursable Costs”.

It is understood by all Parties hereto that this Agreement and the disbursement of funds pursuant to this Agreement are governed by the provisions of 24 CFR 570, regulations of the Community Development Block Grant (CDBG) Program as is it relates to the prevention, preparation for, and response to the coronavirus (COVID-19), and any amendments thereto; that Parties hereto agree to abide by the applicable provision of CDBG to the extent that other sections which may be applicable are not specifically mentioned herein; and that in the event of any conflict between any provision herein and the requirements of 24 CFR 570, said federal requirements shall take precedence.

1.2 Term

The term of Agreement shall be from May 7, 2020, and shall run until September 30, 2021.

1.2.1 Extension of Agreement

This Agreement may not be extended.

1.3 Tasks and Schedule

To ensure that the PROJECT progresses adequately toward completion, SUBRECIPIENT must achieve the following benchmarks:

1.3.1 Monthly Performance Reporting

PROJECT performance reports will be submitted on a monthly basis, in a format developed and provided by the CITY. Performance reports will summarize PROJECT status in several areas including 1) Status of PROJECT expenditures, 2) Status of PROJECT performance against pre-determined measures, and 3) General status of PROJECT and any other information relevant to the completion of the PROJECT.

1.3.2 Expenditure

Unless alternative arrangements have been approved in writing by CITY staff in advance, grant expenditures shall be evenly expended (approximately 1/12 of the targeted performance achieved each month) over the contract term.
2. FORM OF ASSISTANCE AND DISBURSEMENTS

2.1 Form and Terms of Assistance

In consideration for PROJECT services, CITY shall pay SUBRECIPIENT as disbursement of Fiscal Year 2020-2021 Community Development Block Grant COVID funds for eligible costs for the PROJECT in an amount not to exceed CDBG-CV Allocation of One Hundred Thirty Thousand Dollars and No Cents ($130,000.00). Said disbursement is to be paid upon submission to the CITY of appropriate documentation and invoices as stipulated by the CITY. In order to qualify for reimbursement, funds to be disbursed under this Agreement must be spent by SUBRECIPIENT during the term of the Agreement.

SUBRECIPIENT may not request disbursement of funds until the funds are needed for payment of eligible costs. The amount of each request must be equal to the proof of payment submitted for reimbursement and eligible expenditures. Funds allocated by CITY for this PROJECT which have not been invoiced by SUBRECIPIENT within thirty (30) calendar days after the ending date of this Agreement shall revert to the CITY to be allocated for other activities. Invoices shall not be submitted and payment shall not be made more often than once every thirty (30) days throughout the Agreement term. Payments may be contingent upon certification by the CITY that the SUBRECIPIENT’s financial management system is in accordance with the standards specified in this Agreement.

The obligations of the City in this Agreement are subject to the receipt of sufficient funding from the U.S. Department of Housing and Urban Development. If such funding is not provided by the U.S. Department of Housing and Urban Development, both parties to this Agreement are relieved of any further obligation to the other. These funds are considered formula grant funds with a Catalog of Federal Domestic Assistance number (CFDA) of 14.218.

2.2 Costs in Compliance with CDBG-CV Regulations and Agreement

SUBRECIPIENT shall be reimbursed for eligible costs for the PROJECT with CDBG-CV funds only if CITY determined in its sole discretion that:

A. Costs are eligible expenditures in accordance with the CDBG regulations that prevent, prepare for, and respond to the coronavirus (COVID-19);

B. Costs are in compliance with this Agreement and are reasonable and consistent with industry norms; and

C. Complete documentation, as applicable, is submitted to CITY by SUBRECIPIENT

2.3 Budget

SUBRECIPIENT agrees that the CDBG-CV funds will be paid on a reimbursement basis in accordance with Exhibit B: Budget/Authorized Reimbursable Costs. SUBRECIPIENT agrees to utilize CBDG-CV funds to supplement rather than supplant funds otherwise available for the PROJECT. Notwithstanding any provision in this Agreement to the contrary, SUBRECIPIENT’s
efforts to identify and secure alternative funding sources shall not delay the performance of any obligations of either CITY or SUBRECIPIENT under this Agreement.

2.3.1 Changes in Budget
SUBRECIPIENT may increase or decrease line-item amounts in the budget with CITY prior written approval, which approval shall be at CITY sole discretion. Any such increase or decrease in line items in the budget shall comply with Exhibit A: Scope of Work and shall not increase the total amount of CBDG-CV funds.

2.4 Disbursement
CITY’s CDBG-CV funding is intended as Public Service PROJECT assistance as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT may request disbursements no more than monthly during the term of the Agreement in accordance with the terms set forth in this section.

SUBRECIPIENT shall be paid up to a total amount not to exceed **One Hundred Thirty Thousand Dollars and no cents ($130,000.00)** in accordance with the proposed budget contained herein. Payment shall be made upon submission of proper documentation, provided that services have been satisfactory, and that any and all service delivery data requested by CITY has been furnished. SUBRECIPIENT shall submit to CITY requests for disbursement on forms acceptable to CITY, accompanied by appropriate source documentation, including copies of third-party invoices, statements of work performed, cancelled checks, payroll information, or other such verification as authorized by 2 CFR §200.405. SUBRECIPIENT may not request disbursement of funds until the funds are needed for reimbursement of payment of eligible costs.

2.4.1 Conditions of Reimbursement
CDBG-CV funding will only be released to SUBRECIPIENT for actually incurred CDBG-CV eligible project costs. The obligation of CITY to approve any request or to make any disbursement of CDBG-CV funds is subject to the satisfaction of the following conditions at the time of making such disbursement:

A. SUBRECIPIENT shall not be in default under the term of this Agreement and no events shall exist, which by notice, passage of time, or otherwise would constitute an event of default under this Agreement

B. CITY shall have received evidence satisfactory to CITY that all funded activities have been carried out in accordance with HUD regulation, the term of this Agreement, and SUBRECIPIENT’s proposed scope of work

C. SUBRECIPIENT shall have submitted on or before the tenth (10th) of the month following each month of service of the Agreement term a completed reimbursement request using such forms as deemed acceptable by CITY and other appropriate source documentation as may be required by CITY including, but not limited to:

   I. SUBRECIPIENT authorization of submittal
   II. Line Item budget information matching reimbursement request detail
   III. Population Served Report
IV. Client Service Log(s) which match requested reimbursement amounts
V. Completed performance measure report
VI. Completed client data summary reports which align with requested reimbursement
VII. Such other supporting evidence as may be requested by CITY to substantiate all payments which are to be made out if the relevant disbursement and/or to substantiate all payments then made with respect to the PROJECT

D. No determination shall have been made by CITY that the undisbursed amount of the PROJECT Agreement is less than the amount received to pay all costs and expenses of any kind that reasonably may be anticipated in connection with the completion of the PROJECT.

2.4.2 Conditions of Final Disbursement
In addition to the requirement set forth in Section 2.4.1, CITY shall require the completion of a Year-end Report on CITY-approved documents, prior to the final disbursement of funds, the request for which shall not be submitted before completion of the PROJECT.

2.4.3 Limitations on Reimbursement Requests
The Parties covenant and agree that in the event that CITY discovers a misstatement in any affidavit, statement, or certificate furnished pursuant to this Agreement, it shall make no further disbursements until such misstatement has been corrected.

2.4.4 Acknowledgement of City Payment of CDBG-CV Funds
Within fifteen (15) calendar days after the payment of the final reimbursement request, SUBRECIPIENT shall sign an acknowledgement that CITY has paid all CDBG-CV funds due under this Agreement.

3. INTENDED BENEFICIARIES
The intended beneficiaries of the CDBG-CV funded services in this Agreement are those persons in the City of Irving who are in need of the services provided by SUBRECIPIENT under this Agreement, at least 51% of whom shall be of low or moderate income as defined by the U.S. Department of Housing and Urban Development (HUD) or shall be of a clientele generally presumed by the U.S. Government to be principally low and moderate income. For the purposes of this Agreement, the definition of "low and moderate income" shall be as specified by the U.S. Department of Housing and Urban Development, and may be subject to change without notice. SUBRECIPIENT is responsible for verifying such information prior to the determination of beneficiary eligibility, but CITY, where appropriate, shall advise SUBRECIPIENT of any changes to low and moderate income limits as established by HUD. SUBRECIPIENT shall establish, maintain and submit to City documentation concerning PROJECT beneficiaries in a form acceptable to CITY's Planning and Community Development Department.
3.1 Income Eligibility and Calculation

SUBRECIPIENT shall ensure that annual gross household income of at least 51% of its PROJECT clients does not exceed current income limits for low to moderate income households, as established and periodically revised by HUD.

3.1.2 Documentation

SUBRECIPIENT shall ensure that all members of an applicant household provide documentation of assets and income. Such documentation, unless differently predetermined through CITY prior written approval, shall include but is not limited to:

A. Thirty (30) calendar days of employment or other income documentation, preferably in the form of paycheck stubs, for each working member of the household, aged eighteen (18) or older.

B. Verification of any other sources of income for all family members (Social Security, SSI, Medicaid, Child Support (12 month history), Alimony (12 month history), retirement, etc.)

C. Verifiable documentation for any other sources of income and/or assets.

A letter of explanation, along with documentation supporting the explanation, shall be included in the client file for any unusual circumstances which impacts client income or assets.

3.1.2 Residency

SUBRECIPIENT shall obtain documentation of residency in the City of Irving, legal United States residency, and supporting information for all household members as part of the determination of PROJECT eligibility, including current government-issued photo identification from the head(s) of household.

4. GENERAL CONDITIONS

4.1 General Compliance

The SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The SUBRECIPIENT also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

4.2 Independent Contractor

Nothing contained in this Agreement is intended, nor shall it be construed in any manner, as to create or establish the relationship of employer/employee between the parties. The SUBRECIPIENT shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The CITY shall be exempt from payment of all
Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance as the SUBRECIPIENT is an independent contractor.

4.3 Worker’s Compensation

The SUBRECIPIENT shall provide Worker’s Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

4.4 Insurance and Bonding

The SUBRECIPIENT shall carry insurance coverage to protect any Agreement assets from loss due to theft, fraud and/or undue physical damage, and at a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to any cash advances from the CITY. The SUBRECIPIENT shall comply with the bonding and insurance requirements of 2 CFR 200.304, Bonding and Insurance, in addition to any other insurance required by CITY.

4.5 Amendments

CITY and SUBRECIPIENT may amend this Agreement by mutual agreement at any time provided that such Amendment(s) make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Irving City Council. Such amendments shall not invalidate this Agreement, nor relieve or release the CITY or SUBRECIPIENT from its obligations under this Agreement.

The CITY may, in its sole discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment(s) result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the CITY and SUBRECIPIENT.

4.6 Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least sixty (60) days before the effective date of such termination. Partial terminations of activities contained in Exhibit A: Scope of Work may only be undertaken with the prior approval of CITY. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the SUBRECIPIENT under this Agreement shall, at the option of the CITY, become the property of the CITY, and the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The CITY may also suspend or terminate this Agreement at its sole discretion, in whole or in part, if the SUBRECIPIENT materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the CITY may declare the SUBRECIPIENT ineligible for any further participation in the CITY’s contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the SUBRECIPIENT is not in compliance with any applicable rules and regulations, the CITY may withhold said Agreement.
funds until such time as the SUBRECIPIENT is found to be in compliance by the CITY, or is otherwise adjudicated to be in compliance.

4.7 Procurement

SUBRECIPIENT shall develop and implement procurement procedures which conform to any procurement guidelines issued by CITY. If SUBRECIPIENT is a unit of local government, it shall also comply with all applicable state and local laws relating to procurement. SUBRECIPIENT shall not procure supplies, equipment, materials or services except in accordance with such procurement procedures.

By signing this Agreement, SUBRECIPIENT certifies that it is not in a state of debarment. Furthermore, SUBRECIPIENT certifies that it will not award any funds provided under this contract to any party with is debarred, suspended, or otherwise excluded for or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. SUBRECIPIENT shall receive the certification provided by the CITY from each proposed subcontractor under this contract and its principals.

4.8 Allowable Costs

For the term of this Agreement, CITY will reimburse SUBRECIPIENT for the short term housing and utility assistance, case management and financial education classes for homeless Irving residents impacted by COVID-19 as more specifically described in Exhibit C: Budget/Authorized Reimbursable Costs. SUBRECIPIENT shall be reimbursed by CITY’s Planning and Community Development Department in a total amount not to exceed One Hundred Thirty Thousand Dollars and No Cents ($130,000.00). SUBRECIPIENT shall establish, maintain, and submit to CITY documentation concerning PROJECT budget and expenditures in a form acceptable to the Planning and Community Development Department. All PROJECT costs must be reasonable and consistent with policies and procedures of the City of Irving, SUBRECIPIENT, and the U.S. Department of Housing and Urban Development. All expenditures must be accorded consistent treatment, and must be determined to be in accordance with generally accepted accounting principles (“GAAP”). CITY reserves the right to audit all budgets, work schedules, and accounts. SUBRECIPIENT further agrees to comply with any applicable provisions of 24 CFR, Part 200.

SUBRECIPIENT shall be liable to the CITY for any costs disallowed by the U.S. Department of Housing and Urban Development pursuant to financial and compliance audit(s) of funds received under this Agreement. Reimbursement to the CITY of such disallowed costs shall be paid by SUBRECIPIENT from funds which were not provided or otherwise made available to SUBRECIPIENT under this Agreement.

4.9 Form 1295

SUBRECIPIENT shall complete the Certificate of Interested Parties form (Form 1295), as outlined in section 2252.908 of the State of Texas Government Code prior to the execution of this contract to ensure that SUBRECIPIENT discloses interested parties to the State. SUBRECIPIENT must use the application provided electronically by the Texas Ethics Commission and print a copy of the complete form, which will include a certification of filing that will contain a unique certification number. Such certification must be signed by an authorizing agent of the SUBRECIPIENT, and the
form must be notarized. SUBRECIPIENT shall provide CITY with the completed Form 1295 prior to execution of the Agreement. CITY will acknowledge to the state the receipt of the certification of filing no later than the 30th day after the date the CITY receives the Form 1295. Agreement may not be fully executed until receiving notice from the State, review by the State of which must occur within seven (7) business days from the date of acknowledgement of receipt from CITY.

4.10 Internal Controls

In compliance with the requirements of 2 CFR §200.303, SUBRECIPIENT shall:

4.10.1 Establish and maintain effective internal control over the CDBG-CV funds that provides reasonable assurance that SUBRECIPIENT is managing the CDBG-CV funds in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement. These internal controls shall be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

4.10.2 Comply with Federal statutes, regulations, and the terms and conditions of this Agreement

4.10.3 Evaluate and self-monitor SUBRECIPIENT’s compliance with statutes, regulations, and the terms and conditions of this Agreement

4.10.4 Take prompt actions when instances of noncompliance are identified including noncompliance identified in audit findings and inform CITY of corrective actions within thirty (30) days of identification of noncompliant action

4.10.5 Take reasonable measures to safeguard protected personally identifiable information and other information that HUD or CITY designates as sensitive or SUBRECIPIENT considers sensitive consistent with applicable Federal, State, local, or tribal laws regarding privacy and obligations of confidentiality.

4.11 Compliance with All Applicable Laws and Regulations

SUBRECIPIENT agrees to comply fully with all applicable laws and regulations that are currently in effect or that are hereafter amended during the performance of this Agreement. Those laws include, but are not limited to:

- Title 1 of the Housing and Community Development Act of 1974 as set out above
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) including provisions requiring recipients of Federal assistance to ensure meaningful access by persons of limited English proficiency
- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.)
- Executive Orders 11063, 11246 as amended by 11375 and 12086 and as supplemented by Department of Labor regulations 41 CFR, Part 60
- The Age Discrimination in Employment Act of 1967
- The Age Discrimination Act of 1975 (42 U.S.C. Sections 6101 et seq.)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sections 794 et seq.) and 24 CFR Part 8 where applicable
- The Clean Air Act, as amended (42 U.S.C. Sections 1251 et seq.) and the Clean Water Act of 1977, as amended (33 U.S.C. Sections 1251 et seq.), related Executive Order 11738 and Environmental Protection Subrecipient Regulations at 40 CFR Part 15. In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility that has given rise to a conviction under the Clean Air Act or the Clean Water Act.
- Immigrations Reform and Control Act of 1986 (8 U.S.C. Sections 1101 et seq.), specifically including the provisions requiring employer verifications of legal status of its employees
- Regulations at 2 CFR Part 200 related to lobbying, including the requirement that certifications and disclosures be obtained from all covered persons
- Executive Order 12549 and 24 CFR Part 5.105(c) pertaining to restrictions on participations by ineligible, debarred, or suspended persons or entities
- Regulations at 24 CFR Part 882.708(C) pertaining to site and neighborhood standards for new construction projects
- Regulations at 24 CFR Part 983.6 for Site and Neighborhood Standards Review
- Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act
- Guidelines of the Environmental Protections Subrecipient at 40 CFR Part 247
- For contracts and subgrants for construction or repair, Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in 29 CFR Part 5
- For construction contracts in excess of $2,000.00, and in excess of $2,500.00 for other contracts which involve the employment of mechanics or laborers, Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 300) as supplemented by 29 CFR Part 5
- Regulations at 24 CFR Part 570, Community Development Block Grant
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 et seq.

4.12 Copyright, Patent Rights, and Public Information Act

SUBRECIPIENT acknowledges that the City of Irving is subject to the provisions of the Texas Public Information Act as set forth in Chapter 552 of the Texas Government Code. If a public information request is made to the CITY for information regarding this Agreement, or for any other records provided by SUBRECIPIENT to CITY, the CITY may send a request to the Texas Attorney General for a decision as to whether or not such information may be withheld from disclosure in accordance with the Public Information Act, and will release such information if required to do so by Texas of Federal law. In the event that a public information request is made to the CITY for items or documents that may be subject to copyright or patent protection, the CITY will notify SUBRECIPIENT that such public information request has been made so that SUBRECIPIENT can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that SUBRECIPIENT can assert any other rights it may have under law to keep such information from being disclosed; and SUBRECIPIENT can notify the holder of copyright or patents rights to the requested documents that it can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that the hold of said rights can assert any other rights it may have under law to keep such information from being disclosed. If pursuant to a court order, subpoena or summons, the CITY is required to make disclosure of information provided by SUBRECIPIENT to the CITY, the CITY shall notify SUBRECIPIENT to allow SUBRECIPIENT to assert whatever exclusions or exemptions maybe available to SUBRECIPIENT under applicable law; and, so that SUBRECIPIENT can notify the holder of copyright or patent rights so that it can assert whatever exclusions or exemptions may be available to it under applicable law. SUBRECIPIENT acknowledges that the CITY must comply with such court order, subpoena or summons unless otherwise determined by the applicable court. This provisions of this Section shall survive the termination of this Agreement.

4.13 Terms Applicable to Contractors, Subcontractors, and Vendors

SUBRECIPIENT understands and agrees that all terms of this Agreement, whether regulatory or otherwise, shall apply to any and all contractors, subcontractors, and vendors of SUBRECIPIENT which are in any way paid with CDBG-CV funds or who perform any work in connection with the PROJECT. SUBRECIPIENT shall cause all applicable provisions of the Agreement to be included in and made a part of any contract or subcontract executed in the performance of its obligations hereunder, including its obligations regarding the CDBG Requirements and the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT shall monitor the services and work performed by its contractors, subcontractors, and vendors on a regular basis for compliance with the CDBG Requirements, the CDBG Regulations, and Agreement provisions. SUBRECIPIENT is responsible to cure all violations of the CDBG Regulations committed by its contractors, subcontractors, or vendors pertaining to this Agreement. CITY maintains the right to insist on SUBRECIPIENT’s full compliance with the terms of this Agreement and the CDBG Regulations and SUBRECIPIENT is responsible for such compliance regardless of whether actions to fulfil the requirements of this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) are taken by SUBRECIPIENT or by SUBRECIPIENT’s contractors, subcontractors, or vendors. SUBRECIPIENT acknowledges that the provisions of this Section shall survive the earlier
termination or expiration of this Agreement and be applicable for five (5) years after the termination of this Agreement.

4.14 Meaningful Access For Limited English Proficient Persons

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“Limited English Proficient persons” or “LEP”) may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 (Title VI) in order to receive a particular service, benefit, or encounter. In accordance with Title VI and its implementing regulations, the SUBRECIPIENT agrees to take reasonable steps to ensure meaningful access to activities for LEP persons. Any of, but not limited to, the following actions could constitute “reasonable steps”, depending on the circumstances; acquiring translators to translate vital documents, advertisements and notices, acquiring interpreters for face-to-face interviews with PEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the PROJECT, hiring bilingual employees or volunteer for outreach and intake activities, or contracting with a telephone line interpreter service.

4.15 Other Laws

The failure to list any Federal, State, or City ordinance, law, or regulation that is applicable to SUBRECIPIENT does not excuse or relieve SUBRECIPIENT from the requirements or responsibilities in regard to following the law, nor from the consequences or penalties for SUBRECIPIENT’s failure to follow the law, if applicable.

5. REPORTING, MONITORING, AND RECORDKEEPING

5.1 General Requirements

SUBRECIPIENT agrees to provide reports to CITY and to maintain records documenting compliance with this Agreement, the loan documents and regulatory agreements, the CDBG requirements, and all other applicable federal, state, and local laws and regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). SUBRECIPIENT also agrees to provide CITY, HUD, HUD’s Inspector General, the Comptroller General of the United States (aka the U.S. Government Accountability Office or “GAO”), or their representatives, access to the PROJECT and its records for the purpose of monitoring SUBRECIPIENT’s compliance with applicable requirements.

5.2 Reporting Requirements

If SUBRECIPIENT fails to submit, in a timely and satisfactory manner, any report or response required by this Contract as specified in Exhibits "B" and "C", including responses to monitoring reports, CITY may withhold payments otherwise due to SUBRECIPIENT hereunder. If CITY withholds such payments, it shall notify SUBRECIPIENT in writing of its decision and the reasons therefor. Payments may be withheld by CITY until such time as the delinquent obligations for which funds are withheld are fulfilled by SUBRECIPIENT. If the delinquent report or response is not received within forty-five (45) days of its due date, CITY may suspend or terminate this
Contract. If SUBRECIPIENT receives CDBG-CV funds from CITY over two (2) or more Contract Periods, funds may be withheld or this Contract suspended or terminated for SUBRECIPIENT’s failure to submit a report or response (including a report of audit) past due under a prior Planning and Community Development Department contract.

SUBRECIPIENT shall submit a final Program Close-Out Report to the Planning and Community Development Department not later than October 31, 2021.

5.3 Reports

SUBRECIPIENT will submit to CITY all reports and documentation described in this Agreement in such form as CITY may prescribe. SUBRECIPIENT will be required to submit a final performance and/or final financial report as required by CITY at the termination of this Agreement in such form and within such times as CITY may prescribe. Failure to submit any report or documentation described in this Agreement to CITY shall be an event of default of this Agreement, and CITY may exercise all of its remedies for default under this Agreement.

5.3.1 Additional Information

SUBRECIPIENT shall provide CITY with additional information as may be required by State or Federal agencies to substantiate CDBG-CV Program activities and/or expenditure eligibility.

5.3.2 Change in Reporting Requirements and Forms

CITY retains the right to change reporting requirements and forms at its discretion. CITY will notify SUBRECIPIENT in writing at least thirty (30) calendar days prior to the effective date of such change, where practicable, and the Parties shall execute an amendment to this Agreement reflecting such change if necessary.

7.5.3 City Reserves Right to Audit

CITY reserves the right to perform an audit of SUBRECIPIENT’s operations and finances related to this Agreement at any time during the term of this Agreement and for five (5) years after the Agreement terminates if CITY determines that such audit is necessary for CITY’s compliance with CDBG Regulations or other CITY policies, and SUBRECIPIENT agrees to allow access to all pertinent materials as described herein as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If such audit reveals a questioned practice or expenditure, such questions must be resolved within fifteen (15) business days after notice to SUBRECIPIENT of such questioned practice or expenditure. If questions are not resolved within this period, CITY reserves the right to withhold further funding under this Agreement and/or other contracts with SUBRECIPIENT. If as a result of an audit it is determined that SUBRECIPIENT has falsified any documentation or misused, misapplied, or misappropriated CDBG-CV funds or spent CDBG-CV funds on any ineligible activities, SUBRECIPIENT agrees to reimburse CITY the amount of such monies plus the amount of any sanctions, penalty, or other charge levied against CITY by HUD because of such actions.

5.4 Monitoring

CITY will monitor and evaluate SUBRECIPIENT’s progress on project performance on an annual basis, or more frequently as required, against goals and performance standards established
herein. Monitoring may take the form of desk review or on-site monitoring. SUBRECIPIENT shall establish and maintain appropriate documentation to verify stated performance objectives and shall submit such documentation to City's Planning and Community Development Department staff on a monthly basis during the Agreement term as provided in Section 2, or more often if deemed necessary. SUBRECIPIENT further agrees to reasonable on-site monitoring by representatives of the City and the U.S. Department of Housing and Urban Development.

SUBRECIPIENT understands and agrees that it will be subject to monitoring by CITY for compliance with the CDBG Regulations and the terms of this Agreement until the PROJECT is closed in IDIS and for four (4) years thereafter. SUBRECIPIENT will provide reports and access to PROJECT files as requested by CITY during the term of the Agreement and for four (4) years after the PROJECT is closed in IDIS. In order to assist CITY with its monitoring, SUBRECIPIENT shall comply with all the reporting requirements set out in this Agreement.

5.4.1 Access
Representatives of CITY, HUD, HUD Office of Inspector General, and the United States Comptroller General shall have access during regular business hours, upon forty-eight (48) hours’ prior notice, to SUBRECIPIENT’s offices and records that are related to the use of the CDBG-CV funds, and to SUBRECIPIENT’s officers, agents, employees, contractors, subcontractors, vendors, and records that are related to the use of CDBG-CV funds for the purpose of such monitoring.

5.4.2 Frequency and Types of Monitoring
In addition to other provisions of this Agreement regarding frequency of monitoring, CITY reserves the right to perform desk reviews or on-site monitoring of SUBRECIPIENT’s compliance with the terms and conditions of this Agreement. CITY shall provide SUBRECIPIENT with a written report of the monitor’s findings after each on-site monitoring visit. If the monitoring report notes deficiencies in SUBRECIPIENT’s performance, the report shall include requirements for the timely correction of said deficiencies by SUBRECIPIENT. Failure by SUBRECIPIENT to take the action specified in the monitoring report may be cause for suspension or termination of this Agreement as provided herein or CITY may require repayment of all CDBG-CV funds related to this Agreement. CITY will evaluate all funded agencies to determine the required frequency of on-site monitoring to be conducted.

5.4.3 Substandard Performance
Substandard performance as determined by City monitoring will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within a reasonable period of time after being notified by the City, Agreement suspension or termination procedures will be initiated. In the event that the City makes a determination that the provisions of this Agreement have not been performed by the SUBRECIPIENT, City may, in accordance with 2 CFR 200.339(a)(1), suspend or terminate this Agreement by notice in writing to SUBRECIPIENT if the SUBRECIPIENT materially fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 2 CFR 200.339.
5.5 Audits

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of an independent financial audit. Such audits shall be completed by an independent auditor in accordance with generally accepted accounting and auditing principles and standards (GAAP) governing financial and compliance audits. Such audits should be completed no later than one hundred fifty (150) days following the end of the SUBRECIPIENT’s fiscal year. However, upon CITY approval of prior written request from SUBRECIPIENT, CITY will allow such audits to be completed no later than one hundred eighty (180) days following the end of the SUBRECIPIENT’s fiscal year. CITY reserves the right to approve this submittal date to mitigate professional charges to SUBRECIPIENT related to conducting such audits. Notwithstanding, all copies of completed audits, together with any management letters or accompanying documentation, shall be submitted to CITY within thirty (30) days of acceptance and review by SUBRECIPIENT. Should SUBRECIPIENT receive Federal funding in an amount exceeding $750,000.00, regardless of source, SUBRECIPIENT must complete an Independent Single Audit in accordance with 2 CFR 200 Subpart F. Such independent Single Audit is subject to the submittal requirements stated above.

In the event SUBRECIPIENT is allocated $750,000.00 or more in federal funds from any agencies of the U.S. Government, SUBRECIPIENT shall also comply with U.S. Government federal audit requirements, including the requirements contained in 2 CFR 200 Subpart F.

5.5 Form 990

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of its submitted Return of Organization Exempt From Income Tax (commonly referred to as IRS Form 990). Such forms shall be submitted to CITY within thirty (30) days of SUBRECIPIENT submittal to the Internal Revenue Service.

5.6 Depository and Record Keeping

Disbursed funds must be deposited in a depository having federal depository insurance. CITY shall require of SUBRECIPIENT that the Department of Housing and Urban Development of the United States Government, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Project, for the purpose of making audit examinations, excerpts and transcriptions. This Agreement and all records pertaining to such Agreement shall be maintained by both SUBRECIPIENT and the CITY for a period of four (4) years after final payment is made and all other pending matters are finalized.

CITY reserves the right to conduct additional financial and compliance audits of the funds received and performance rendered under this Agreement. SUBRECIPIENT agrees to permit CITY or its authorized representatives to audit SUBRECIPIENT’s records and to obtain any documents, materials or information necessary to facilitate such audit.
6 PROJECT INCOME

No PROJECT income, commonly referred to as Program Income, is anticipated. In the event there is program income derived from the use of CDBG-CV funds disbursed under this Agreement such program income shall be returned to the Planning and Community Development Department for further reallocation.

7 ENFORCEMENT AND TERMINATION

If CITY determines that the required PROJECT elements have not been completed within the timelines of this Agreement or have been provided for ineligible activities or to a preponderance of ineligible persons, CITY shall have the right to terminate this Agreement effectively immediately upon written notice to SUBRECIPIENT of such intent with no penalty or liability to CITY after giving SUBRECIPIENT thirty (30) calendar days to cure. CITY shall also be entitled to demand repayment of the CDBG-CV funds already disbursed to SUBRECIPIENT and enforce any of the provisions of this Agreement for default.

7.1 Failure to Submit Complete Documentation During PROJECT

7.1.1 Complete Documentation

If SUBRECIPIENT fails to submit complete documentation during PROJECT, or if any report or documentation submitted as part of complete documentation is not in compliance with this Agreement or CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY in its sole discretion, CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have thirty (30) calendar days from the date of CITY’s written notice to submit or resubmit any such report or documentation. If SUBRECIPIENT fails to submit or resubmit any such report or documentation within such time, CITY shall have the right to withhold payments. If such failure continues for an additional thirty (30) calendar days (a total of sixty (60) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such report or documentation is missing or otherwise not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

7.1.2 Incomplete or Noncompliant Reimbursement Requests

If any of SUBRECIPIENT’s Reimbursement Requests are incomplete or otherwise not in compliance with this Agreement or the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19) as determined by CITY on its sole discretion, CITY will notify SUBRECIPIENT in writing of such default and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to resubmit any such Reimbursement Request to cure the default. If SUBRECIPIENT fails to cure the default within such time, SUBRECIPIENT shall forfeit any payments otherwise due under such Reimbursement Request. Is such failure to resubmit such Reimbursement Request continues for an additional fifteen (15) calendar days (for a total of thirty (30) calendar days), CITY shall
have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV funds to SUBRECIPIENT during the period that any such Reimbursement Request is not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19).

### 7.1.3 Multiple Instances

In the event of more than two (2) instances of default, cured or uncured, CITY reserves the right at its sole option to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY.

### 7.1.4 Payment of CDBG-CV Funds to SUBRECIPIENT

Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG-CV Funds to SUBRECIPIENT pursuant to this Agreement during the period that any Reimbursement Request, report, or other documentation is missing, past due, or is not in compliance with this Agreement or the CDBG Regulations as it is related to the prevention of, preparation for, and response to the coronavirus (COVID-19), or during any period during which SUBRECIPIENT is in default of this Agreement.

### 7.1.5 Unpaid Funds

In the event of termination under this Section, all CDBG-CV Funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately forfeited and SUBRECIPIENT shall have no further right to such funds. If CITY determines that a repayment of CDBG-CV funds paid to SUBRECIPIENT must be repaid, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section. Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

### 7.2 Failure to Maintain or Submit Required Reports and Documentation

If SUBRECIPIENT fails to maintain all records and documentation as required in Section 6, or fails to submit any report or documentation required by this Agreement after the PROJECT is completed, or if the submitted report or documentation is not in compliance with this Agreement or the CDBG Regulations as determined by CITY in its sole discretion as it is relates to the prevention of, prepare for, and respond to the coronavirus (COVID-19), CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to obtain or recreate the missing records or documentation, or submit or resubmit any such report or documentation to CITY. If SUBRECIPIENT fails to maintain the required reports or documentation, or submit or resubmit any such report or documentation within such time, CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY.

### 7.3 Additional Time to Cure

Unless specifically provided otherwise in this Agreement, SUBRECIPIENT shall be in default under this Agreement if SUBRECIPIENT breaches any term or condition of this Agreement. In the event that such a breach remains uncured after thirty (30) calendar days following written notice by
CITY (or other such notice period as may be specified herein), or if SUBRECIPIENT has diligently and continuously attempted to cure following receipt of such written notice but reasonably required more than thirty (30) calendar days to cure, as determined by both Parties mutually and in good faith, CITY shall have the right to elect, in CITY’s sole discretion, to (i) extend SUBRECIPIENT’s time to cure, (ii) terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT, or (iii) pursue any other legal remedies available to CITY under this Agreement.

7.4 Remedies
City’s remedies may include:

A. Direct SUBRECIPIENT to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities.

B. Direct SUBRECIPIENT to establish and follow a management plan that assigns responsibilities for carrying out the remedial activities.

C. Cancel or revise activities likely to be affected by the performance deficiency, before expending CDBG-CV funds for the activities.

D. Reprogram CDBG-CV funds that have not yet been expended from the affected activities to other eligible activities or withhold CDBG-CV funds.

E. Direct SUBRECIPIENT to reimburse CITY in any amount of CDBG-CV funds not used in accordance with the HOME regulations.

F. Suspend reimbursement of CDBG-CV funds for affected activities.

G. Suspend or terminate this Contract.

H. Any other appropriate action including but not limited to any remedial action legally available such as declaratory judgement, specific performance, damages, temporary or permanent injunctions, termination of this Agreement or any other Agreements with SUBRECIPIENTS, and any other available remedies.

7.5 Repayment

In the event of termination under this Section, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds and, as determined by CITY, any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG-CV funds will result in CITY exercising all legal remedies available to CITY under this Agreement.
7.6 No Funds Disbursed While in Breach

SUBRECIPIENT understands and agrees that no CDBG-CV funds will be paid to SUBRECIPIENT until all defaults are cured to the satisfaction of CITY.

7.7 No Compensation after Date of Termination

SUBRECIPIENT will not receive any CDBG-CV funds for work undertaken after the date of termination.

7.8 Rights of CITY Not Affected

Termination shall not affect or terminate any of the existing rights of CITY against SUBRECIPIENT, or which may thereafter accrue because of such default, and this provision shall be in addition to any and all other rights and remedies available to CITY under the law including, but not limited to, compelling SUBRECIPIENT to complete the PROJECT in accordance with the terms of the Agreement. Such termination does not terminate any applicable provisions of this Agreement that have been expressly noted as surviving the term of termination of this Agreement. No delay or omission by CITY in exercising any right or remedy available to it under this Agreement shall impair such right or remedy or constitute a waiver or acquiescence in any SUBRECIPIENT default.

7.9 Waiver of Breach Not Waiver of Subsequent Breach

The waiver of a default of breach of any term, covenant, or condition of this Agreement shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof or thereof.

7.10 Civil, Criminal, and Administrative Penalties

Failure to perform all Agreement terms may result in civil, criminal, or administrative penalties, including, but not limited to those set out in this Agreement.

7.11 Termination for Cause

CITY may terminate this Agreement in the event of SUBRECIPIENT’s default, inability, or failure to perform subject to notice, grace, and cure periods. In the event CITY terminates this Agreement for cause, all CDBG-CV funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds, and any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG-CV funds will result in exercising all legal remedies available to City under this Agreement. SUBRECIPIENT acknowledges and agrees that if CITY terminates this Agreement for cause, neither SUBRECIPIENT nor any affiliates of SUBRECIPIENT will be considered for any other CITY contract for CDBG-CV funds for a minimum of five (5) years from the date of termination.

7.11.1 Loss of Nonprofit Status
This Agreement shall be terminated immediately in the event SUBRECIPIENT loses its nonprofit certification or status after the cure period stated in this Section.
7.11.2 No Available CDBG-CV Funds

SUBRECIPIENT may terminate this Agreement if CITY does not provide the CDBG-CV funds substantially in accordance with this Agreement.

7.12 Termination for Convenience

In terminating in accordance with 2 CFR 200, Appendix II, this Agreement may be terminated in whole or in part only as follows:

7.12.1
By CITY with the consent of SUBRECIPIENT in which case the Parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

7.12.2
By SUBRECIPIENT upon written notification to CITY setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of a partial termination, CITY may terminate the Agreement in its entirety if CITY determines in its sole discretion that the remaining portion of the Agreement to be performed or CDBG-CV funds to be spent will not accomplish the purposes for which this Agreement was made.

7.13 Dissolution of SUBRECIPIENT Organization Terminates Contract

This Agreement shall terminate in the event SUBRECIPIENT organization is dissolved or ceases to exist. In the event of termination under this Section, all CDBG-CV funds are subject to repayment and/or CITY may exercise all of its remedies under this Agreement.

7.14 REPAYMENT OF CDBG-CV FUNDS

All CDBG-CV funds are subject to repayment in the event the PROJECT does not meet the requirements of this Agreement or of the CDBG Regulations related to the prevention of, preparation for, and response to the coronavirus (COVID-19). If SUBRECIPIENT takes any action that results in CITY being required to repay all or any portion of the CDBG-CV funds to HUD, SUBRECIPIENT agrees it will reimburse CITY for such repayment.

7.15 MATERIAL OWNERSHIP CHANGE

If ownership of SUBRECIPIENT materially changes after the date of this Agreement, CITY may, but is not obligated to, terminate this Agreement. CITY has thirty (30) calendar days to make such determination after receipt of written notice from SUBRECIPIENT, and failure to make such determination will constitute a waiver. In the event of termination by CITY under this Section, all CDBG-CV funds awarded but not yet paid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds. Any CDBG-CV funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section.
8 REVERSION OF ASSETS/DISPOSITION OF EQUIPMENT

Upon expiration of this Agreement, SUBRECIPIENT shall transfer to the CITY any CDBG-CV funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-CV funds, except as provided in Section VII herein. In addition, any real property under the SUBRECIPIENT’s control that was acquired or improved in whole or in part with CDBG-CV funds in excess of $25,000 shall either be:

A. Used to meet one (1) of the national objectives listed in 24 CFR 570.208 (benefit at least 51% low and moderate income persons, aid in the prevention or elimination of slums or blight or meet community development needs having a particular urgency because they pose a serious and immediate threat to the health or welfare of the community) until five (5) years after expiration of the Agreement; however, in compliance with 24 CFR 570.505, should the SUBRECIPIENT propose to change the use of the property/equipment from that for which it was originally intended, affected citizens must be provided with reasonable notice of and opportunity to comment on the proposed change; or

B. Disposed of in a manner that results in the CITY being reimbursed in the amount of the current fair market value of the property/equipment less any portion of the value attributable to expenditures of non-CDBG-CV funds for acquisition of or improvement to the property. Such reimbursement shall not be required if disposition occurs more than five (5) years after expiration of this Agreement. In all cases in which property/equipment is sold, the proceeds shall be program income, the use of which shall be recorded in compliance with 24 CFR 570.504 and Section VII herein.

To document this requirement, SUBRECIPIENT shall maintain appropriate written records as approved by CITY’s Planning and Community Development Department regarding use of the property for the five (5) year period following expiration of this Agreement.

9. CONDITIONS FOR RELIGIOUS ORGANIZATIONS

The SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, in accordance with the Federal regulations specified in 24 CFR 570.200 (j).

10. INDEMNIFICATION

SUBRECIPIENT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF IRVING, ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS FEES FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH SUBRECIPIENT’S OPERATION, THE PROJECT, OR THE EXPENDITURE OF FUNDS AUTHORIZED BY THIS AGREEMENT, OR ANY SERVICES PROVIDED BY SUBRECIPIENT FUNDED OR PARTIALLY FUNDED BY THIS AGREEMENT. SUCH INDEMNIFICATION SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSE OF ACTION, SUITS OR LIABILITY ARISE IN WHOLE OR IN PART FROM
THE NEGLIGENCE OF SUBRECIPIENT OR CITY, THEIR OFFICERS, OFFICIALS, AGENTS AND
EMPLOYEES.

IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH SUBRECIPIENT AND CITY, THAT
THE INDEMNITY PROVIDED FOR IN THIS SECTION INCLUDES INDEMNITY BY SUBRECIPIENT TO
INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF CITY'S OWN NEGLIGENCE,
WHETHER THAT NEGLIGENCE IS ALLEGED TO BE THE SOLE OR CONCURRING CAUSE OF THE
INJURY, DEATH, OR DAMAGE.

11. PERSONNEL AND PARTICIPANT CONDITIONS

11.1 Civil Rights

11.1.1 Compliance
The SUBRECIPIENT agrees to comply with all applicable State and local laws and with Title VI
of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended,
Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of
1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with
Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with
Executive Order 11246 as amended by Executive Orders 11375 and 12086, and E.O. 13279.

11.1.2 Nondiscrimination
The SUBRECIPIENT will not discriminate against any employee or applicant for employment
because of race, color, creed, ancestry, national origin, sex, disability or other handicap, age,
marital/familial status, or status with regard to public assistance. The SUBRECIPIENT will take
affirmative action to insure that all employment practices are free from such discrimination.
Such employment practices include but are not limited to the following: hiring, upgrading,
demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay
or other forms of compensation, and selection for training, including apprenticeship. The
SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants
for employment, notices to be provided by the contracting Subrecipient setting forth the
provisions of this nondiscrimination clause.

11.1.3 Land Covenants
This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L.
88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land
acquired, cleared or improved with assistance provided under this Agreement, the
SUBRECIPIENT shall cause or require a covenant running with the land to be inserted in the
deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease
or rental, or in the use or occupancy of such land, or in any improvements erected or to be
erected thereon, providing that the CITY and the United States are beneficiaries of and
entitled to enforce such covenants. The SUBRECIPIENT, in undertaking its obligation to carry
out the program assisted hereunder, agrees to take such measures as are necessary to
enforce such covenant, and will not itself so discriminate.

11.1.4 Section 504
The SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to
compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits
discrimination against the handicapped in any Federally assisted program. The CITY shall provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

11.2 Employment Restrictions

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

11.2.2 Labor Standards
The SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of the Contract Work Hours and Safety Standards Act, the Copeland "Anti Kickback" Act (40 U.S.C. 276a-5; 40 USC 327 and 40 USC 276) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the CITY for review upon request.

The SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the CITY pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7, governing the payment of wages and ratio of apprentices and trainees to journeymen; provided that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. The SUBRECIPIENT shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

11.3 "Section 3" Clause

11.3.1 Compliance
Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT's subcontractors. Failure to fulfill these requirements shall subject the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT's subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The SUBRECIPIENT certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.
11.3.2 Subcontract Language
SUBRECIPIENT agrees to comply with these "Section 3" requirements: The SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the CITY. The SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low income persons residing in the metropolitan area in which the project is located."

11.3.3 Training and Employment
SUBRECIPIENT agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low and very low-income persons residing within the metropolitan area in which the CDBG-CV funded project is located; where feasible, priority should be given to low and very low income persons within the service area of the project of the neighborhood in which the PROJECT is located, and to low and very low income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low and very low income persons residing within the metropolitan area in which the CDBG-CV funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low and very low income residents within the service area or the neighborhood in which the project is located, and to low and very low income participants in other HUD programs.

11.3.4 Non Incapacity
The SUBRECIPIENT certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

11.4 Conduct

11.4.1 Subcontracts
A. Approvals
   The SUBRECIPIENT shall not enter into any subcontracts with any Subrecipient or individual in the performance of this Agreement without the written consent of the CITY prior to the execution of such agreement.

B. Monitoring
The SUBRECIPIENT will monitor all subcontracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

C. Content
The SUBRECIPIENT shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

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

11.4.3 Conflict of Interest
SUBRECIPIENT agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. SUBRECIPIENT further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the SUBRECIPIENT hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY, or of any designated public agencies or SUBRECIPIENTS which are receiving funds under the CDBG Entitlement program.

SUBRECIPIENT further agrees to execute an Affidavit Against Prohibited Acts, in the form attached as Exhibit F: Affidavit Against Prohibited Acts, certifying that it will adhere to the provisions of the Texas Penal Code, attached as Exhibit E: Texas Penal Code Title 8: Offenses Against Public Administration, which prohibits bribery and gifts to public servants.

11.4.4 Lobbying
SUBRECIPIENT hereby certifies, attached as Exhibit D: Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, that:

A. No Federal appropriated funds have been or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

B. If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or
cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

C. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subcontractors or subgrantees shall certify and disclose accordingly; and

D. Lobbying Certification
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

12. APPLICABLE LAW

SUBRECIPIENT shall comply with all applicable local, State and Federal laws and shall carry out each activity hereunder in compliance with all Federal laws and regulations described in Subpart K of 24 CFR Chapter V, as described in Section 570.503(b)(5) of 24 CFR Chapter V.

13. ASSIGNMENT

No assignment or delegation of duties under this Agreement shall be effective without the written consent of CITY.

14. NOTICES

All notices required or permitted by this Agreement must be in writing and shall be effective upon receipt when (i) sent by United States postal service with proper postage, certified mail return receipt requested or by a nationally recognized overnight delivery service; and (ii) addressed to the other Party at the address set out below or as such other address as the receiving Party designates by proper notice to the sending Party.

SUBRECIPIENT: Lt. Colonel Ronnie Raymer
The Salvation Army, A Georgia Corporation-Irving
250 E. Grauwyler Rd.
Irving, Texas 75061

CITY: Steven A. Reed, Director
Planning and Community Development Department
City of Irving
825 W. Irving Blvd.
Irving, Texas 75060
When applicable, copies shall be sent to:

Chris Hillman  
City of Irving  
825 W. Irving Blvd.  
Irving, Texas 75060

William R. Ross  
The Salvation Army, A Georgia Corporation-Irving  
250 E. Grauwyler Rd.  
Irving, Texas 75061

In Witness Whereof, the parties have hereunto set their hands by the representatives hereunto duly authorized on the date first stated above.

**CITY OF IRVING, TEXAS**  
BY: ___________________________  
Richard H. Stopfer, Mayor

**The Salvation Army, A Georgia Corporation-Irving**  
By: ___________________________  
Board President/Chair

DATE SIGNED:  

_______________________________________

ATTEST:  

_______________________________________

Shanae Jennings  
City Secretary

APPROVED TO AS FORM:

_______________________________________

Kuruvilla Oommen  
City Attorney
EXHIBIT A
SCOPE OF WORK

SUBRECIPIENT INFORMATION

SUBRECIPIENT Name: The Salvation Army, A Georgia Corporation-Irving
Federal Tax ID Number: 58-0660607
DUNS Number: 832342732
Activities funded by this grant will be carried out at 250 E. Grauwyler Rd, Irving, Texas 75061.

SUBRECIPIENT will be responsible for administering PROJECT in a manner consistent with the federal requirements governing the provision of Community Development Block Grant funds. SUBRECIPIENT will provide the following activities eligible under the Community Development Block Grant Program.

PROGRAM DESCRIPTION:
The CDBG-CV funding will allow The Salvation Army to serve 34 low-income households who are at risk of homelessness by providing up to six months of targeted intervention services that prevent eviction, promote financial independence and wellbeing, and housing security. The program will provide CDBG funded emergency rental assistance coupled with longer-term case management and housing stabilization services, including food pantry access, home visits, and monthly budgeting. At the end of six months, clients will have participated in case management activities focused on financial stability, developed a balanced budget, and followed the budget to demonstrate the household is living within its means. These program services provide at-risk households with the foundation to make informed decisions necessary to achieve financial stability.

PROGRAM ACTIVITIES:

<table>
<thead>
<tr>
<th>Activity #1</th>
<th>Short-term emergency financial assistance for up to 3 months to low-income households who are at risk of homelessness.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity #2</td>
<td>Comprehensive case management to include support for long-term residential and financial stability to allow residents to obtain greater self-sufficiency.</td>
</tr>
<tr>
<td>Activity #3</td>
<td>Financial education classes are provided with the emergency financial assistance program to increase financial knowledge and skills.</td>
</tr>
</tbody>
</table>

National Objective

SUBRECIPIENT certifies that the activities carried out with funds provided under this Agreement will meet the Department of Housing and Urban Development’s National Objective of benefit to at least 51% low/moderate income persons as defined in 24 CFR Part 570.208.

SUBRECIPIENT is responsible for maintaining and reporting to the Planning and Community Development Department PROJECT records documenting the income eligibility of each participant.

The Planning and Community Development Department will monitor the performance of the SUBRECIPIENT against the National Objective stated above.
EXHIBIT B
PERFORMANCE OBJECTIVES

In addition to meeting the administrative requirements included in this Agreement, the SUBRECIPIENT agrees to provide the following levels of program services:

A. Number of Persons To Be Assisted: 70

B. Number of Households To Be Assisted: 34

C. Number of Service Units to be Provided:

<table>
<thead>
<tr>
<th>Services</th>
<th>Total Units Per Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short-term assistance for up to 3 months (housing, utilities), including ongoing case management and financial education classes.</td>
<td>34</td>
</tr>
</tbody>
</table>

City staff will monitor the performance of the Subrecipient against the goals and performance objectives stated above.

D. Evaluation Results Regarding Quality/Outcome of Services Provided

1. 80% of clients assisted will avoid homelessness.
2. 75% of the clients receiving financial assistance will remain stably housed six months after receiving services.

E. SUBRECIPIENT will submit monthly Performance Reports to the Planning and Community Development Department by the 10th of the month following each month of service of the Contract term.

F. SUBRECIPIENT will submit a final Program Close-Out Report to the Planning and Community Development Department no later than October 31, 2021.

G. The Planning and Community Development Department requires that all grant performance, including evaluation performance, be reflected in monthly Performance Objectives Reports.
### EXHIBIT C
BUDGET/AUTHORIZED REIMBURSABLE COSTS

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
<th>Leverage Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short Term Assistance</td>
<td>$130,000.00</td>
<td>$81,067.00</td>
</tr>
<tr>
<td>Red Kettle Campaign</td>
<td>$7,000.00</td>
<td>$7,000.00</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>$130,000.00 (allocation)</strong></td>
<td><strong>$88,067.00</strong></td>
</tr>
</tbody>
</table>

Total reimbursement for eligible expenses will not exceed the amount specified and will be contingent upon City receipt of source documentation of expenditures (time sheets, copies of direct deposit notices, copies of canceled checks, bank statements, etc.).

The Planning and Community Development Department requires that, unless alternative arrangements have been approved by Planning and Community Development Department staff in advance, funds be evenly expended (approximately 1/12 of the funds each month) for the contract term in order to meet HUD’s timeliness requirements.
EXHIBIT D
Certification Regarding Lobbying
for Contracts, Grants, Loans, and Cooperative Agreements

THE UNDERSIGNED CERTIFIES TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF THAT:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Salvation Army,
A Georgic Corporation-Irving

By:________________________________
Signature

________________________________
Typed or Printed Name

________________________________
Title

________________________________
Date
EXHIBIT E
TEXAS PENAL CODE
Title 8: Offenses Against Public Administration

Chapter 36. Bribery and Corrupt Influence

36.02 Bribery
(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
   (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
   (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
   (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
   (4) any benefit that is a political contribution as defined by Title 15, Election Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
(c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
   (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
   (2) the public servant ceases to be a public servant.
(d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) of this Section that the benefit is a political contribution accepted as defined by Title 15, Election Code.
(e) An offense under this section is a felony of the second degree.

36.08 Gift to Public Servant by Person Subject to His Jurisdiction
(a) A public servant in an Subrecipient performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his Subrecipient.
(b) A public servant in an Subrecipient having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his Subrecipient.
(c) A public servant in an Subrecipient carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit
from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his Subrecipient.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decisions, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an Subrecipient of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.

(g) A public servant who is a hearing examiner employed by an Subrecipient performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the Subrecipient in a contested case, who is doing business with the Subrecipient, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) of this code does not apply to a benefit under this subsection.

(h) An offense under this section is a Class A misdemeanor.

36.09 Offering Gift to Public Servant
(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.
(b) An offense under this section is a Class A misdemeanor.

36.10 Non-Applicable
(a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) of this code do not apply to:

(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

(3) a benefit to a public servant required to file a statement under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of $50 is reported in the statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision;
(4) a political contribution as defined by Title 15, Election Code; or
(5) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 805, Government Code.

(b) Section 36.08 (Gift to Public Servant) of this code does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

(c) Section 36.09 (Offering Gift to Public Servant) of this code does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.
EXHIBIT F

THE STATE OF TEXAS

COUNTY OF DALLAS

AFFIDAVIT AGAINST PROHIBITED ACTS

My name is __________________________________________________________. I hereby affirm that I am aware of the provisions of Texas Penal Code Title 8, Sections 36.02, 36.08, 36.09, and 36.10 (a copy of which is attached hereto), dealing with Bribery and Gifts to Public Servants.

I further affirm that I will adhere to such rules and instruct and require all agents, employees, and subcontractors to do the same. I am further aware that any violation of these rules subjects this agreement to revocation, my removal from bid lists, prohibiting future contract/subcontract work, revocation of permits, and prosecution.

The Salvation Army,
A Georgia Corporation-Irving

By:__________________________________________
Signature

__________________________________________
Typed or Printed Name

__________________________________________
Title

Date signed: _____________________
Resolution -- Approving the Allocations of the Coronavirus Aid, Relief, and Economic Security (CARES) Act Funds to Non-Profit Organizations in an Amount Not to Exceed $6,250,000

Administrative Comments
1. This item is recommended by the City Manager’s Office.
2. **Impact**: This action will provide funding to local non-profits organizations to prevent, prepare for, and respond to the coronavirus (COVID-19).
3. On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The $2 trillion economic relief package was designed to assist the nation’s welfare and economy.
4. This act allocated $250 million to Dallas County. Dallas County will distribute approximately $75 million to 29 cities throughout the county. City of Irving will receive $13,223,100.
5. On June 4, 2020, City Council approved an Interlocal Agreement with Dallas County to facilitate the funding. In addition, City Council supported the preliminary funding recommendations presented by staff.
6. Within the funding recommendations, staff presented four programs for Economic Assistance Initiatives, which include Small Business Assistance, Housing & Utility Assistance, Childcare Center Assistance, and Childcare Payment Assistance.
7. Programs are to be administered by a third party organization.

<table>
<thead>
<tr>
<th>Economic Assistance Initiatives Funding Allocations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Business Assistance – (up to $20,000)</td>
</tr>
<tr>
<td>Rent/Mortgage/Utility Assistance - $6,000 (up to $2,000 per month for 3 months.); eligibility 81-120% AMI</td>
</tr>
<tr>
<td>Childcare Center Assistance - $5,000 per provider</td>
</tr>
<tr>
<td>Childcare Payment Assistance - $2,550 each (up to $850 per month, for 3 months)</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
</tr>
</tbody>
</table>

**Recommendation**
The resolution be approved.

**ADDITIONAL COMMENTS:**
Contract Required: Agreement is still under review and will be provided at Work Session

Previous Action: Council Action:

Discretionary Contract Disclosure Form Required:
Certificate of Interested Parties (Form 1295) Required:
TGC 2270 Verification Form Required:

CURRENT YEAR FINANCIAL IMPACT:
TBD

REVISION INFORMATION:
Prepared: 6/8/2020 04:02 PM by Anthony Cao
Last Updated: 6/19/2020 11:45 AM by Imelda Speck
WHEREAS, on March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act providing funds to cover costs that are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); and

WHEREAS, the CARES Act allocated $250 million to Dallas County, and Dallas County plans to distribute approximately $75 million to 29 cities in the county, including $13,223,100 to the City of Irving (“City”); and

WHEREAS, on June 4, 2020, Dallas County and the City of Irving entered into an Interlocal Agreement to facilitate the City’s administration of its $13,223,100 allocation of CARES funds; and

WHEREAS, the City desires to engage non-profits to administer programs for its Economic Assistance Initiatives;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Council hereby approves a CARES Act Funding Agreement between the City of Irving and ____________ (Sub-recipient), whereby CARES Act funds from Dallas County will be used to support Sub-recipient’s Childcare Center Assistance and Childcare Payment Assistance programs, subject to sufficient funding from Dallas County, shall reimburse or allocate funds to Sub-recipient in an amount not to exceed $1,250,000, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION I. THAT the City Council hereby approves a CARES Act Funding Agreement between the City of Irving and ____________ (Sub-recipient), whereby CARES Act funds from Dallas County will be used to support Sub-recipient’s Housing and Utility Assistance program, subject to sufficient funding from Dallas County, shall reimburse or allocate funds to Sub-recipient in an amount not to exceed $2,500,000, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION I. THAT the City Council hereby approves a CARES Act Funding Agreement between the City of Irving and ____________ (Sub-recipient), whereby CARES Act funds from Dallas County will be used to support Sub-recipient’s Small Business Assistance program, subject to sufficient funding from Dallas County, shall reimburse or allocate funds to Sub-recipient in an amount not to exceed $2,500,000, and the Mayor is authorized to execute the agreement upon the approval of the agreement by the City Attorney.

SECTION II. THAT funding for this expenditure is available in the budget within the Fund.
SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.


____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
Resolution -- Considering Sign Variance Case #S2002-0032 to Allow an Electronic Monument Sign to be Less Than 100 Feet from a Residential Property Line- Property Located at 1004 South Story Road - Oak View Baptist Church, Applicant/Owner

Administrative Comments

1. The applicant is seeking approval of a Sign Variance to allow a new electronic monument sign within 100 feet of a residential property line.

2. The Oak View Baptist Church is located at 1004 South Story Road in a residential area zoned R-6, therefore properties on all sides are zoned R-6. The location of the proposed sign is approximately 74 feet from the nearest property line across the street.

3. The proposed monument sign is seven (7) feet tall and nine (9) feet wide, with a total of 63 square feet.

4. Chapter 7, Section 7-3 (6)c of the City of Irving Land Development Code states, “Electronic Signs shall be located one hundred (100) feet or more from a residentially-zoned property.”

5. The proposed sign faces north and south, on the east side of Story Road. The affected residential properties are on the west side of the road.

6. The sign cannot be located in the existing sight and utility easement.

7. The existing pole sign in the City’s right-of-way will be removed.

8. Since the sign is on an arterial road and does not directly face any single family homes, staff can support this request.

Recommendation

The Resolution be approved.

ADDITIONAL COMMENTS:

Contract Required:                      Review Completed By:
Previous Action:                        Council Action:
Discretionary Contract Disclosure Form Required:
If so, please upload the signed form in MinuteTraq.

ATTACHMENTS:

Exhibit A: Legal Description (PDF)
Exhibit B: Site Plan and Sign Elevation (PDF)
CURRENT YEAR FINANCIAL IMPACT:
N/A

REVISION INFORMATION:
Prepared: 5/8/2020 03:14 PM by Kenneth Bloom
Last Updated: 6/18/2020 09:16 AM by Jocelyn Murphy
WHEREAS, the City Council of the City of Irving has reviewed an application under Section 7-21, Variances, of Chapter 7 of the Irving Land Development Code for a variance to the City of Irving's sign ordinance; and

WHEREAS, the City Council has conducted a public hearing to take testimony on the advisability and wisdom of granting the variance requested; and

WHEREAS, the City Council finds that granting the variance requested will not compromise the public health, safety, welfare, and morals of the City of Irving, nor will the variance requested contribute to visual blight nor obscure unreasonably visual amenities such as landscaping, architecture, and other amenities; and

WHEREAS, the limited variance granted herein will not contribute to uncontrolled number, size, spacing, heights, setbacks, or illumination of signs, nor damage the aesthetic appeal of the City of Irving in its residential, business, commercial, and industrial districts;

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

SECTION I. THAT the application for a sign variance for Property Located at 1004 South Story Road, Oak View Baptist Church, Applicant/Owner, Sign Variance Case No. S2002-0032, located on land described in Exhibit A, attached hereto, to allow an electronic monument sign less than 100 feet from a residential property line as shown in Exhibit B, attached hereto, is hereby approved.

SECTION II. THAT the effect of this variance shall be that the owner or lessee of the property described in Section I shall still be subject to all the requirements of Chapter 7 of the Irving Land Development Code. However, it shall be an affirmative defense to a prosecution under Chapter 7 of the Irving Land Development Code if the violations alleged are specifically authorized by this resolution.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________________
Kuruvilla Oommen
City Attorney
Exhibit A: Legal Description

S2002-0032

BEING all of Lot 1, Block A, Oakview Baptist Church of Irving Addition
Exhibit B: Site Plan and Sign Elevation
S2002-0032

existing pole sign

new monument sign
2ft set back from P/L
38. Sign Variance Case S2002-0032

- 1004 S. Story Road
- Request a variance to allow a new digital monument sign within 100 feet of a residentially zoned (R6) property.
Sign Elevation
Site Plan

Exhibit B: Site Plan and Sign Elevation
S2002-0032

existing pole sign

new monument sign
2ft set back from P/L
Date: Jun, 18, 2020

Geographic Information Systems (GIS) Disclaimer/Limitation of Liability: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries and other geographic features. All data, specifically including the geographic data herein are provided "as is" without warranty of any kind, either expressed or implied. Use of the information is the sole responsibility of the user.

City of Irving

Vicinity Map
Sign Variance Case
No. S2002-0032
Ordinance -- Zoning Case ZC19-0083 - Considering a Zoning Change from R-6 (Single Family) District Uses to S-P-2 (Generalized Site Plan) District for R-6 (Single Family) District Uses - Approximately 0.17 Acres Located at 2325 Spanish Trail - Don and Nancy Peters, Applicants/Owners

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: December 2, 2019 – Postponed Indefinitely 9-0. June 1, 2020 – Denial 6-1 (Commissioner McPhail, nay; Commissioners Zeske and Collins, absent)

2. The 2017 Imagine Irving Comprehensive Plan recommends Residential Neighborhood uses for the subject property, which allows predominantly single-family detached homes or duplexes with some mix of non-residential uses. This case does not meet any of the City’s long term goals in the 2017 Imagine Irving Comprehensive Plan.

3. The owner is requesting a zoning change to allow a 24-foot by 25-foot carport attached to the front wall of the house in front of the garage. It appears the garage has not been converted to living space.

4. An exception is being requested for the carport encroaching into the required 25-foot front setback by 9’ 10”, resulting in a 15’2” setback from the front property line.

5. The front wall of the existing dwelling on this property is approximately 31.5 feet from the front property line. The applicant has indicated the garage to which the carport will be attached is 40 feet from the front property line. A 25-foot long carport attached to the garage will measure 15’2” from the front property line.

<table>
<thead>
<tr>
<th>Required in R-6</th>
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<tr>
<td>Front Setback</td>
<td>25 feet</td>
</tr>
<tr>
<td></td>
<td>15 feet 2 inches</td>
</tr>
</tbody>
</table>

6. The site plan provides that the carport will be constructed with brick posts and have a pitched roof. However, as of September 1, 2019, the city may no longer require or enforce any materials beyond those allowed by the building code.

7. There is currently one carport on this block of Spanish Trail between Story and Pearl Streets, on the south side of the street. This carport is constructed of metal with a flat roof and was previously approved by an S-P-2 (Generalized Site Plan) zoning case. Within a quarter mile, there are four (4) other carports, three of which received S-P-2 zoning approval for the carport. The fourth carport on Meadow Lark to the east appears to have been constructed without a building permit. At the P&Z hearing, the applicant provided the locations of other carports further than ¼ mile from the subject property.

8. A total of 32 public notices were mailed. Staff has received two (2) responses in support and none in opposition to this request.
9. This item supports Strategic Objective 3.5 – Effectively plan and manage land use:

**Recommendation**

The ordinance be denied per the recommendation of the Planning and Zoning Commission.

**ADDITIONAL COMMENTS:**

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<td>Previous Action:</td>
<td>Council Action:</td>
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**ATTACHMENTS:**

- Exhibit A: Legal Description (PDF)
- Vicinity Map (PDF)
- Surrounding Zoning Map (PDF)
- Property Owner Notification Map and List (PDF)
- Site Plan and Elevation Drawing (PDF)
- Staff Surrounding Carport Map (PDF)
- Applicant's Carport Map and Photos (PDF)
- Staff analysis of Applicant Map (PDF)
- Staff Presentation to Council (PDF)
- June 1, 2020 Planning and Zoning Meeting Minutes (PDF)

**CURRENT YEAR FINANCIAL IMPACT:**

NONE

**REVISION INFORMATION:**

Prepared: 6/3/2020 01:02 PM by Kenneth Bloom
Last Updated: 6/19/2020 11:43 AM by Linda Velazquez
ORDINANCE NO. (ID # 11056)

ZONING CASE NO. ZC19-0083
ZONING CLASSIFICATION - S-P-2

AN ORDINANCE AMENDING ORDINANCE NO. 1144, THE 1964 COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF IRVING, TEXAS, GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: A TRACT OF LAND OUT OF THE SOUTH MEADOWS ADDITION, AND LOCATED AT 2325 SPANISH TRAIL, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM R-6 SINGLE FAMILY RESIDENTIAL DISTRICT USE UNDER ORDINANCE NO. 1144, AS AMENDED TO S-P-2 SITE PLAN DISTRICT USE FOR R-6 USES UNDER ORDINANCE NO. 1144, AND ACCORDING TO THE SITE PLAN ATTACHED HERETO AND MADE A PART HEREOF; PROVIDING FOR SPECIAL CONDITIONS AND REGULATIONS RELATIVE TO LAND USE; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE CHANGE IS IN ACCORDANCE WITH A COMPREHENSIVE PLAN FOR THE PURPOSE OF PROMOTING THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE; PROVIDING THAT THIS ORDINANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDINANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied; safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public
necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a need for this change in zoning and that there has been a change in conditions in the property adjacent to and in the surrounding area of the subject tract, therefore allowing and requiring this zoning change; and

WHEREAS, the City Council of the City of Irving, Texas, does find that this change in zoning under a site plan district for R-6 uses with a site plan attached will further lessen the congestion in the streets; help secure safety from fire, panics, floods, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements;

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

SECTION 1. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attached Exhibit A which is presently zoned R-6 Single Family Residential District Use under Ordinance No. 1144, is changed to S-P-2 Site Plan District Use for R-6 uses under Ordinance No. 1144 of the City of Irving, subject to all the requirements of Ordinance No. 1144 and subject to all the requirements and conditions of Section 1-A of this ordinance.

SECTION 1-A. That the district use on the property described in Section 1 is hereby approved and granted upon the following express conditions:

1. That development and use shall be in conformance with the site plan attached hereto and made a part hereof for all purposes.

2. A true copy of the site plan attached hereto shall be retained by the Department of Planning and Community Development of the City of Irving.

3. That all means of ingress and egress shall be approved by the Department of Public Works of the City of Irving.

4. That all paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with the standard City of Irving specifications adopted for such purpose, and the same shall be done to the satisfaction of the Department of Public Works of the City of Irving.

The above requirements shall not be construed as conditions precedent to the granting of a zoning change, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.

SECTION 2. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 3. That in all other respects the use of the tract or tracts of land hereinabove

-2-
described shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 4. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 6. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the tract or tracts of land described herein shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.

SECTION 7. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of the City of Irving, Texas.

________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

________________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

________________________________
Kuruvilla Oommen
City Attorney
Exhibit A: Legal Description

Zoning Case ZC19-0083

BEING all of Lot 2, Block A, South Meadows Addition
City of Irving
Vicinity Map
Zoning Case
No. ZC19-0083

Case Location
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City of Irving
Property Owner Notification List
Zoning Case
No. ZC19-0083

Date: Oct, 22, 2019

Geographic Information Systems (GIS) Disclaimer/Limitation of Liability: This product is for informational purposes and may not have been prepared for or be suitable for legal engineering or surveying purposes. It does not represent an on-ground survey and represents only the approximate location of geographic features. All data, specifically including the geographic data herein are provided "as is" without warranty of any kind, either expressed or implied. Use of the information is the sole responsibility of the user.
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Zoning Case #ZC19-0083

REQUEST FOR ZONING CHANGE FOR ATTACHED CARPORT.

NOTES:

1. ALL USES PERMITTED BY SECTION 52-11 WILL BE ALLOWED, AND ALL OTHER REQUIREMENTS OF SECTION 52-11, R-6 DISTRICT, OF ORDINANCE #1144 AND ANY OTHER APPLICABLE REQUIREMENTS OF THIS ORDINANCE #1144 WILL BE COMPLIED WITH, EXCEPT:
   A) ENCROACHMENT INTO 25' FRONT SETBACK LINE OF 9'10".

2. ALL SURFACE MATERIAL TO MEET THE MINIMUM STANDARDS OF THE CITY OF IRVING.

3. ALL FENCES, SIGNS, LIGHTING, LUMINARIES AND EXTERIOR AUDITORY SPEAKERS WILL COMPLY WITH CITY OF IRVING ORDINANCES.
2325 Spanish Trail
Request Carport in Front Setback

Locations of Existing Carports
Yellow Dots = on the same block
Orange Dots = on other blocks

2325 Spanish Trail
Subject Property
X = Known Existing carports = 12
□ = Proposed

https://www.bing.com/maps/?FORM=MSNMAP&toWww=1&redig=0DC82CAB4E6...
Locations of Existing Carports
- Green Dot = Subject Property
- Blue Dots = on the same block
- Orange Dots = on other blocks
- Red Dots = Provided by Applicant

Legend
- 1/2-Mile Buffer
- 1/4-Mile Buffer
Zoning Case ZC19-0083

- Approximately 0.17 acres at 2325 Spanish Trail
- **From:** R-6 (Single Family)  
  **To:** S-P-2 (Generalized Site Plan) for R-6 uses to allow a carport within the front yard setback
- Recommended for Denial by the P&Z; 6-1
- No opposition received
Zoning Case #ZC19-0083

REQUEST FOR ZONING CHANGE FOR ATTACHED CARGO...

NOTES:
1. All uses permitted by Section 22-9 will be allowed, and all other requirements of Section 22-1 R-16 District, of Ordinance #044 and any other applicable requirements of this Ordinance #044 will be complied with, except:
   A) Encroachment into 25' front setback line of 91' 10".
2. All surface material to meet the minimum standards of the City of Irving.
3. All fences, signs, lighting, luminaires and exterior auditory speakers will comply with City of Irving ordinances.

SOUTH MEADOWS ADDITION

City of Irving Texas

BLOCK - A LOT - 2
LOT SIZE = 62'5" x 120'

OWNER: DON L & NANCY J PETERS

PLAN PREPARED BY: DON PETERS

PROPERTY LOCATION: 2325 SPANISH TRAIL 75060
Zoning Case #ZC19-0083

REQUEST FOR ZONING CHANGE FOR ATTACHED CARRIAGE.

NOTES:
1. ALL USES PERMITTED BY SECTION 55.2-9 WILL BE ALLOWED, AND ALL OTHER REQUIREMENTS OF SECTION 55.2-16 DISTRICT, OF ORDINANCE #144 AND ANY OTHER APPLICABLE REQUIREMENTS OF THIS ORDINANCE #144 WILL BE COMPLIED WITH EXCEPT:
   A) ENCLOSEMENT INTO 25' FRONT SETBACK LINE OF 9% 10'.
2. ALL SURFACE MATERIAL TO MEET THE MINIMUM STANDARDS OF THE CITY OF IRVING.
3. ALL FENCES, SIGNS, LIGHTING, LUMINARIES AND EXTERIOR AUDITORY SPEAKERS WILL COMPLY WITH CITY OF IRVING ORDINANCES.

PROPERTY LINE

SOUTH MEADOW'S ADDITION
City of Irving Texas
BLOCK - A LOT - 2
LOT SIZE = 625' x 120'

OWNER: DON L & NANCY J PETERS
PLAN PREPARED BY: DON PETERS
PROPERTY LOCATION: 2325 SPANISH TRAIL 75060
Individual Consideration


FROM: R-6 (Single Family) District

TO: S-P-2 (Generalized Site Plan) District for R-6 (Single Family) uses to allow construction of a carport within the front yard setback

- This case is scheduled for the June 25, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Don Peters, applicant, gave an overview of the proposed request, adding that he has lived on this property for fifty (50) years and owns couple of vehicles for which he would like to add protection by adding a carport to his property. He stated that at Work Session staff stated that there were 3 or 4 carports in his area when in fact there are about fourteen (14). He then presented a picture. He added that only 2 of them are within 200 ft. from his house.

Chairman Spurlock called for individuals wishing to speak in favor of this item. There was no one to speak in favor of this item. He then called for individuals wishing to speak in opposition. There was no one to speak in opposition to this item.

Discussion was closed to the floor and returned to the Commission for their consideration and a motion.

Commissioner McPhail stated that when looked at this property and the case itself, he was not sure why the recommendation was for denial, adding that even though the city can no longer regulate materials on the carport, the request looks like a good proposal by the homeowner. He then stated his support to this item.

Vice-Chairman Burns stated that staff recommended denial due to the request being inconsistent with the neighborhoods’ appearance and the encroachment into the front yard setback. Mr. Peters stated that the other carports are sitting at 12 feet and his will be at 15 feet.

Commissioner Kliner asked someone to explain the difference between the carports presented at Work Session, and the ones brought up by the homeowner. Vice-Chairman Burns responded that the ones the homeowner presented are not all within the immediate area.

Secretary Cronenwett stated that City Council will be the ones to decide whether or not these carports should be allowed. He stated that he agrees that this carport will not be consistent with the community.

Commissioner McPhail stated that the community does not own the property therefore, the homeowner should decide what to build on their property. He also stated that this Board was not the same as the Las Colinas Association, but the Planning and Zoning Commission that helps implement
the zoning ordinances. He added that this homeowner is asking for a variance that makes sense and to his belief his project should be approved.

Secretary Cronenwett stated that the Planning and Zoning Commission’s job is not to ignore the rules, but to give consideration to those that come before the Commission with variances.

Vice-Chairman Burns stated his disagreement with Commissioner McPhail’s comment, adding that just because he owns several properties, that does not mean he can go ahead and build whatever he wants. He added that the Commission is there to keep consistency and the integrity of the neighborhood.

Commissioner McPhail responded that the Commission has the authority to grant variances and believes this case has the basis to get a variance granted.

Commissioner Joy asked staff if they could validate the homeowners’ statement about the setback.

Steve Reed, Planning and Community Development Director, stated that staff would have to check each individual case going back 20 to 25 years at least. He added that the policy established for over 20 years was that a carport could be approved as long as it had a 10 foot front yard setback and probably those carports presented by the homeowner meet that standard. He stated that in this particular case, there is a 15 foot front yard setback and the required setback is 25 feet. He added that the issue for staff to recommend approval is that they can no longer regulate materials and if there is not a hardship or justification for a carport’s setback, staff cannot longer recommend approval.

Vice-Chairman Burns moved to forward Zoning Case #ZC19-0083 to the City Council with a recommendation of denial. Secretary Cronenwett seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried 6-1.

Ayes: Jack Spurlock, Bruce Burns, Mark Cronenwett, Michael McPhail, Mike Joy, Jamie Patel, Alicia Kliner

Absent: Misaki Collins, Mark Zeske

Discussion Time: 14 minutes
Ordinance -- Zoning Case #ZC19-0093 - Considering a Zoning Change from C-C (Community Commercial) District Uses to S-P-1 (Detailed Site Plan) for C-C (Community Commercial) District Uses - Approximately 0.724 Acres Located at 4900 W. Airport Freeway - Trax, Inc., Applicant/Owner

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: February 3, 2020 – Postpone Indefinitely 9-0. June 1, 2020 – Denial 5-2 (Commissioners McPhail and Joy, nay; Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Commercial Corridor uses for this property. This land use category is described as auto-oriented district for retail, office and commercial uses with parking in front with buildings set back from the street. The requested zoning is in conformance with the Comprehensive Plan.

3. Comprehensive Plan Strategy 1.5.8 is to approve new development that is consistent with and enhances existing development.

4. The property is currently developed with a 2,510 sq. ft. convenience store and gas station. The owner is proposing to expand the existing building in order to add a liquor store. The existing car wash will be remodeled to be incorporated into the proposed liquor store, which would encompass the car wash area as part of the expansion.

5. The State Highway 183 Overlay District requires any nonresidential structure being expanded by 30 percent or more of its current value or area to be brought into compliance with the current standards of the zoning ordinance. The proposed liquor store will be 2,278 sq. ft. which includes the existing car wash. This will expand the building to 4,788 sq. ft., which is a 91% increase in area.

6. The State Highway 183 Overlay District also requires that parking areas between the State Highway 183 right-of-way and a building be landscaped. Additionally, because the expansion is more than 30 percent of the current building size, the applicant is required to provide a 30-foot wide landscape buffer along State Highway 183. The property has an existing gas station canopy that is not being affected by the principal building expansion.

7. The applicant is requesting an exception not to provide the 30 ft buffer or new landscaping on the site due to location of the existing improvements, including the gas canopy and dumpster enclosure.

8. The site plan notes that the existing drive-through menu and the northwest drive approach to the existing car wash will be removed. No drive-through services will be provided, in accordance with the zoning ordinance requirements.

9. The State Highway 183 Overlay District requires one (1) parking space for every 250 square feet of retail use. Accordingly, 20 parking spaces are required for the
expanded building. The proposed site plan shows an additional four (4) parking spaces being added and a total of 20 parking spaces for the site.

10. The State Highway 183 Overlay District was enacted specifically to guide new development and enhance the State Highway 183 corridor. Since the applicant is expanding the structure greater than 30% which triggers compliance with Section 52-64d (e)(1)b and (e)(2) of the State Highway 183 Overlay District, the applicant is required to install a full 30-foot deep landscape buffer.

11. A total of seven (7) public notices were mailed. Staff has received two (2) responses in support and none in opposition to this request.

12. This item support Strategic Objective 3.5 – Effectively plan and manage land use.

**Recommendation**

The ordinance be denied per the recommendation of the Planning and Zoning Commission.

**ADDITIONAL COMMENTS:**

**Contract Required:**

**Review Completed By:**

**Previous Action:**

**Council Action:**

**ATTACHMENTS:**

- Exhibit A: Legal Description (PDF)
- Vicinity Map (PDF)
- Surrounding Zoning Map (PDF)
- Property Owner Notification Map and List (PDF)
- Site Plan (PDF)
- Public Letters in Support (PDF)
- Staff Presentation to Council (PDF)
- June 1, 2020 Planning and Zoning Meeting Minutes (PDF)

**CURRENT YEAR FINANCIAL IMPACT:**

NONE

**REVISION INFORMATION:**

Prepared: 1/27/2020 02:41 PM by Christina Del Campo
Last Updated: 6/19/2020 11:43 AM by Linda Velazquez
ORDINANCE NO. (ID # 10805)

ZONING CASE NO. ZC19-0093
ZONING CLASSIFICATION - S-P-1

AN ORDINANCE AMENDING ORDINANCE NO. 1144, THE 1964 COMPREHENSIVE ZONING ORDNANCE OF THE CITY OF IRVING, TEXAS, GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: A TRACT OF LAND OUT OF THE MDA ENTERPRISES ADDITION, AND LOCATED AT 4900 WEST AIRPORT FREEWAY, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM C-C COMMUNITY COMMERCIAL DISTRICT USE UNDER ORDINANCE NO. 1144, AS AMENDED TO S-P-1 SITE PLAN DISTRICT USE FOR C-C USES UNDER ORDINANCE NO. 1144, AND ACCORDING TO THE SITE PLAN ATTACHED HERETO AND MADE A PART HEREOF; PROVIDING FOR SPECIAL CONDITIONS AND REGULATIONS RELATIVE TO LAND USE; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PortIONS OF THE ZONING ORDNANCE; DETERMINING THAT THE CHANGE IS IN ACCORDANCE WITH A COMPREHENSIVE PLAN FOR THE PURPOSE OF PROMOTING THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE; PROVIDING THAT THIS ORDNANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDNANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied; safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public
necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a need for this change in zoning and that there has been a change in conditions in the property adjacent to and in the surrounding area of the subject tract, therefore allowing and requiring this zoning change; and

WHEREAS, the City Council of the City of Irving, Texas, does find that this change in zoning under a site plan district for C-C uses with a site plan attached will further lessen the congestion in the streets; help secure safety from fire, panics, floods, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements;

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

SECTION 1. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attached Exhibit A which is presently zoned C-C Community Commercial District Use under Ordinance No. 1144, is changed to S-P-1 Site Plan District Use for C-C uses under Ordinance No. 1144 of the City of Irving, subject to all the requirements of Ordinance No. 1144 and subject to all the requirements and conditions of Section 1-A of this ordinance.

SECTION 1-A. That the district use on the property described in Section 1 is hereby approved and granted upon the following express conditions:

(1) That development and use shall be in conformance with the site plan attached hereto and made a part hereof for all purposes.

(2) A true copy of the site plan attached hereto shall be retained by the Department of Planning and Community Development of the City of Irving.

(3) That all means of ingress and egress shall be approved by the Department of Public Works of the City of Irving.

(4) That all paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with the standard City of Irving specifications adopted for such purpose, and the same shall be done to the satisfaction of the Department of Public Works of the City of Irving.

The above requirements shall not be construed as conditions precedent to the granting of a zoning change, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.

SECTION 2. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 3. That in all other respects the use of the tract or tracts of land hereinabove
described shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 4. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 6. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the tract or tracts of land described herein shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.

SECTION 7. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of the City of Irving, Texas.

_____________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_____________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_____________________________
Kuruvilla Oommen
City Attorney
EXHIBIT A: Legal Description
ZC19-0093

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City of Irving

Property Owner Notification List
Zoning Case
No. ZC19-0093

Page 1 of 1
CASE NUMBER (2019-003)

DEVELOPMENT: VALLEY VIEW LANE

OWNER: MIDAS ENTERPRISES ADDITION

LOCATION: WEST AIRPORT FREEWAY / STATE HIGHWAY NO. 183

DESIGNER: THE PLAN FACTORY

NOTES:

1. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

2. The landscape buffer along SH 183 is 10 feet in width.

3. Parking and standing between SH 183 and the building are permitted as shown.

4. ALL BUILDING EXPANSION AND ALL OTHER REQUIREMENTS OF THE CITY OF IRVING, 2019 Zoning Ordinance, SHALL BE COMPLIED WITH.

5. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

6. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

7. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

8. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

9. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

10. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

11. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

12. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

13. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

14. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

15. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

16. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

17. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

18. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

19. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

20. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

21. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

22. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

23. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

24. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.

25. ALL USES PERMITTED BY SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE ALLOWED AND ALL REQUIREMENTS OF SECTION 15-22-C.05 AND SECTION 15-22-D.02 WILL BE COMPLIED WITH.
RESPONSE LETTER TO ALL ITEMS FROM
TECHNICAL REVIEW COMMITTEE COMMENTS
Case Number: ZC19-0093

4900 W. Airport Freeway
Technical Review Committee Meeting Date: December 17, 2019

Applicant:
Plan Factory
Attn: Jim Sobczak
4307 S. Bowen Road, Ste 133
Arlington, TX 76016

Owner:
Trax, Inc.
Attn: Mahmood Veerani
4900 W. Airport Freeway
Irving, TX 75062

The City of Irving has reviewed your application, submitted on December 11, 2019. The following preliminary comments were suggested by the representatives who attended the meeting. Additional comments may arise throughout the processing of your project.

CASE MANAGER:
Your case manager is Sheba D. Ward.
The case manager can be reached at (972) 721-2424 or at sward@cityofirving.org.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS
Please contact the case manager regarding the following comments:

- Please add the case number (ZC19-0093) and ‘S-P-1 FOR CONVENIENCE STORE’ to site plan. This was added to the top of the site plan.
- Change orientation of site plan so that north is the top of the page. The orientation of the site plan was changed so that north is up.
- Add a notes section. State the requested variance from landscaping requirements of State Highway 183 Overlay District, and use the S-P-1 checklist for notes to comply with fences, signs, lighting, and surface material requirements. Provide a note stating all development will require with Sec. 52-35d, the Convenience Store Design Standards. Provide parking analysis in table, and clarify what “AC” is in the square footage list. This was added to the top left hand corner of the site plan.
- Provide internal dimensioning. Remove pavement pattern. We provided internal dimensioning as requested.
- Remove label for old car wash and label with future intended use. We removed this label and added a note that this old car wash would be added to the new liquor store on the site plan.
- Label rear setback with and indicate if any windows are on the rear wall of any part of the structure. The back wall has one door and one fixed window.
- Will car wash area be accessible inside the building? Storage, retail customer space? Yes the existing car wash becomes part of the new liquor store and is noted on the floor plans as existing car wash. The old car wash becomes new display area, a utility, bathroom, and office.
- If the existing car wash is intended to be a drive through retail, Traffic will not allow because the exit from the car wash is onto adjacent private property. Would need an easement to use. Planning staff will also not support drive-through retail. The existing car wash will not be used as a new drive through.
- Remove all items not associated with zoning request: monitoring wells, signs, risers. Remove construction notes such as removing curbs. These items have been removed from the site plan.
- Provide a landscape plan with trees labeled and calculations provided. New 4" caliper trees in the front setbacks are required. We have requested a variance to do away with the landscape buffer along with parking and paving between S.H. 183 and the building are permitted as shown on site plan.
- Please provide a response letter to all the items mentioned in this technical review letter and also note any other additional changes not previously shown or made mention of in this letter.
May 6, 2020

Adrian Ramirez
1815 Briar Forest St.
Heim, TX 77361 (314-779-6599)

I am writing in support of the zoning case 19-0093.

I currently reside in the neighborhood directly behind Cullatill (Exxon). My family and I are regular patrons of this store. My kids regularly also shop at this store, and we will continue to shop at this store.

It is my understanding that this particular store cannot sell alcohol. I am curious about this situation. I understand that the zoning rules are there for a particular reason. I also understand that the positives of re-zoning this store is the best interest of the city.

The positives are that if this store can sell alcohol then that would mean more revenue for the city, in which these trees are important not only for the city but also for the community. The convenience of our neighborhood being able to purchase convenience needs two for those who drink alcohol is a positive thing for our community.
May 6, 2020

Although I understand the concerns from particular individuals about alcohol being sold here, I do not agree. I do not agree because the support outweighs the non-support. I know because I live directly behind the store.

This store is well kept and follows the rules to the tee. I am very impressed after 15 years that the store employees are professional and courteous too everyone.

The financial benefit for the city and the community cannot be ignored. Not only will the community benefit from this store being able to sell alcohol, the city will also benefit from the sell of alcohol at this particular convenient store because of the taxes.

So in closing, I hope the city would be considering the re-zoning so that our city can compete financially with the surrounding cities. Our community is in support of the selling of alcoholic beverages at Chill & Tell (Gion).

Thank you Mr. and City Council members for your time to read a support letter from an Irving resident.
May 6, 2020

Sincerely,

Ariyan Ranjek
Jose Hernandez
2025 Harmon Rd
Irving TX 75061

05-04-2020

Dear Mayor & City Council Members City of Irving

I am writing in support of the zoning case 19-009. I live in the neighborhood of chill & fill. I shop regularly at this store because it is so clean and the clerks are so courteous. I think it would be helpful to be able to buy beer at the same place where I get gas and other things.

Sincerely

Jose Hernandez
Signature
Jose Hernandez
Zoning Case ZC19-0093

- Approx. 0.724 acres at 4900 W. Airport Freeway
- **From**: C-C (Community Commercial) district
- **To**: S-P-1 (Detailed Site Plan) for C-C uses to allow a new liquor store with exceptions.
- Recommended for Denial by the P&Z; 5-2
- No opposition received

**FROM:** C-C (Community Commercial) District

**TO:** S-P-1 (Detailed Site Plan) District for C-C (Community Commercial) uses to expand the existing building for a new liquor store with exceptions to the landscaping and parking requirements.

- This case was postponed from City Council Public Hearing at the February 13, 2020 meeting.
- This case is scheduled for the June 25, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Sharon Barbosa-Crain, 2608 Alan-a-Dale, applicant’s representative, gave an overview of his proposed request, adding that their request is to grant a variance for an existing condition. She stated that the current use at this location is a convenience store and gasoline service station owned by Mr. Veerani for over 20 years. She added that the property owner went through some challenges with the Highway 183 widening project and the Highway 161 construction that he lost 50 percent of his business. Nevertheless, she stated that he is coming back up with a new proposal to expand the existing building for a new liquor store.

She stated that the property owner lost landscaping due to the right-of-way taking and does not qualify for a regular permit until the property is brought up to compliance, which she stated that the non-compliance was caused by the Government and not by this property owner. She also stated that they were appreciative of staff’s willing to cut the set back from 30 ft. to 15 ft., but that is still not going to alleviate the problem. She added that the property owner has agree to add a tree and some planting reflected on the site plan.

Chairman Spurlock called for individuals wishing to speak in favor or opposition of this item. There was no one wishing to speak in favor or opposition of this item.

Discussion was closed to the floor and returned to the Commission for their consideration and a motion.

Vice-Chairman Burns stated that the property owner has been compensated for the right-of-way on this property. He also stated that city staff has gone well above and beyond on agreeing to have a setback requirement of 15 feet instead 30 feet. He then stated his opposition to this case as he believes the property owner does not want to do anything to beautify the property.

Commissioner Joy asked staff if the applicant is no longer requesting a parking variance like they did before. Kenneth Bloom responded affirmatively. Commissioner Joy then stated that if the applicant is amiable to the idea of adding additional landscaping. He stated that if the applicant is willing to add a tree without adversely impacting the business, he will be okay with them to keep the property as is.

Vice-Chairman Burns stated that the applicant will not be beautifying the property as they just want to sell alcohol. He added that he visited the site and believes they have plenty of room to add landscaping and the business will not be impacted in any way, fashion or form. He stated that if the applicant does not want to compromise to a 15-foot landscaping, then a parking variance might be
needed again because the truck and trailers would be the same as they are today, across the lot with an unstriped parking lot.

Commissioner McPhail stated that removing the current concrete on the property will be very expensive as the property owner will have to pay for it. He stated that TxDOT took the right-of-way from this property owner therefore, is not his fault that he doesn't have plenty of setback to provide for landscaping. He believes the variance should be granted for this case.

Vice-Chairman Burns stated that TxDOT just don’t arbitrarily come and take land. He stated that this property owner was very well compensated for the land, same as other property owners that were impacted by the Highway 183 widening project.

Commissioner Patel asked Ms. Barbosa-Crain the reason why the 15 ft. landscaping can’t be met. Ms. Barbosa-Crain responded that it interferes with the type of business they have, and it constrains the operational space. She added that the reason for the proposal location was so that the big trucks or buses coming off from the Highway, could go into that area without any issues. Commissioner Patel then asked Ms. Barbosa-Crain if there was absolutely no other areas for the loading and unloading of the trucks, and what was the percentage of that traffic vs. vehicular traffic. Ms. Barbosa-Crain responded that there was no space on the property for the trucks to load and upload, and that she wasn’t aware of the traffic’s percentage.

Sharon Barbosa-Crain stated that when this property was originally built, there was a big landscape buffer, then TxDOT came in and they lost part of the right-of-way. She added that the paying of the right-of-way is irrelevant for this zoning case.

Chairman Spurlock stated that per his recollection, when the right-of-away acquisition took place, based on how much land the state was needing at the moment, each of the property owners were aware of how much land they were going to lose and how much they were getting compensated for.

Ms. Barbosa-Crain responded that this property owner only wants to expand his business and wasn’t aware of the problem until he tried to pull a permit.

Vice-Chairman Burns stated that the business owner representative claims that putting a landscaping will be very expensive and it will disrupt the business, he then asked what type of hardship is he going to have when he puts the liquor store and takes the carwash bay away. He stated that in that case, this property owner does not need a variance and should continue operating like it is unless he compromises to put the 15 foot landscaping buffer as staff recommended, which it will be a long term project for the city and its aesthetics.

Sharon Barbosa-Crain’s stated that she is here to request an appropriate and valid zoning variance request with the reasons provided.

Commissioner Burns moved to forward Zoning Case #ZC19-0093 to the City Council with a recommendation of denial due to the fact that there is more than enough adequate room to put a 15 foot landscape buffer on the property with the additional building. Secretary Cronenwett seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried 5-2.

**Ayes:** Jack Spurlock, Bruce Burns, Mark Cronenwett, Jamie Patel, Alicia Kliner
Nay: Michael McPhail, Mike Joy

Absent: Misaki Collins, Mark Zeske

Discussion Time: 31 minutes
Ordinance -- Zoning Case # ZC20-0010 - Considering a Comprehensive Plan Amendment from "Commercial Corridor” and "Open Space" to "Compact Neighborhood”, and Considering a Proposed Zoning Change from M-FW (Freeway) District Use and R-SFA (Single Family Attached) District Use to S-P-2 (Generalized Site Plan) District Use for R-TH (Townhouse) Uses- Approximately 20.71 Acres Located at 920 S. Belt Line Road and 3324 W. Shady Grove Road - Frye Road 9 Acres LLC, Owner. JDJR Engineers Inc, Applicant (Postponed from the May 7, 2020 City Council Meeting)

Administrative Comments
1. The Planning and Zoning Commission Hearing Date and Recommendation – April 20, 2020 – Approval of R-TH zoning with no exceptions 5-3 (Commissioners Zeske, McPhail, and Collins, nay; Commissioner Patel, absent).

2. The applicant is requesting to amend the Comprehensive Plan recommendation of “Open Space” and “Commercial Corridor” to "Compact Neighborhood" and a zoning change to develop approximately 173 townhomes with exceptions to the R-TH development standards.

3. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Commercial Corridor uses for this property. This land use category is described as an auto-oriented district for retail, office and commercial uses. The requested zoning is not in conformance with the Comprehensive Plan.

4. One of the major issues analyzed during the formation of the 2017 Imagine Irving Comprehensive Plan was the need to identify suitable tracts of land for residential development (especially a variety of types and of higher density than standard large lot single-family detached) to address Irving’s share of housing the anticipated population growth in the region out to the year 2040. This site would be ideal for the proposed townhouse use with needed retail/restaurant/commercial within 1-2 miles of the site to the north, east and south. This proposed development would support Strategies 1.5.7 and 1.5.8 of Goal 1 promoting a variety of single-family residential types and densities and approving new development that is consistent with and enhances existing development.

5. The subject property is a 20.71 acre undeveloped tract on the southeast corner of S. Belt Line Road and W. Shady Grove Road, with approximately 1,750 feet of frontage on S. Belt Line Road, and 117 feet of frontage on W. Shady Grove Road. The applicant is requesting a zoning change to allow a 173-unit townhouse development with variances to the lot area, front yard setback, building height, distance between structures, and maximum lot coverage.

6. The majority of the property is currently zoned M-FW (Freeway) district, and a portion adjacent to W. Shady Grove is zoned R-SFA (Single-Family Attached) district. Right-of-way had previously been dedicated to widen Belt Line Road, and
large utility easements exist adjacent to the Belt Line frontage. Large culverts were constructed as part of the drainage work which limits the driveway accessibility to Belt Line Road. Both floodplain and floodway cover a large portion of the western and southern portions of the property.

7. A commercial parcel is on the southeast corner of S. Belt Line Road and W. Shady Grove Road, northwest of the subject property. The Graff Farms residential development is adjacent to the east, rezoned in 2004 and developed for 361 R-6 (Single Family) lots.

8. The applicant has modified the site plan since the postponement request from the May 7 City Council hearing and is now asking for the following exceptions to the R-TH zoning district:

<table>
<thead>
<tr>
<th>Required for R-TH</th>
<th>Requested at PZ</th>
<th>Revised</th>
<th>Variance to TH Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum lot area</td>
<td>2,240 sq. ft.</td>
<td>1,750 sq. ft.</td>
<td>2,125 sq. ft.</td>
</tr>
<tr>
<td>Minimum lot depth</td>
<td>80 ft.</td>
<td>70 ft.</td>
<td>85 ft.</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>25 ft.</td>
<td>15 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Rear yard setback</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Min. Distance b/w structures</td>
<td>12 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Garage door setback (from alley)</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>70%</td>
<td>80%</td>
<td>80%</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>30 ft.</td>
<td>3 stories or 45 ft.</td>
<td>3 stories or 45 ft.</td>
</tr>
</tbody>
</table>

The revised site plan eliminates previous exception requests to the lot depth, rear yard setback, and garage door setback. The revised site plan also reduces the exception to the minimum lot area. The exception to the front yard setback is increased; however, this is appropriate given the increase to the rear yard setback to allow for a driveway and additional parking.

9. Some of the property is located in FEMA floodplain and floodway. Significant changes were made to the property several years ago during a major drainage improvement. No floodplain studies have yet been submitted for this development to identify necessary mitigation.

10. Two fire access points are required for the number of units in the development. Staff can support the proposed access points and bridge location. In addition, the applicant is aware that the height of the buildings over 30 ft. require a 26 ft. fire lane. This will be provided within the right of way at the time of platting and construction plans. Any on street parking limitations and related signage will be provided at that time.

11. The property must be platted prior to development. The drainage/floodplain and access issues are typically addressed in the platting process.
12. The site plan notes that a six-foot tall masonry screening wall will be constructed in private easements for the frontages along S. Belt Line Road and Shady Grove Road, subject to sight visibility and existing or proposed utility easements which will be provided in the platting process. The HOA will maintain these walls and a note will be provided at the time of platting. A fence is not required between the residential townhouse and single family uses nor is one provided on the site plan, however it is expected that the townhouse developer will provide a screening fence where one does not exist.

13. Open space is provided between the townhomes and the commercial property to the north, Belt Line Road to the west, and on scattered lots throughout the subdivision. All open spaces will be maintained by the HOA.

14. The proposed site plan establishes a minimum of 1,600 sq. ft. of air-conditioned living space per unit with two parking spaces to be provided within rear garages with alley access.

15. Comments made by Plating (Subdivision Ordinance), CIP, TxDOT, Fire, Parks and Water Department staff cannot be waived through the S-P-1 or S-P-2 site plan approval process. Approval of the zoning site plan does not constitute the acceptance of conditions and may need to be amended to match applicable code and engineering standards.

16. A total of 61 public notices were mailed. Staff has received no responses in support and 15 responses in opposition to this request. The opposition represents 8.09% of the land within 200 feet of the subject property. Since this is less than 20%, a ¾-vote is not required for approval.

17. The property is suitable for both the Compact Neighborhood land use and the R-TH zoning, and the development provides for housing needed by the community. Staff believes the exceptions requested in the revised site plan are appropriate, and can support this request.

**Recommendation**

The ordinance be approved with the site plan as revised.

**ADDITIONAL COMMENTS:**

**Contract Required:**

**Review Completed By:**

**Previous Action:**

**Council Action:**

**ATTACHMENTS:**

- Exhibit A: Legal Description (PDF)
- April 20, 2020 Planning and Zoning Meeting Minutes (PDF)
- Vicinity Map (PDF)
- Future Land Use Map (PDF)
- Surrounding Zoning Map (PDF)
- Property Owner Notification Map and List (PDF)
- Site Plan (PDF)
CURRENT YEAR FINANCIAL IMPACT:

NONE

REVISION INFORMATION:
Prepared: 4/3/2020 01:52 PM by Kenneth Bloom
Last Updated: 6/19/2020 09:40 AM by Steven Reed
ORDINANCE NO. ORD-2020-10333

ZONING CASE NO. ZC20-0010
ZONING CLASSIFICATION – S-P-2
AMENDING THE COMPREHENSIVE PLAN

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN CITY OF IRVING, TEXAS, ADOPTED JULY 20, 2017, FOR THE PURPOSE OF PROMOTING THE PUBLIC HEALTH, SAFETY, MORALS AND GENERAL WELFARE; AMENDING ORDINANCE NO. 1144, THE 1964 COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF IRVING, TEXAS, GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: A TRACT OF LAND OUT OF THE MARSHALL 2 ADDITION, AND LOCATED AT 920 SOUTH BELT LINE ROAD AND OUT OF THE MCKINNEY & WILLIAMS SURVEY, ABSTRACT NO. 1059, AND LOCATED AT 3324 WEST SHADY GROVE ROAD, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM M-FW FREEWAY DISTRICT USES UNDER ORDINANCE NO. 1144, AS AMENDED AND R-SFA SINGLE FAMILY ATTACHED DISTRICT USES UNDER ORDINANCE NO. 1144, AS AMENDED TO S-P-2 SITE PLAN DISTRICT FOR R-TH USES UNDER ORDINANCE NO. 1144 AND ACCORDING TO THE SITE PLAN ATTACHED HERETO AND MADE A PART HEREOF; PROVIDING FOR SPECIAL CONDITIONS AND REGULATIONS RELATIVE TO LAND USE; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE CHANGE IS IN ACCORDANCE WITH SUCH COMPREHENSIVE PLAN, AS AMENDED, FOR THE PURPOSE OF PROMOTING THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE; PROVIDING THAT THIS ORDINANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDINANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied; safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the
effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a need for this change in zoning and that there has been a change in conditions in the property adjacent to and in the surrounding area of the subject tract, therefore allowing and requiring this zoning change; and

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

SECTION 1. That Ordinance No. 2016-9869, adopting the Comprehensive Plan City of Irving, Texas, hereby is amended by changing the designation of the property described in the attached Exhibit A on the Future Land Use Map of the Comprehensive Plan from the Commercial Corridor category and the Open Space category to the Compact Neighborhood category, in order to render the Future Land Use Map and the Official Zoning Map, as amended by this ordinance, consistent for the property, for the purpose of promoting the public health, safety, morals and general welfare.

SECTION 2. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attached Exhibit A which is presently zoned M-FW Freeway District Use and R-SFA Single Family Attached District Use under Ordinance No. 1144, is changed to S-P-2 Site Plan District Use for R-TH uses under Ordinance No. 1144 of the City of Irving, subject to all the requirements of Ordinance No. 1144 and subject to all the requirements and conditions of Section 2-A of this ordinance.

SECTION 2-A. That the district use on the property described in Section 2 is hereby approved and granted upon the following express conditions:
That development and use shall be in conformance with the site plan attached hereto and made a part hereof for all purposes.

A true copy of the site plan attached hereto shall be retained by the Department of Planning and Community Development of the City of Irving.

That all means of ingress and egress shall be approved by the Department of Public Works of the City of Irving.

That all paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with the standard City of Irving specifications adopted for such purpose, and the same shall be done to the satisfaction of the Department of Public Works of the City of Irving.

The above requirements shall not be construed as conditions precedent to the granting of a zoning change, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.

SECTION 3. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 4. That in all other respects the use of the tract or tracts of land hereinabove described shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 5. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 6. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 7. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the tract or tracts of land described herein shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.

SECTION 8. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of the City of Irving, Texas.

RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
BEING a 20.7196 acre tract or parcel of land being a portion of Lot 1, Block A of MARSHALL ADDITION TWO, an Addition to the City of Irving, Texas, according to the Plat thereof recorded in Volume 86092, Page 2185 of the Map Records of Dallas County, Texas (M.R.D.C.T.) and that certain tract described in Warranty Deed to the City of Irving, recorded in Volume 96091, Page 2062, Deed Records, Dallas County, Texas (D.R.D.C.T.) and that certain tract described in Special Warranty Deed to JD Littlejohn and Rafiqul Islam, recorded in County Clerk's Instrument Number 201900277398, O.P.R.D.C.T., and being more particularly described by metes and bounds as follows:

BEGINNING at a point for the northeast corner of said JD Littlejohn and Rafiqul Islam located on the south right-of-way line of Shady Grove Road (a variable-width right-of-way);

THENCE South 09 degrees 49 minutes 52 seconds West, along the east line of said JD Littlejohn and Rafiqul Islam tract, a distance of 590.88 feet to a point for the northwest corner of Lot 1X, Block A, GRAFF FARMS PHASE 1C, recorded in County Clerk's Instrument Number 20070216085, O.P.R.D.C.T.;

THENCE South 09 degrees 42 minutes 02 seconds West, continuing along the east line of said JD Littlejohn and Rafiqul Islam tract and the West line of said Lot 1X, a distance of 52.55 feet to a point for the southeast corner of said JD Littlejohn and Rafiqul Islam tract and the southwest corner of said Lot 1X; said point also being an angle point in the north line of Lot 2 of said GRAFF FARMS PHASE 1C;

THENCE South 75 degrees 49 minutes 46 seconds West, along the south line of said JD Littlejohn and Rafiqul Islam tract and the north line of said Lot 2, a distance of 52.55 feet to a found 5/8 inch iron rod with plastic cap marked "MYCOSKE MCINNIS" for the southwest corner of said JD Littlejohn and Rafiqul Islam tract and the northwest corner of said Lot 2; said found iron rod also being located on the east line of the aforementioned MARSHALL ADDITION TWO;

THENCE South 00 degrees 20 minutes 54 seconds East, along the east line of said MARSHALL ADDITION TWO and the west line of said GRAFF FARMS PHASE 1C, and continuing along the west line of GRAFF FARMS PHASE 1B, recorded in Volume 2005155, Page 11, M.R.D.C.T., a distance of 987.99 feet to a found 1/2 inch iron rod for the southeast corner of that certain tract described in right-of-way deed to the County of Dallas, recorded in Volume 3830, Page 417, D.R.D.C.T.;

THENCE South 89 degrees 00 minutes 15 seconds West, along the south line of said MARSHALL ADDITION TWO, a distance of 483.68 feet to a 1/2 inch iron rod found for the southeast corner of that certain tract described in right-of-way deed to the County of Dallas, recorded in Volume 3830, Page 417, D.R.D.C.T.;
THENCE North 00 degrees 09 minutes 00 seconds East, along the east line of said County of Dallas tract, a distance of 1310.42 feet to a found 1/2 inch iron rod for the northeast corner of said County of Dallas tract;

THENCE North 30 degrees 49 minutes 27 seconds West, along the north line of said County of Dallas tract, a distance of 81.05 feet to a found 1/2 inch iron rod for the most southerly corner of that certain tract described in deed to the State of Texas, recorded in Volume 2001108, Page 469, D.R.D.C.T.;

THENCE North 07 degrees 00 minutes 34 seconds East, along the east line of said State of Texas tract, a distance of 139.92 feet to a 5/8 inch iron rod found at an angle point in said east line;

THENCE North 00 degrees 09 minutes 00 seconds East, continuing along the east line of said State of Texas tract, a distance of 100.00 feet to a 1/2 inch iron rod found at an angle point in said east line;

THENCE North 10 degrees 03 minutes 54 seconds West, continuing along the east line of said State of Texas tract, a distance of 104.55 feet to a 1/2 inch iron rod found for the northeast corner of said State of Texas tract located on the north line of the aforementioned MARSHALL ADDITION TWO;

THENCE South 87 degrees 20 minutes 49 seconds East, along the north line of said MARSHALL ADDITION TWO, a distance of 41.93 feet to a point;

THENCE South 77 degrees 00 minutes 38 seconds East, a distance of 206.16 feet to a point;

THENCE North 13 degrees 06 minutes 43 seconds East, a distance of 93.73 feet to a point on the north line of said MARSHALL ADDITION TWO;

THENCE South 74 degrees 34 minutes 22 seconds East, continuing along the north line of said MARSHALL ADDITION TWO, a distance of 260.38 feet to a 1/2 inch iron rod found for the northeast corner of said MARSHALL ADDITION TWO and the southwest corner of the aforementioned City of Irving tract;

THENCE North 00 degrees 07 minutes 51 seconds West, along the West line of said City of Irving tract, a distance of 41.01 feet to a point on the aforementioned south right-of-way line of Shady Grove Road; said point also being the beginning of a curve to the right having a radius of 1393.39 feet and a chord bearing South 57 degrees 34 minutes 07 seconds East, 74.34 feet;

THENCE Southeasterly, along said curve to the right and said south right-of-way line, through a central angle of 03 degrees 03 minutes 26 seconds, an arc distance of 74.35 feet to a point for the end of said curve and the beginning of a
curve to the left having a radius of 5794.86 feet and a chord bearing South 56 degrees 37 minutes 10 seconds East, 117.24 feet;

THENCE Southeasterly, along said curve to the left and continuing along said south right-of-way line, through a central angle of 01 degrees 09 minutes 33 seconds, an arc distance of 117.24 feet to the Point of Beginning and containing 20.7196 acres (902,546 square feet) of land.

**Comprehensive Plan Amendment**

FROM: “Commercial Corridor”

TO: “Compact Neighborhood”

**Zoning Change**

FROM: M-FW (Freeway) District, R-SFA (Single-Family Attached) District

TO: S-P-2 (Generalized Plan) District for R-TH (Townhouse) uses to allow the development of a new townhouse subdivision, with variances to the lot area, setbacks, and building height

- This case is scheduled for the May 7, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Sharon Barbosa-Crain, 2608 Alan-A-Dale, Irving, applicant’s representative, gave an overview of the proposed request, adding that the request is to change from FWY (Freeway) and FSA (Single Family Attached) uses to S-P-2 (Generalized Site Plan) District for R-TH (Townhouse) along with some variances. She added that this property has been vacant and never been developed. She also stated that a portion of the land is environmentally challenged, which will be used for open space and city access. The property is surrounded by various commercial and single family attached developments.

Ms. Barbosa Crain stated that they have modeled the LaPalazzi development that is located at Royal Lane, between Las Colinas and Love Drive. She added that this development is for single family, and not for condos or appartments. She then showed a picture to what it looks like and to be similar to their proposal.

Ms. Barbosa-Crain stated that the project designer, Jim Dewey, Jr., has designed this project to provide an ability to go in and out of a short driveway of each individual unit, and a full size garage that ordinarily does not happen in an R-TH development. She added that guest parking could be designed on site, and that some open space areas will be utilized for the community’s park and playground. She also stated that the Compact Neighborhood recommends 10 to 40 units per acres, and their request is to have 11 units per acres, which is way less of what is required. She added that this development will have an affect on this area as this development has not been done in the South side of Irving and it will be a catalyst for redevelopment, and that it will be compatible with all the current development in the surrounding area. She also added that the property owner has invested time and effort to bring this development to Irving. She added that the Traffic Department has approved all of the proposed streets and has taken care of many issues that people stated concerns for.

Chairman Spurlock called for individuals wishing to speak in favor. There was no one wishing to speak in favor of this item. He then called for individuals wishing to speak in opposition. The following people spoke in opposition:
• Ashley Dumas, 1452 Santa Anita Blvd., stated that many of her neighbors and herself are concerned about this multiunit housing at this site because the elementary school that is within a proximity of this development is at its full capacity, so wanted to know if another school would be funded. She also added that the street on Shady Grove is already overflowed with much traffic. She stated that around this area, more retail development is needed such as groceries stores. She also stated her concern about traffic and noise abatement.

• Aaron Shaddox, 1412 Santa Anita Blvd., stated that he echoed Ms. Dumas’ comments and that he doesn’t completely oppose the development, but rather would like clarification on couple of points; would there be an impact on school boundaries for school growth, and have they talked to the school board? He would like to know the square footage per unit on both land and structure. Would the units be sold individually? What type of fencing/barrier is proposed? He then stated that he was happy that the applicant is proposing beautification on Belt line with trees.

• Joseph Jinu, 1415 Santa Anita, echoed the previous speakers.

• Oscar Sample was on the line to speak, but was not able due to connectivity issues.

There was no one else wishing to speak in opposition of this item. Chairman spurlock then called on the applicant for a rebuttal period.

Ms. Barbosa-Crain responded that the school board is aware of their proposed project and she is not aware of any concerns from the board. She then stated that the City Council and the Planning and Zoning Commission has no authority over the school regulations, and that the School District will evaluate the situation every school year and will make its own recommendations or adjustments to keep their school population viable as needed. She stated that this development has zero effect on traffic on the entire Graff Farms Development, and believes that if anyone in that Subdivision has any problems with current traffic situations, they should contact the Traffic Department. She clarified that there will be no access to and from the Graff Farms Subdivision. Additionally, she added that this development will not be a gated community, but all open areas and the fence to be placed in a maintenance easement will be controlled by the Home Owner’s Association.

Chairman Spurlock then closed the floor for discussion and returned to the Commission for their consideration and a motion.

Commissioner Joy asked Ms. Barbosa-Crain to show the picture of the project that she presented earlier of the elevation model. Ms. Barbosa-Crain showed a front elevation picture. Commissioner Joy asked Ms. Barbosa-Crain if they have any anticipated cost for the units. Ms. Barbosa-Crain responded that they did not, but she is very sure that it will be an upscale and comparable development.

Commissioner Joy then asked Ms. Barbosa-Crain if the developer’s aim was to put as many units as possible in this footprint. Ms. Barbosa-Crain responded that his aim was that this development could be reasonable and viable first, and making it financially and feasible to build second. She added that Compact Neighborhood is a good change for the Comprehensive Plan Amendment.
Ms. Barbosa-Crain stated that for more than 15 years, there has not been a development being approved without any variances; therefore, they feel that what they are offering is a product that is saleable and popular and something that could have a positive consumer impact on that area of the city.

Vice-Chairman Burns asked Ms. Barbosa-Crain if there was no driveway parking – (there were some technical difficulties that Ms. Barbosa-Crain was not able to hear the question correctly). Ms. Barbosa-Crain responded that there is no parking prohibited by the city.

Vice-Chairman Burns moved to approve the zoning request for ZC20-00011, and to deny any variances requested by the applicant. Commissioner McPhail seconded the motion. He then withdrew it as he misunderstood the motion on the floor.

Chairman Spurlock asked if everyone understood the motion on the table: Approval of Zoning Change for R-TH (Townhouse), and denial of all the variances requested per the applicant.

Ms. Barbosa-Crain expressed her disagreement to the motion. She stated that many other variances have been granted to other developments that are currently built and occupied in the city

Carolyn Matthis, Assistant City Attorney, reminded Chairman Spurlock that there was a motion on the table.

Secretary Cronenwett stated that the townhome development is a good idea, but expressed his concerns about density. He then asked Ms. Barbosa-Crain what would happen to the development if the zoning portion is approved without the variances. Ms. Barbosa-Crain responded that the development will be killed as it will not be a viable development. She added that there were not suggestions from staff during the process, where they could’ve adjusted their layout. She then called on the Engineer for the project.

Jim Dewey Jr., 2500 Texas Drive, stated that they mirrored this development with the LaPalazzi development at Royal Lane and Las Colinas. He added that the hope is to sell those units at a lower price than the La Palazzi as this development will be in South Irving, which will be determined based on the market at that time. He stated that the LaPalazzi is a very successful project at Las Colinas, and has become very desirable mainly for the rear entry product. He stated that the townhouse ordinance is so outdated and the city officials are aware of it. He added that the townhouse development is not a buildable product anymore with its current regulations, but all of the townhouse developments that he has designed in Irving had requested major variances, which have been approved. He then presented the different Townhome Ordinance requirements and mirror proposals for the LaPalazzi and this development:

Ord. requires Lot Area of 2,240
Requested: 1,750
La PaLazzi was approved for: 1,518

Ord. requires Min. Lot Depth of 80
Requested: 70, some at 75
La PaLazzi was approved for: 54 (including 14 ft of alley)
Ord. requires Front Setback of 25
Requested: 15
La PaLazzi was approved for: 10

Ord. requires Rear Setback of 25
Requested: 10 from the alley
La PaLazzi was approved for: 0

Ord. requires Garage Setack: 25
Requested: 10 from alley
La PaLazzi was approved for: 0 from alley

Ord. requires Max Coverage: 70
Requested: 80
La PaLazzi was approved for: 82

Ord. requires Min. distance between buildings: 12, but has been lenient to approve 10 ft. for all development

Ord. requires Max Building Height: 30
Requested: 45 ft or 3 story
La PaLazzi was approved for: 2-3 stories

Mr. Dewey stated that they were modeling after the LaPalazzi development, but decided to make their lots bigger, less dense and provided more area all around the development. He added that staff does not provide a comparison on previously approved developments, but are basing their recommendations on the current ordinance requirements.

Secretary Cronenwett asked staff the reason why the variances are not being considered for this item as what the developer would like.

Steve Reed, Planning and Community Development Director, responded that in fact, there has been many towhouse developments approved throughout the City of Irving with many variances. He stated that each requests had been evaluated on individual basis, sometimes supporting the variances, some other times denying them, depending on the style, design, size, configuration, etc. He added that in this particular case, staff feels there is almost 21 acres of land where the developer has plenty of space and flexibility to lay out the property where they could meet the city requirements with fewer variances than what the applicant is requesting. He stated that he was fine with the land use request, but was reluctant to support all the many variances requested at this location.

Vice-Chairman Burns concurred with Mr. Reed’s comments, and added that the LaPalazzi development has serious traffic problems.
Mr. Dewey responded that they can agree to design off-street guest parking in some areas. He stated that a note has been added to the plan that no parking will be allowed on the grass and that the garage use will be exclusively for vehicles. He also stated that they were agreeable to make the garages 20 foot deep but don’t feel that they will have many issues or concerns.

Secretary Cronenwett seconded the motion.

Chairman Spurlock stated that this townhomes will be sold out without a doubt as he has seen very little of this type of development in the south side of Irving. His concern was the many variances requested.

Vice-Chairman Burns stated that staff made their recommendations and suggested to consider them.

Vice-Chairman Burns moved to approve Zoning Change request for Zoning Case #ZC20-00011. And to deny the variances requested by the applicant. Secretary Cronenwett seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried 5-3.

**Ayes:** Jack Spurlock, Bruce Burns, Mark Cronenwett, Alicia Kliner, Mike Joy

**Nay:** Mark Zeske, Michael McPhail, Misaki Collins

**Absent:** Jamie Patel

Discussion Time: 1 hr. 10 minutes
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City of Irving
Property Owner Notification List
Zoning Case
No. ZC20-0010
Page 2 of 3
Presentation for ZC20-0010

To: Planning and Zoning Commissioners
   City Planning Staff

From: Sharon Barbosa-Crain, representing
   Owner and Applicant of subject property

Date: April 13, 2020

While we are told at this time those involved with zoning cases will be allowed to make the customary verbal presentations at the Commission meeting, under certain health and safety conditions, we have also been asked to provide all the information we can in writing. Therefore, I am providing you this presentation in writing to ensure you have all relevant information from the applicant.

The subject property is located at 920 S. Beltline and fronts on both Beltline and Shady Grove. It is a 20.71 acre tract currently zoned M-FW (freeway) and SFA (single-family attached). The requested rezoning is for SP-2 for R-TH (a category of single-family attached). Surrounding properties are zoned as follows:
North-C-N, Multi-family, and Shady Grove Rd.
East-R-SFA and multi-family, C-C and C-N (northern portion of subject property); SF-detached (southern portion)
South-C-N
West-Beltline Rd.; west of Beltline is M-FW and C-C
North of Shady Grove there is C-N and ML-20 zoning on the corner and east of the corner R-6 and S-P.

Pursuant to city records of current zoning the uses on this property today include:
- Testing laboratories, manufacturing and assembly using prepared parts, manufacturing of food products and pharmaceuticals with some product exceptions, office building, private clubs, schools, institutions for religion culture or education, warehouse, recreational facilities including golf course and driving range,
- Single-family attached homes.

Rezoning this property as requested removes all uses except SFA in the form of townhomes only. It allows the variances requested, and requires all elements of the site plan regarding landscaping, transportation access, building size, etc.

The subject property is vacant and has not been previously developed. The owner has cleaned up the property which was overgrown and unkempt, graded it for future development, and planted a row of trees to shield this property from Beltline Rd.

The development is a townhome development, a single-family attached category. Townhomes are not apartments, nor even condominiums. Townhomes are located each on its own fee simple lot, and ownership is of the land and the improvements on the site. Townhomes have become a growing trend in home ownership because they provide the ability to own one’s home and lot with the freedom from outdoor maintenance because of reduced lot size. It provides owners the opportunity to have desired living space on smaller areas of land by building upward instead of outward.
The applicant has worked with the City to create satisfactory traffic access and fire protections for the proposed development. That includes a bridge to which internal streets have access to provide an outlet to Beltline. There is an entrance to the development providing access to Shady Grove from all internal streets. There is no driveway access to any public street. Nor is there any access from this development to the adjacent neighborhoods. The applicant worked with both the Transportation Department and Fire Department to create these designs that satisfy the requirements and requests of both departments.

The development itself is composed of approximately 186 dwelling units which is ca. 11 units per acre. Landscaping will comply with city ordinance. A six-foot masonry screening fence will be provided on Beltline and Shady Grove subject to site visibility requirements and existing or proposed utility easements. All perimeter screening fences shall be located in a wall maintenance easement and be a minimum of 6’ in height.

The dwelling units have rear entry garages. The alleys are public alleys. The garages meet the city standard of 400 sf. The minimum square footage in the development is 1,600 sf up to 2,000 sf or greater. While it is not possible to guarantee a price point for the various homes at this time, as new well-equipped homes their prices will be comparable to or greater than that of the existing homes surrounding them.

There will be a deed restriction filed with Dallas County that will allow no more than three homes to be owned by one individual. There is a prohibition against garage conversion to living space.

There will be an HOA formed to manage all common areas which include entrance way, open space, wall easement, masonry wall, playground, fountains, common landscaping.

The development is designed after the Palazzi development in Las Colinas off Royal Lane. The exception to this is the variances in this development are not as great as those in Palazzi. For instance, our lot sizes, both the reduced and those that meet or exceed the standard lot size do not include the alley; the lots sizes in La Palazzi do include the alley. Because of the distance to the center of the alley from the building, the ROW, and the lot depth, the actual alley access in this development is greater than that of La Palazzi. Our setback variances are less than those of La Palazzi. Our height request, which allows for common townhouse heights, are the same. We reference La Palazzi because of two things. One, the quality and appearance of La Palazzi are features we want in this development, and this existing development provides an illustration of the appearance of our development. Two, the P&Z and City Council approved La Palazzi with variances even greater than our requests.

In addition to La Palazzi, which is a townhome development, the P&Z and City Council have approved two single-family detached developments on 6th Street, on city property being sold to Hines Development, with variances as great or moreso than those of our development.

This development will have not only landscaping that meets the City’s requirements, but the line of trees shielding it from Beltline, and landscaping at both entrances. There will be a water fountain and landscaping installed in the roundabout within the entrance off Beltline. There will be extensive open space maintained for passive use and easy access for city maintenance of city facilities. There will be a 14,600 sf area for active open space including playground. The perimeter fencing placed in a maintenance easement ensures fencing next to adjacent properties will be kept up to standard. The site
plan requires the exterior materials consistent with this type development. While the City can not at this time make those materials a requirement, the applicant has placed them voluntarily on his site plan.

A compelling aspect of this development is the effect it will have on its surroundings and on the City’s housing inventory. For many years there has been discussion as to how to upgrade S. Beltline. To take a 20 acre tract of previously overgrown, unkempt vacant land, and turn it into a vibrant community of townhomes with both the attractiveness such a development as described will bring, but the buying power of a new group of residents in the middle of an area that has the capability to respond to consumer needs and wants is an opportunity the City does not often get. Already there exists in the area a number of consumer-based businesses. Those will receive expanded support. Chambers Nursery, Cliff’s Donuts, CVS Drug Store, Mama’s Daughters Café, Braum’s, Fiesta Grocery, are a few examples of businesses existing within a few blocks of this proposed development. Additionally, a major company is negotiating to place an operation on the hard corner of Shady Grove and Beltline due to the possibility of this development being approved.

The City has encouraged innovative development and development that will broaden its housing inventory. To install a desired type housing, additional units for those seeking a smaller lot footprint still with the amenities that go with a new home today, into an area with numerous multi-family and single-family neighborhoods is to create a deep and stable community of residents, residents who will support each other and the businesses and activities around them. It will spur new business along Beltline and can provide the catalyst for some of the changes we have wanted for a long time. The setting of this development takes advantage of what has been a tract of land that has not appealed to other users. This is a beautiful development set into an area of beautiful developments, older homes on large lots, lovely homes, many of them modest homes, on small and large lots, multi-family, single-family attached, city amenities like Southwest Park and Oak Meadow Park, both slated for upgrades and improvements. This owner sees a future and has been willing to show his optimism in that future by the attention he has already given this property. Allowing him to complete this vision will benefit us all.

We respectfully ask for a recommendation for approval of this zoning case and are available to answer any questions you might have.
Per the applicant's April 20, 2020 email, these are photos of the La Palazzi development in Irving. The applicant intends to build the proposed development in a similar configuration, layout and design. Exterior would not be as shown in the photos.

Staff Comments:
1) Photos 2 and 3 are not representative of the proposed development. These photos are for front driveways/garages. All garages are alley access only. No driveways in the proposed development are long enough to have any cars parked.
2) Per state law, the City cannot enforce any stipulations related to the exterior design of the buildings.
The subject property of this zoning case is a 20 acre commercially zoned tract of land located just south of the SE corner of Beltline and Shady Grove. The zoning change requested is for S-P-2 for TH to build two and three story Townhomes on the property. The configuration of the property is such there is an access on Shady Grave as well as Beltline. The Beltline access is a bridge over the low area that occurs adjacent to Beltline.

The Future Land Use Map recommends commercial corridor for this tract, which includes office, retail, and commercial uses. Current zoning is shown as M-FW and SFA. Staff suggests we request an amendment to Compact Neighborhood, which includes all types of single-family attached and detached homes, at units per acre of 10-40. This proposed development is for townhomes well within the range of units per acre.

Certainly the area is physically appropriate for the proposed development and capable of containing the number of residences proposed. On the Shady Grove side the property lies within and adjacent to an area of several residential neighborhoods, including Graff Farms. There is no highway or thoroughfare intrusion into the proposed neighborhood and access to Beltline and Shady Grove is appropriately managed and meets the requirements and requests of the Traffic Department and the Fire Department.

There is a tree line separating this development from Beltline, and a proposed 6’ masonry screening wall separating it from both Shady Grove and Beltline.

There is no land shortage for non-residential development created by this project. This property was previously undevelopable until it was cleared and graded by this owner. Considerable cleanup was done on it and in the area adjacent to Beltline. Trees have already been planted in this area.

The hard corner on SE Beltline and Shady Grove intersection is under contract for potential redevelopment for a compatible retail operation. This would replace an older auto-related business. This redevelopment potential is a result of this proposed project.

There are no negative effects from this proposal.

While the proposed project has several variances, they are all variances which have been granted to other similar projects in other parts of the city. That includes the lot sizes, which range from less than the required 2450’ to greater than the requirement. The proposed lot sizes and allowing three-story homes provide a variety in the style and sizes of the homes and increases the appeal to a more diverse demographic than just one size and style. There is no variance to the landscaping requirements; all
signage, lighting, surfaces, and street widths meet City requirements. There is a 14,600 square foot play area provided and other open spaces areas within the development. There are also entryways with design elements as well as the bridge which will have similarly configured designs. An HOA will be formed to take care of the common areas.

Adding these additional single-family attached homes will increase the City’s available housing inventory. It will provide a wider choice for the different age and economic groups in the City. It will take a previously vacant and unattractive area and turn it into a project not only beneficial to the homeowners, not only beneficial to the City’s tax base, but one that will have significant effect on Shady Grove Road and Beltline Road. These homes will join the newer Graff Farms, and the older but well-kept and beautiful neighborhoods between Graff Farms and Etain Rd., and other residential neighborhoods that exist beyond Etain as Shady Grove moves on toward the Shady Grove/Story intersection. This intersection contains numerous businesses including a grocery store, dry cleaners, Mama’s Daughters’ Diner, Cliff’s Doughnuts, and other popular South Irving establishments. The inhabitants of these homes will be served by this commercial and retail as well as Chambers Nursery on the north side of Shady Grove which lies between the property at the corner of Beltline and residential neighborhoods that extend to the Shady Grove/Story commercial/retail area.

The design of this project is sound in its layout and traffic and fire access. Its design, replicating that which has been created in other parts of the City, especially in the far northern area of the city; is modern, adapted to the desires of homeowners who want their own property, but not the yards that go with detached dwellings; and appeals to a broad age range.

This proposed development provides a beautiful and secluded area, separated from Beltline by trees and wall and nestled among other homes. It offers new residents to be served by businesses on both streets, and an impetus for redevelopment on Beltline to serve neighborhoods to the East. This development can serve as a catalyst for improvements, beautification, and business expansion in an area that has been the subject of discussions as to how that can occur.

For all these positive reasons we respectfully request the granting of this Comprehensive Plan Amendment Request.
Return to: Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

OR Planning@cityofirving.org

I am FOR the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

I am AGAINST the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

Date, Location & Time of:

PLANNING & ZONING COMMISSION MEETING: Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: _____________________________________________________________________
Ashley Marie Dumas  
1452 Santa Anita Blvd  
Irving, TX 75060-4793

Address: ____________________________________________________________________

Tax Account (DCAD) Number (if shown on enclosed map): I do not see a tax account number

Signature: ____________________________
Ashley M. Dumas

Date: ____________
3/21/2020

Phone number (optional) ____________________________
214-793-2350

Please provide comments explaining the reasons for your support or opposition:

Unless I know the design, architecture and pricing for said Townhomes, I do NOT approve of this Rezoning.

__________________________________________________________________________

__________________________________________________________________________

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__________________________________________________________________________

SD
PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

OR Planning@cityofirving.org

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Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING:
Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: OSCAR D. SAMPLE
Address: 1459 SANTA ANITA BLVD

Tax Account (DCAD) Number (if shown on enclosed map):

Signature: OSCAR D. SAMPLE
Date: 4/2/2020

Phone number (optional)

Please provide comments explaining the reasons for your support or opposition:

See Attached

SD
PUBLIC COMMENT FORM  
(Please type or use black ink)

Return to:
Planning and Community Development Department  
PO Box 152288  
Irving, Texas 75015-2288  
OR Planning@cityofirving.org

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**PLANNING & ZONING COMMISSION MEETING:**  
Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

**CITY COUNCIL MEETING:**  
Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name:  
LADELE CURRY  
(please print)
Address:  
1443 SANTA ANITA BLVD

Tax Account (DCAD) Number  
(if shown on enclosed map):

Signature:  
[Signature]
Date:  
4/9/2020

Phone number (optional):

Please provide comments explaining the reasons for your support or opposition:

**Significant increase in traffic**

__________________________________________
SD
PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:
Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

OR Planning@cityofirving.org

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Date, Location & Time of:

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City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Ramon Sandiford
Address: 1419 Santa Anita Blvd

Tax Account (DCAD) Number (if shown on enclosed map):
Signature: [Signature]
Date: 4/15/2020

Phone number (optional)

Please provide comments explaining the reasons for your support or opposition:

I write in connection with the above Planning application. I have examined the plans and I know the site well. I wish to object strongly to the development of 10 houses in this location. Such a small settlement, other development proposals should be considered very carefully. Infilling could ruin the character of this area, while estate development would overwhelm it and decrease property value.

SD
PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:
Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

OR Planning@cityofirving.org

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I am AGAINST the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

Date, Location & Time of:

PLANNING & ZONING COMMISSION MEETING:
Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING:
Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: LINDA A. GIANAN
Address: 14560 SANTA ANITA BLVD
          IRVING, TEXAS 75060

Tax Account (DCAD) Number (if shown on enclosed map):

Signature:

Date: 04/11/2020

Phone number (optional) 972-757-6708

Please provide comments explaining the reasons for your support or opposition:

We need a park or decent eating place in which we can enjoy with our own family. A healthy environment to live in.
PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

OR Planning@cityofirving.org

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City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: SKARIA C. ELIMOHOMI

Address: 1455 SANTA ANITA BLVD
IRVING, TX 75060.

Tax Account (DCAD) Number (if shown on enclosed map):

Signature: 

Date: 4/12/2020

Phone number (optional) 469-565-2267

Please provide comments explaining the reasons for your support or opposition:

________________________________________________________________________

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SD
PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:
Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288
OR Planning@cityofirving.org

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PLANNING & ZONING COMMISSION MEETING: Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Hemant Pandya
Address: 1451 Santa Anita Blvd. Irving, TX 75060

Tax Account (DCAD) Number: 32149808A0170000
Signature: Pandya
Date: 03-27-2020
Phone number (optional): 817 832 0429

Please provide comments explaining the reasons for your support or opposition:

1) A commercial property behind me is safe. For me.
2) A multi-family property will be a nuisance, hooligans decrease in living standards.
3) Hygienic criteria must be considered.
4) More fire hazard due to traffic congestion.
Packet Pg. 767

PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:
Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288
OR Planning@cityofirving.org

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City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Jinu K Joseph
Address: 1415 Santa Anita Blvd Irving TX 75060

Tax Account (DCAD) Number (if shown on enclosed map):
Signature: [Signature]
Date: 03/30/2020
Phone number (optional) 347-241-2032

Please provide comments explaining the reasons for your support or opposition:

Once they made development in this area my home having some foundation problem. Lot of mud moving from my land to their and lot of issues with my house and cracks in my foundation, so please stop any building in that area.

SD JKT
PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:
Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288
OR Planning@cityofirving.org

I am FOR the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

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Date, Location & Time of:

PLANNING & ZONING COMMISSION MEETING: Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Stephen Wisdom
(please print)
Address: 1431 Santa Anita Blvd
Irving, TX 75060

Tax Account (DCAD) Number
(if shown on enclosed map):

Signature: Stephen Wisdom

Date: 4/9/2020

Phone number (optional)

Please provide comments explaining the reasons for your support or opposition:

184 units means hundreds more people with more noise. Our streets will become congested. The local school will be overcrowded. More cars will cause more pollution to our environment.
PUBLIC COMMENT FORM
(Please type or use black ink)

Return to:

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

OR Planning@cityofirving.org

I am FOR the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

I am AGAINST the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

Date, Location & Time of:

PLANNING & ZONING
COMMISSION MEETING: Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: BIPIN KOIRALA

Address: 1427 Santa Anita blvd
irving, tx 75060

Tax Account (DCAD) Number (if shown on enclosed map):

Signature: BipinKoirala

Date: 04/09/2020

Phone number (optional)

Please provide comments explaining the reasons for your support or opposition:

The security with new apartment being built to the back side of our home. The house area has a School, which will have the impact on the traffic and new faces to track on the Area. Higher density housing area might have or the chance for higher crime rate.
Return to:

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288
OR Planning@cityofirving.org

I am FOR the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

I am AGAINST the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

Date, Location & Time of:

PLANNING & ZONING COMMISSION MEETING: Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Emerson Le
(please print)
Address: 1467 Santa Anita BLVD

Tax Account (DCAD) Number (if shown on enclosed map): 321498100A0210000
Signature: 
Date: 4/12/20
Phone number (optional): 917-271-7880

Please provide comments explaining the reasons for your support or opposition:

bad for environment
Return to:
Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

OR Planning@cityofirving.org

I am FOR the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

☒ I am AGAINST the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

Date, Location & Time of: 14 Apr 2020

PLANNING & ZONING COMMISSION MEETING: Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Edward E. Clements Jr
(please print)

Address: 1463 Santa Anita Blvd
Irving, TX 75060

Tax Account (DCAD) Number (if shown on enclosed map):

Signature: Edward E. Clements Jr

Date: 14 Apr 2020

Phone number (optional) 912 853-9892

Please provide comments explaining the reasons for your support or opposition:

Opposition - Irving has plenty of “Luxury Apts” etc. Here it would congest traffic, decrease overall property value, possibly introduce criminal activity & take away the privacy + home-y feel of my neighborhood + my home.

______________________________
SD
I am AGAINST the requested zoning as explained on the attached public notice for Zoning Case #ZC20-0010.

Date, Location & Time of:

PLANNING & ZONING COMMISSION MEETING: Monday, April 20, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, May 7, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: TUU LE
(please print)
Address: 1446 FURLONG CT.
IRVING, TX 75060
Tax Account (DCAD) Number: 04/14/2020
Signature:
Date:
Phone number (optional)

Please provide comments explaining the reasons for your support or opposition:

I am AGAINST the requested zoning because:

Traffic concern, crime rate will go up since more people, noise level will go up since more people, home value diminution.

SD
From inbox

The City of Irving is updating its Zoning and Subdivision ordinances. If you would like to get involved, please take this survey and visit our website.

Don’t forget to tell us what you think!
Please fill out our customer service survey.

Respectfully,
Troy Wynne | Senior Planner – Maps and Research
City of Irving | Planning and Community Development
825 W. Irving Blvd., Irving, TX 75060
P: (972) 721-8069
wynne@cityofirving.org | CityofIrving.org

From: Aaron Shaddox [mailto:aaron@lilymoorerealty.com]
Sent: Monday, April 20, 2020 8:11 PM
To: Planning <Planning@cityofirving.org>
Subject: [External] RE: Concern/Opposition and request to speak regarding ZC20-0010

USE CAUTION when clicking links & opening attachments!

Esteemed Planning Commissioners,

A little disappointed that we could not get questions/answers clarified as Sharon’s answer did not clarify quite a bit.

In regards to fencing, the HOA owns no fence or common area behind the homes on Santa Anita side that are being directly impacted. With her statement, assume that she is saying the existing fence of the homes will be the barrier … nothing else.

In regards to traffic impact on Santa Anita … with the townhomes come additional children that will go to Stipes and will have to traverse Santa Anita (closest access to the is proposal). Under our current environment, a little disappointed that Sharon only stated that “they were notified and we received no response”. Would still like planning and zoning to address as this is an integral part of this new community.

Again, not opposed, just would like concerns to be address.

Thanks in advance,
From: Aaron Shaddox  
Sent: Friday, April 17, 2020 7:40 PM  
To: planning@cityofirving.org  
Subject: Concern/Opposition and request to speak regarding ZC20-0010

To whom it may concern,

Aaron Shaddox  
1412 Santa Anita Blvd  
Irving, TX 75060  
214-280-7600  
Opposed

BEFORE the space at Beltline and Shady Grove is rezoned to allow a 186-unit townhouse community, the residents of Graff Farms - single family homes - would like MORE information to understand what is being built.

- Square footage of the units
- Pricing of the units
- Initial for sale or lease?
- Fencing/Bordering between Santa Anita residents and townhouse
- Traffic to the existing elementary school is already overwhelming Santa Anita Blvd and multiple requests for stop signs and/or red lights have been made for Shady Grove and Santa Anita due to this issue
- Immediately upon the clearing of the land near the area, the influx of wildlife has resulted
in issues for the already existing neighborhood (feral hogs have moved to the south of the neighborhood)

Because the residents of Graff Farms are generally opposed to this development, we would like the opportunity to express our concerns and GET ANSWERS as partners of South Irving. This does not refer specifically to those within the 200 ft. area, but all of those who will be impacted by the changes. Those on streets other than Santa Anita Blvd want the opportunity to be heard due to the overall issue that will impact additional neighborhood traffic to Stipes Elementary.

I would like to be given a few minutes to speak these concerns and others..

Thanks in advance,

-----------------------

Aaron Shaddox
Realtor® & Ops Director
214-280-7600
Aaron@LilyMooreRealty.com
1301 Solana Blvd. Suite 1505
Westlake, Texas 76262

Google Reviews | Zillow Reviews | LilyMooreRealty.com

Texas Law requires all Texas License Holders to provide the following information:
Information About Broker Services | TREC Consumer Notice
To whom it may concern,

Aaron Shaddox  
1412 Santa Anita Blvd  
Irving, TX 75060  
214-280-7600  
Opposed

BEFORE the space at Beltline and Shady Grove is rezoned to allow a 186-unit townhouse community, the residents of Graff Farms - single family homes - would like MORE information to understand what is being built.

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I would like to be given a few minutes to speak these concerns and others,

Thanks in advance,
Opposed: Need more information

From
Renjan & Nisha Mathew
1636 Santa Anita Blvd
Irving, TX 75060

This is to request you to consider our concerns regarding ZC20-0010:
BEFORE the space at Beltline and Shady Grove is rezoned to allow a 186-unit townhouse community, the residents of Graff Farms - single-family homes - would like MORE information to understand what is being built.

- What is the current zoning? What possible construction will happen with the current zoning?
- It looks like wetland and not suitable for any kind of construction but now we are seeing aggressive landfilling without considering the ecological impact
- What kind of environmental impact is studied?
- Will additional landfilling will make Santa Anita and beltline prone to floods?
- How are the drainage and rainwater flow managed with the landfilling and additional construction?
- What can the city do to address the area being prone to floods?
- What are the proposed square footage of the units and pricing of the units
- Discussion of the need for more retail (grocery, food service) in the area vs. more housing - BECAUSE
  - Traffic to the existing elementary school is already overwhelming Santa Anita Blvd
  - State changes to early childhood development centers will add to the over-population
  - South Irving has become the dumping ground for Irving residents - we want retail, food service, grocery stores, etc. NOT more multi-family housing when we don't have the infrastructure already in place to handle the influx of residents
  - Immediately upon the clearing of the land near the area, the influx of wildlife has resulted in issues for the already existing neighborhood

Because the residents of Graff Farms are generally opposed to this development, we would like the opportunity to express our concerns and GET ANSWERS. This does not refer specifically to those within the 200 ft. area, but all of those who will be impacted by the changes. Those on streets other than Santa Anita Blvd want the opportunity to be heard.

For that reason, please put me or a designated representative (should something change in the next 72 hours) to speak about our overall opposition to this project and the REAL needs for South Irving - the neglected part of our fair city.

Thank you!
Renjan Mathew
Confidentiality Warning: This transmission is intended only for the proper recipient and may contain information that is confidential and/or privileged. If you received this message in error or are not the intended recipient, (A) you are hereby notified that the dissemination, distribution or copying of this message is strictly prohibited, (B) please notify the sender at either the e-mail address or telephone number above, and (C) delete this email from your computer. Thank you.
Opposed: Need more information

From
Renjan & Nisha Mathew
1636 Santa Anita Blvd
Irving, TX 75060

This is to request you to consider our concerns regarding ZC20-0010: BEFORE the space at Beltline and Shady Grove is rezoned to allow a 186-unit townhouse community, the residents of Graff Farms - single-family homes - would like MORE information to understand what is being built.

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Thank you!
Renjan Mathew

--

Renjan R. Mathew, Ph.D. || Clinical Neuropsychologist
Tel. +1-469-444-3226 || Fax. +1-469-208-0240

http://dfwneuropsychology.com/home

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City of Irving
Protest Analysis Map
Zoning Case
No. ZC20-0010

Total Area within 200'
(Excluding Subject Parcel) = 24.2196 AC
Total Area Protesting = 1.9584 AC
Percentage of Area Protesting = 8.09%

Property Under Consideration For Rezoning
City Limits
200 Ft Notification Boundary
Additional Opposition (+1 off map)
Comprehensive Plan Amendment and Zoning Case ZC20-0010

- 920 S. Belt Line Road
- **Future Land Use Change:** From “Commercial Corridor” and “Open Space” to “Compact Neighborhood”
- **Zoning Change**
  - **From:** M-FW (Freeway) and R-SFA (Single Family Attached)
  - **To:** S-P-2 (Generalized Site Plan) for R-TH (Townhouse) uses with variances
- Recommended for **Approval by the P&Z as amended** with no variances; 5-3
- 15 responses in opposition (8.09%)
- This case was postponed from the May 7 hearing; **a revised site plan was provided**
### Requested Variances to TH Standards

<table>
<thead>
<tr>
<th></th>
<th>Required for R-TH</th>
<th>Requested at PZ</th>
<th>Revised</th>
<th>Variance to TH Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum lot area</td>
<td>2,240 sq. ft.</td>
<td>1,750 sq. ft.</td>
<td>2,125 sq. ft.</td>
<td>115 sq. ft.</td>
</tr>
<tr>
<td>Minimum lot depth</td>
<td>80 ft.</td>
<td>70 ft.</td>
<td>85 ft.</td>
<td>N/A</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>25 ft.</td>
<td>15 ft.</td>
<td>10 ft.</td>
<td>15 ft.</td>
</tr>
<tr>
<td>Rear yard setback</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>25 ft.</td>
<td>N/A</td>
</tr>
<tr>
<td>Min. Distance b/w structures</td>
<td>12 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>2 ft.</td>
</tr>
<tr>
<td>Garage door setback (from alley)</td>
<td>25 ft.</td>
<td>10 ft.</td>
<td>25 ft.</td>
<td>N/A</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>70%</td>
<td>80%</td>
<td>80%</td>
<td>10%</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>30 ft.</td>
<td>3 stories or 45 ft.</td>
<td>3 stories or 45 ft.</td>
<td>1 story or 15 ft.</td>
</tr>
</tbody>
</table>
Current 100-Year Floodplain
Approximate Location of Belt Line Rd. Entry
Neighbor Commercial Property to the North
Residential Subdivision to the East
Resolution -- Special Fence Project Plan #ZC20-0019 - Considering a Variance to Chapter 15 of the City of Irving Land Development Code to Allow a Fence Along the Side Property Line Along Marie Lane - Property Located at 122 W. Vilbig Street - Marcus James, Applicant/Owner
(Postponed from the June 4, 2020 City Council Meeting)

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendations: May 4, 2020 - Approval subject to the fence being limited to six (6) feet tall, 7-0 (Commissioners Kliner and Patel, absent). A revised site plan was provided to address the recommendations of the Planning and Zoning Commission.

2. The subject property is a 12,500 square foot single family lot in the Caster Estates 5 Addition. The applicant is proposing a special fence project plan to allow an eight (8) foot tall fence along the side property line within a projected front yard along Marie Lane. The applicant would be removing the existing 8-ft tall fence that is built over the property line.

3. The site is currently developed with a single family home that was constructed in 1955. The property is a corner lot and has double frontage on both W. Vilbig Street and Marie Lane. If built today, the house would have been constructed to face Marie Lane, like the home adjacent to it, in order to avoid creating a back yard that was adjacent to a front yard, also known as a “key lot.” However, the home was constructed to face W. Vilbig Street, and established the side yard on Marie Lane.

4. The current owner bought the home in 2019. Shortly thereafter, they received a Code Enforcement complaint regarding the portion of the fence along Marie Lane. At that time, it was discovered that the fence was constructed without a permit by the previous owners and within the projected front yard. (A projected front yard occurs when the side property line of one house is next to the front yard of the next house.) The fence is solid wood and is eight (8) feet tall along Marie Lane and connects to a six (6) foot solid wood fence along the south property line. The owner was cited for the fence not having a permit, the poor condition of the fence at the southeast corner of the lot, and the height and material of the fence.

5. The owner was instructed to obtain a fence permit, to repair the damaged areas, and to either alter the height of the fence to 4 feet with 50 percent through-visibility for a front yard fence or request a Special Fence Project Plan for the needed exceptions for height and a solid fence. Staff also realized, upon inspection of a survey of the property, that the fence was inadvertently constructed several inches into the right-of-way for Marie Lane. The fence must be moved so that it is no longer within the right-of-way. An exception cannot be given to this item.

6. Sec. 15-10 prohibits fences within the front yard or exterior side yard setback from exceeding four (4) feet in height, and such fences must also allow for 50 percent through-visibility. The applicant originally requested an exception to allow a solid wood fence that is eight (8) feet in height on the property line adjacent to Marie Lane.
Lane. At the May 4, 2020 Planning and Zoning Commission meeting, the applicant agreed to reduce the height of the fence to six (6) feet, per the Planning and Zoning Commission request, and provided a revised site plan.

7. The applicant maintains that the reason for the request is to provide increased privacy, safety, and security for their side yard. The air conditioning units and other electrical boxes are located within the side yard and, additionally, the owner has a child whose bedroom window is on that side of the home.

8. The applicant was also made aware that the neighbor to the south, whose side yard abuts their rear yard, is also concerned about visibility when pulling out of his driveway. Because of this, the applicant is willing to move the fence to create a 10-foot visibility clip where their property lines meet.

9. While the sequence of past events that led to the violations at hand are not the fault of the current owner, the issue of the fence must be rectified. The applicant is willing to do the following:
   • Obtain a fence permit.
   • Repair the area of the fence that is damaged.
   • Move the fence to the property line.
   • Provide a 10-foot visibility clip where his rear property line meets his neighbor’s side property line.

10. The applicant will still need the following exception:
   • An exception to locate a fence taller than four (4) feet that does not have 50 percent through-visibility on the property line in a projected front yard.

11. A total of 37 public notices were mailed. Staff has received 10 responses in support and 2 responses (from the same address) in opposition. The opposition represents 4.33% of the land within 200 feet of the subject property. Since this is not a zoning case, a simple majority is required for approval of this item.

12. During the June 4, 2020 City Council hearing, the applicant explained that he preferred the 8 ft. fence and intended to replace the entire fence on his rear property line at 8 ft. as allowed per code, and therefore the heights would be the same. The City Council postponed this case to give the applicant time to revise the site plan to provide an 8-foot tall fence on the east and south property lines with a 10-ft. x 10-ft. visibility clip. The site plan has been revised to reflect the entire fence line with an 8 ft. fence.

13. Given the circumstances on when and how the property was developed, staff does not object to the fence being in the projected front yard along Marie Lane.

**Recommendation**

The resolution be approved for a maximum 8 ft. tall fence, per the revised site plan.

**ADDITIONAL COMMENTS:**

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ATTACHMENTS:
Exhibit A: Legal Description (PDF)
Exhibit B: Site Plan (PDF)
May 4, 2020 Planning and Zoning Meeting Minutes (PDF)
Vicinity Map (PDF)
Surrounding Zoning Map (PDF)
Property Owner Notification Map and List (PDF)
Applicant’s Letter of Justification (PDF)
Public Comment Forms in Support (PDF)
Public Comment Forms and Emails in Opposition (PDF)
Protest Analysis Map (PDF)
Staff Presentation (PDF)

CURRENT YEAR FINANCIAL IMPACT:
N/A

REVISION INFORMATION:
Prepared: 5/6/2020 12:43 PM by Kenneth Bloom
Last Updated: 6/18/2020 11:51 AM by Steven Reed
CITY OF IRVING
COUNCIL RESOLUTION NO. RES-2020-181

WHEREAS, the City Council has reviewed an application under Section 52-55 of Zoning Ordinance No. 1144, the comprehensive zoning ordinance of the City of Irving, Texas, and Chapter 15 of the Irving Land Development Code for a special fence project plan in order to seek a variance to the requirements of the City of Irving’s fence ordinance; and

WHEREAS, the City Council has conducted a public hearing to take testimony on the advisability and wisdom of granting the variance requested; and

WHEREAS, the City Council finds that granting the variance requested will not compromise the public health, safety, welfare, and morals of the City of Irving;

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

SECTION I. THAT the application for a special fence project plan filed by Marcus James, Applicant/Owner, Special Fence Project Plan No. ZC20-0019, located at 122 W. Vilbig Street on land described in Exhibit A, attached hereto, for a variance to allow a fence along the side property line along Marie Lane, as shown on Exhibit B, attached hereto, is hereby approved.

SECTION II. THAT the effect of this special fence project plan shall be that the owner or lessee of the property described in Section I shall be subject to all the requirements of Chapter 15 of the Irving Land Development Code; however, it shall be an affirmative defense to a prosecution under Chapter 15 of the Irving Land Development Code if the violations alleged are specifically authorized by this resolution.

SECTION III. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

______________________________
Kuruvilla Oommen
City Attorney
EXHIBIT A: LEGAL DESCRIPTION

SPECIAL FENCE PROJECT PLAN ZC20-0019

Lot 12, Block O, Caster Estates 5 Addition
Exception from Sec. 15 for:
8-tall fence on side yard property line of reverse frontage lot
10 x 10 foot corner clip at southeast corner of lot.
With condition that fence will be moved out of right-of-way.

Applicant: Marcus James

90077703° E
W. VILBIG STREET

ONE STORY BRICK (122)

RECEIVED
FEB 26 2020
Planning and Community Development Department

ONE STORY BRICK (122)

W. VILBIG STREET

ONE STORY BRICK (122)

8-foot tall fence

Visibility Corner Clip

8-foot tall fence

Exception from Sec. 15 for:
8-tall fence on side yard property line of reverse frontage lot
10 x 10 foot corner clip at southeast corner of lot.
With condition that fence will be moved out of right-of-way.

Applicant: Marcus James

REQUEST: Exception to Chapter 15 of the Land Development Code to construct an 8-foot tall wooden fence within the side yard setback along Marie Lane

- This case is scheduled for the June 4, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Marcus James, applicant, offered himself for any questions the Commission may have, adding that he bought his house in 2008 that had an 8-foot tall fence on the side of Marie Lane, and his request is to keep the fence as is for protection and as a safety zone for his child. He stated that he is willing to move it to the property line with the 10’ x10’ corner clips.

Chairman Spurlock asked the applicant if he was aware that the staff recommendation was for him to lower the fence to 6 feet. Mr. James responded that he was made aware earlier today, and agrees with the recommendation.

Chairman Spurlock called for individuals wishing to speak in favor or opposition of this item. There was no one wishing to speak in favor or opposition of this item.

Discussion was closed to the floor and returned to the Commission for their consideration and a motion.

Vice-Chairman Burns moved to forward Zoning Case #ZC20-0019 to the City Council with a recommendation of approve subject to the fence be lowered to six (6) feet in height. Commissioner Joy seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried unanimously.

**Ayes:** Jack Spurlock, Bruce Burns, Mark Cronenwett, Mark Zeske, Michael McPhail, Misaki Collins, Mike Joy

**Absent:** Jamie Patel, Alicia Kliner

Discussion Time: 6 minutes
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**City of Irving**

**Property Owner Notification List**

**Zoning Case**

**No. ZC20-0019**

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My reasons for this variance are:

First, if I remove my fence starting at the end/corner of my house where Marie Ln faces it would leave my 5-year-old window out in the open instead of being secure inside the fence.

Second, my electrical panel and my A/C unit would be out in the open. I didn’t have to worry about it being outside of my fence. I purchased my house back in August of 2019 the fence was already there. It was also listed in Zillow with the fence at its current location.

Third, my fence has been located where it’s at for more than 11 years. I don’t expect special treatment I would like to keep my fence 8ft tall, moved to my property line and make a 10X10 angle for our neighbors’ sight.

Thank you,
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

☑ I am FOR the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

☐ I am AGAINST the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

Date, Location & Time of:

PLANNING AND ZONING COMMISSION MEETING:
Monday, May 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING:
Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: REBECCA CHANDLER
(please print)
Address: 121 West Wilbig St.

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional):

Signature: REBECCA CHANDLER

Date: 4-28-2020

Please provide comments explaining the reasons for your support or opposition:

the fence is already in place and has been for "years".

GG
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas  75015-2288

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City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING:  
Thursday, June 4, 2020, 7 p.m.  
City Hall, 825 W. Irving Blvd.

Name:  Lorraine Frances Nelson  
(address)

Address:  1702 Marie Lane 
IRVING TX 75060

Irving Tax Account Number 
(if shown on enclosed map): 

Phone # (Optional):  817-223-4450

Signature:  Lorraine Nelson

Date:  April 29, 2020

Please provide comments explaining the reasons for your support or opposition:  
It's beautiful!

I am authorizing Marcus James to deliver my form via mail or hand delivered.  Lorraine Nelson
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

☑️ I am FOR the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

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Monday, May 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING:

Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: [signature]

Address: 1704 Marie Lane

IRVING, TX 75060

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional):

Signature: [signature]

Date: 4-20-20

Please provide comments explaining the reasons for your support or opposition:

[Handwritten comments]

[Signature]

GG
PUBLIC NOTICE
Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

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Monday, May 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

**CITY COUNCIL MEETING:**
Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Reba Horn (please print)
Address: 1613 Upton Pl

Irving Tax Account Number (if shown on enclosed map):

Phone # (Optional):

Signature: ____________________________

Date: ____________________________

Please provide comments explaining the reasons for your support or opposition:

Marcus will send this.

______________________________

______________________________

______________________________
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

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City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: [Signature]
Address: 1608 Upton Pl.

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional):

Signature: [Signature]
Date: 4/29/2020

Please provide comments explaining the reasons for your support or opposition:

Marcus will send in this paper. (Unreadable text)

GG
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

I am FOR the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

I am AGAINST the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

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PLANNING AND ZONING
COMMISSION MEETING: Monday, May 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Rhonda Upshider
(Please print)

Address: 114 Marie Lane

Irving, TX 75060

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional):

Signature: Rhonda Upshider

Date:

Please provide comments explaining the reasons for your support or opposition:

Marcus will send Rhonda Upshider

GG
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

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___ I am AGAINST the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

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City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Maria and Miguel Rojas (please print)
Address: 1717 Marie Lane
IRVING, TX 75060

Irving Tax Account Number
(if shown on enclosed map): 

Phone # (Optional): 972-273-0119

Signature: Miguel A Rojas
Date: 4/29/2020

Please provide comments explaining the reasons for your support or opposition:

Miguel will send the paper

Miguel A Rojas

________________________________________________________ GG
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

I am FOR the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

I am AGAINST the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

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City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Sheila A. Messerly  
Address: 1713 Marie Lane
IRVING, TX 75060

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional): 972-264-1575

Signature:

Date: 4/29/20

Please provide comments explaining the reasons for your support or opposition:

Marcy James will send Sheila Messerly

____________________________________

GG
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

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CITY COUNCIL MEETING: Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Marcus James (please print)
Address: 122 W. Vilbig St.
Irving, TX 75062

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional): 214-600-6974

Signature: ____________________________
Date: April 28, 2020

Please provide comments explaining the reasons for your support or opposition:

I support the 8 ft. fence on Marie Lane & other project being done.

______________________________ GG
PUBLIC NOTICE

Planning and Community Development Department
PO Box 152288
Irving, Texas 75015-2288

I am FOR the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

I am AGAINST the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

Date, Location & Time of:

PLANNING AND ZONING COMMISSION MEETING: Monday, May 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

Name: Sheila O. Messerly (please print)

Address: 1713 Marie Ln

Irving TX 75060-6802

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional): 972-264-1525

Signature: Sheila O. Messerly

Date: 4-29-20

Please provide comments explaining the reasons for your support or opposition:

I hope the requested project is approved.

__________________________

GG
I am AGAINST the requested zoning on the public notice for Special Fence Project Plan #ZC20-0019

Name: C. CONRAD OKECHI

Address: 1709 Marie Lane, Irving, TX 75060
Phone #: (214) 200 6724
Signature: CCOkechi
Dated: May 1, 2020

COMMENTS EXPLAINING THE REASONS FOR MY OPPOSITION:

1) An 8-foot fence on the side along Marie Lane is unlawful as stipulated in Sec. 15-12 of the Land Development Code of the City of Irving, Texas;

(a) An 8-foot fence is against Marie lane right of way line:
   (I) An existing 8-foot wooden fence which is same or similar to the fence proposed in this application caused forced termination of pedestrian side-walk along Marie lane in front of 1709 Marie (see picture)
   (b) An existing 8-foot fence same or similar to the fence proposed in this application is erected on the property line at a zero distance from the side property line;
   (c) The said existing 8-foot fence on the property line is 9 and quarter feet from Marie Lane tarred street:
   (d) The property in this application is in a zoned district. The said existing fence on the property line is neither located within 10 feet of Marie Lane side property line nor used for a required landscaped interior parkway.

2) An 8-foot fence on the side along Marie Lane eclipses my property located at 1709 Marie Lane from street view:

(a) An 8-foot fence on the side along Marie lane completely obliterates 1709 Marie Lane from street view approaching Marie Lane from Senter Street on to Vilbig street standing in front of 115 W Vilbig (adjacent 1702 Marie Lane) facing west, overlooking entire Marie Lane and the stretch of Vilbig Street (see picture)
(b) In this case obstruction of view is 100 percent- entire 1709 Marie lane property from ground to the apex rooftop.

3) Further to (2) above, obstruction of the street view of 1709 Marie lane continuously devalues the property at 1709 Marie Lane and the rest of the properties along Marie lane and the adjoining streets including Vilbig Street.

4) This application lacks merit since the Applicant, Mr. James Marcus desires to maintain and improve an existing illegal fence, or erect a similar fence along the same property line,
obstructing Marie Lane side-walk, and a few feet beside the tarred road on Marie lane, without any remedy in respect of Chap. 15 of Irving, Texas Land Development Code.

5) Granting this application will demonstrate a bad precedent in disregard of Irving Land development Code, and will negatively impact surrounding neighborhood properties; (i) Interestingly the Applicant's property located at 122 Vilbig Street may continue to appreciate because it is a corner lot. (ii) An existing 8-foot fence same or similar to the proposed fence was erected and maintained for years at 122 Vilbig Street contrary to Irving, Texas Development code, without penalty.

For these reasons, and for the common interest of the property owners surrounding the Applicant's property who are oblivious of the foregoing reasons, I oppose this application. I urge the Planning and Zoning Commission to deny this application.

C Conrad Okechi
PUBLICATION

Planning and Community Development Department
PO Box 152288
Irving, Texas  75015-2288

I am FOR the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

X  I am AGAINST the requested zoning as explained on the attached public notice for Special Fence Project Plan #ZC20-0019.

Date, Location & Time of:
PLANNING AND ZONING COMMISSION MEETING: Monday, May 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

CITY COUNCIL MEETING: Thursday, June 4, 2020, 7 p.m.
City Hall, 825 W. Irving Blvd.

C. CONRAD OKECHI
(please print)

Address: 1709 Marie Lane, Irving TX, 75060

Irving Tax Account Number
(if shown on enclosed map):

Phone # (Optional): (214) 200 6724

Signature: __________________________

Date: May 1, 2020

Please provide comments explaining the reasons for your support or opposition:

REASON FOR OPPOSITION:

1) An 8-foot fence on side along Marie Lane
   is unlawful as stipulated in Sec. 15-12 of
   The Land Development Code of the City of Irving,
   Texas;

(Continue on attached sheets)
(a) An 8-foot fence is against Marie Lane right of way line:

i) An existing 8-foot fence same or similar to the fence proposed in this application caused forced termination of pedestrian sidewalk along Marie lane in front of 1709 Marie Lane (See picture 1)

(b) An existing 8-foot fence same or similar to the fence proposed in this application is erected on the property line at a zero distance from the side property line;

(c) The said existing 8-foot wooden fence on the property line is 9 and quarter feet from Marie Lane tarred Street:

(d) The property in this application is on a zoned district. The said existing fence on the property line is neither located within 10 feet of the Marie Lane side property line, nor used for required landscaped interior parkway.

2) An 8-foot fence on side along Marie Lane totally eclipses my property located at 1709 Marie Lane from street view:

(a) An 8-foot fence on side along Marie Lane completely obliterates 1709 Marie Lane from street view approaching Marie Lane from Senter Street on to Vilbig Street standing left side of road in front of 115 W Vilbig (adjacent 1702 Marie Lane) facing west, overlooking entire Marie Lane and the stretch of Vilbig Street (See picture 2)
(b) In this case obstruction of view is 100%- entire 1709 Marie Lane property from ground to the apex roof top.

3) Further to (2) above, obstruction of street view of 1709 Marie Lane continuously devalues the property at 1709 Marie Lane and the rest of the properties along Marie Lane and the adjoining streets including Vilbig Street.

4) This application lacks merit since the Applicant, Mr. James Marcus desires to maintain and improve an existing illegal fence, or erect a similar fence along the same property line, obstructing Marie lane side-walk, and a few feet beside tarred road on Marie lane, without any remedy in respect of Chap. 15 of Irving, Texas Land Development Code.

5) Granting this application will demonstrate a bad precedent in disregard of Irving Land Development Code, and will negatively impact surrounding neighborhood properties;

(i) Interestingly the Applicant’s property located at 122 Vilbig Street may continue to appreciate because it is a corner lot.
(ii) An existing 8-foot fence same or similar to the proposed fence was erected and maintained for years at 122 Vilbig Street contrary to Irving, Texas Land Development Code, without penalty.

For these reasons, and for the common interest of the property owners surrounding the Applicant’s property who are oblivious of the foregoing reasons, I oppose this application. I urge the Planning and Zoning Commission to deny this application.

C. Conrad Okechi
27. Special Fence Project Plan ZC20-0019

- 122 W. Vilbig Street
- Request to allow an 6-foot tall wooden fence along the property line of Marie Lane
- Recommended for Approval by the P&Z; 7-0
- One (1) opposition received (two from same person)
- Postponed from June 4, 2020
Exception from Sec. 15 for:
8-foot tall fence on side yard property line of reverse frontage lot
10 x 10 foot corner clip at southeast corner of lot.

With condition that fence will be moved out of right-of-way.
Front Yard of Subject Property
Side Yard of Subject Property
Side Yard of Subject Property
Adjacent Neighbor Property to the South
Neighbor Property to the East
Neighbor Property to the West
Marie Ln.
Facing South
Ordinance -- Zoning Case ZC20-0028 - Considering a Zoning Change from S-P-1 (Detailed Site Plan) District for R-AB (Restaurant with the Attendant Accessory Use of the Sale of Alcoholic Beverages for On-Premises Consumption) and Entertainment Uses to S-P-1 (Detailed Site Plan) District for R-AB (Restaurant with the Attendant Accessory Use of the Sale of Alcoholic Beverages for On-Premises Consumption) and Entertainment Uses - Approximately 11,693 Square Feet Located at 3554 West Airport Freeway - P&P Barragan, Applicant - Allenex Investments, Inc., Owner

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The applicant is requesting a zoning change to revise a site plan that allows a restaurant with the accessory use of the sale of alcoholic beverages for on-premises consumption with entertainment uses.

3. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Neighborhood Commercial uses for this property. This land use category is described as mixed use commercial areas along major corridors. Opportunities for residential and commercial infill and reinvestment. The requested zoning is in conformance with the Comprehensive Plan.

4. The applicant’s original request was heard by the Planning and Zoning Commission on February 3, 2020 and approved by the City Council on February 13, 2020. The applicant is requesting to make substantial changes to the interior floor plan layout, which requires that the zoning case be amended.

5. The subject property is a vacant 11,693 square foot lease space in a 32-acre multi-tenant retail center with shared parking. The applicant is proposing to amend a recent rezoning to allow a restaurant to sell alcoholic beverages for on-premises consumption along with entertainment uses to change the floor plan and use layout. The zoning case is necessary to make changes to the currently approved site plan, which extend beyond what could be approved by an administrative amendment.

6. The square footage of the current and proposed floor plans is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Current (Approved Feb. 2020)</th>
<th>Proposed</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant Seating Area</td>
<td>4,080 sq. ft.</td>
<td>2,448 sq. ft.</td>
<td>- 40.0%</td>
</tr>
<tr>
<td>Pool Table Area (Main)</td>
<td>1,853 sq. ft.</td>
<td>1,080 sq. ft.</td>
<td>- 41.7%</td>
</tr>
<tr>
<td>Area</td>
<td>Original Sq. Ft</td>
<td>Revised Sq. Ft</td>
<td>Percentage Change</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>-----------------</td>
<td>----------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Amusement Area (incl. electronic gaming machines)</td>
<td>1,108 sq. ft.</td>
<td>1,972 sq. ft. (gaming and additional pool tables)</td>
<td>+ 78.0%</td>
</tr>
<tr>
<td>Kitchen and Bar (incl. serving area and storage)</td>
<td>1,529 sq. ft.</td>
<td>2,481 sq. ft.</td>
<td>+ 62.3%</td>
</tr>
<tr>
<td>Outdoor deck</td>
<td>539 sq. ft. no tables</td>
<td>539 sq. ft. (with tables)</td>
<td>0%</td>
</tr>
<tr>
<td>Stage floor</td>
<td>674 sq. ft.</td>
<td>400 sq. ft. (incl. dance floor)</td>
<td>- 40.7%</td>
</tr>
<tr>
<td>VIP Area</td>
<td>N/A</td>
<td>549 sq. ft.</td>
<td>+ 100%</td>
</tr>
<tr>
<td>Total seating</td>
<td>118 seats (indoor only)</td>
<td>166 seats (indoor &amp; outdoor)</td>
<td>+ 40.7%</td>
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<tr>
<td></td>
<td>105 for restaurant</td>
<td>104 for restaurant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Not specified for bar area</td>
<td>38 for bar area</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>24 on VIP outdoor deck</td>
<td></td>
</tr>
</tbody>
</table>

7. The proposed changes significantly alters the previous layout. The revised floor plan shows a 40% reduction of the restaurant area and more area devoted to entertainment (pool and gaming machines) and bar uses. The kitchen/food storage areas are larger and more restrooms have been added. The stage area is smaller and can be used as a dance floor. A 549 square foot VIP area has also been added. The outdoor deck is now proposing to have seating.

The restaurant area now indicates that there will be approximately 104 seats in the dining area, 38 seats in the bar area, and 24 seat on the outdoor deck accessible only to the VIP area only.

8. A total of 85 parking spaces are required at one space for each 100 square feet of restaurant/entertainment area. These spaces are provided from the existing 1,880 spaces that for the shopping center.

9. Under RAB zoning, the kitchen must be fully operational and food must be served at all times while the business is open to the public. The entertainment uses are secondary to the primary use as a restaurant and cannot operate independently. Dining tables and chairs cannot be moved or removed which would cease the operation of the business as a full service restaurant.

10. A total of eight (8) public notices were mailed. Staff has not received any responses in support of or in opposition to this request.

11. Staff is concerned about the reduction of the restaurant area by 40% (from 4,080 sq. ft. to 2,888 sq. ft.), with an increase of the bar and entertainment areas of 23% (from 5,703 sq. ft. to 7,021 sq. ft.). In order to comply with the RAB zoning, the applicant must submit documents semi-annually to show that 50% or more of the gross food and beverage receipts is from food service. The applicant has indicated that they will be able to meet this requirement with this menu and floorplan. Therefore, Staff is supportive of restaurant and amusement uses to attract new customer traffic to the existing shopping center and the use is compatible with the
surrounding area.

**Recommendation**

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

**ADDITIONAL COMMENTS:**

<table>
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<th>Contract Required:</th>
<th>Review Completed By:</th>
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<tbody>
<tr>
<td>Previous Action:</td>
<td>Council Action:</td>
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**ATTACHMENTS:**

- Exhibit A: Legal Description (PDF)
- June 1, 2020 Planning and Zoning Meeting Minutes (PDF)
- Vicinity Map (PDF)
- Surrounding Zoning Map (PDF)
- Property Owner Notification Map and List (PDF)
- Site Plan and Elevation Drawings (PDF)
- Menu (PDF)
- Staff Presentation to Council (PDF)

**CURRENT YEAR FINANCIAL IMPACT:**

NONE

**REVISION INFORMATION:**

Prepared: 6/3/2020 02:29 PM by Kenneth Bloom
Last Updated: 6/19/2020 11:46 AM by Linda Velazquez
ORDINANCE NO. (ID # 11058)

ZONING CASE NO. ZC20-0028
ZONING CLASSIFICATION - S-P-1 (R-AB)

AN ORDINANCE AMENDING ORDINANCE NO. 1144, THE 1964 COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF IRVING, TEXAS, GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: A TRACT OF LAND OUT OF THE IRVING SQUARE SHOPPING CENTER/WILLOW CREEK NORTH ADDITION AND LOCATED AT 3554 WEST AIRPORT FREEWAY, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM S-P-1 (R-AB) SITE PLAN DISTRICT USE FOR RESTAURANT WITH ATTENDANT ACCESSORY USE OF THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION UNDER SECTION 52-49 OF ORDINANCE NO. 1144, AS AMENDED TO S-P-1 (R-AB) SITE PLAN DISTRICT USE FOR RESTAURANT WITH ATTENDANT ACCESSORY USE OF THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION UNDER SECTION 52-49 OF ORDINANCE NO. 1144, AND ACCORDING TO THE SITE PLAN ATTACHED HERETO AND MADE A PART HEREOF; PROVIDING FOR SPECIAL CONDITIONS AND REGULATIONS RELATIVE TO LAND USE; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE CHANGE IS IN ACCORDANCE WITH A COMPREHENSIVE PLAN FOR THE PURPOSE OF PROMOTING THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE; PROVIDING THAT THIS ORDINANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDINANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING THE ENTIRE ORDINANCE SHALL BE INVALID IF ANY WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH OR SECTION OF THIS ORDINANCE IS HELD TO BE INVALID AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied; safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the
effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a need for this change in zoning and that there has been a change in conditions in the property adjacent to and in the surrounding area of the subject tract, therefore allowing and requiring this zoning change; and

WHEREAS, the City Council of the City of Irving, Texas, does find that this change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

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

SECTION 1. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attachments hereto which is presently zoned S-P-1 (R-AB) Site Plan District Use for restaurant with attendant accessory use of the sale of alcoholic beverages for on-premises consumption uses on the hereinafter described property with a site plan attached will further lessen the congestion in the streets; help secure safety from fire, panics, floods, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; subject to all the requirements and conditions of Section 1-A of this ordinance.

SECTION 1-A. That the district use on the property described in Section 1 is hereby approved and granted upon the following express conditions:

(1) That development and use shall be in conformance with the site plan attached hereto and made a part hereof for all purposes.
(2) A true copy of the site plan attached hereto shall be retained by the Department of Traffic and Transportation of the City of Irving.

(3) That all means of ingress and egress shall be approved by the Department of Public Works of the City of Irving.

(4) That all paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with the standard City of Irving specifications adopted for such purpose, and the same shall be done to the satisfaction of the Department of Public Works of the City of Irving.

The above requirements shall not be construed as conditions precedent to the granting of a zoning change, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.

SECTION 2. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 3. That in all other respects the use of the tract or tracts of land hereinabove described shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 4. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 6. It is the intention of the City Council that the terms and provisions of this ordinance shall not be deemed to be severable and if any word, clause, phrase, sentence or paragraph of this ordinance should be declared invalid by any court of competent jurisdiction, this entire ordinance shall be invalid and void in its entirety and the zoning granted by this ordinance shall revert to the prior zoning classification.

SECTION 7. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of the City of Irving, Texas.

__________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
Exhibit A: Legal Description
Zoning Case ZC19-0092

3554 W. AIRPORT FREEWAY
PART OF LOT 3, BLOCK A
IRVING SQUARE SHOPPING CENTER/WILLOW CREEK NORTH
VOLUME 94137, PAGE 1101
MAP RECORDS, DALLAS COUNTY, TEXAS
CITY OF IRVING, DALLAS COUNTY, TEXAS

BEING a 11,693 square foot, 0.268 acre tract of land, being part of Lot 3, Block A, of Irving Square Shopping Center/Willow Creek North, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded in Volume 94137, Page 1101, Map Records, Dallas County, Texas, and being more particularly described as follows;

Commencing at the Northeast corner of said Lot 3, an “x” cut in concrete found;

Then: North 89 deg. 37 min. 30 sec. West, with the North line of said Lot 3, a distance of 194.00 feet to an “x” cut in concrete found;

Then: South 00 deg. 22 min. 30 sec. West, a distance of 6.03 feet to an “x” cut in concrete found;

Then: North 89 deg. 37 min. 30 sec. West, with a North line of said Lot 3, a distance of 33.64 feet to a point;

Then: South 00 deg. 17 min. 21 sec. West, a distance of 112.74 feet to a building wall, said point being the PLACE OF BEGINNING;

THENCE: from said PLACE OF BEGINNING; South 00 deg. 17 min. 21 sec. West, with a building wall, a distance of 66.59 feet to a building wall, a point for corner;

THENCE: North 89 deg. 32 min. 21 sec. West, with a building wall, a distance of 134.76 feet to a building wall, a point for corner;

THENCE: North 00 deg. 17 min. 21 sec. East, with a building wall, a distance of 12.96 feet, a point for corner;

THENCE: North 89 deg. 42 min. 39 sec. West, a distance of 15.80 feet, a point for corner;

THENCE: North 00 deg. 17 min. 21 sec. East, a distance of 33.08 feet, a point for corner;

THENCE: South 89 deg. 42 min. 39 sec. East, a distance of 15.80 feet to a building wall, a point for corner;

THENCE: North 00 deg. 17 min. 21 sec. East, with a building wall, a distance of 59.00 feet to a building wall, a point for corner;

THENCE: South 89 deg. 32 min. 21 sec. East, with a building wall, a distance of 57.10 feet to a building wall, a point for corner;

THENCE: South 00 deg. 17 min. 21 sec. West, with a building wall, a distance of 38.45 feet to a building wall, a point for corner;

THENCE: South 89 deg. 32 min. 21 sec. East, with a building wall, a distance of 77.66 feet to the PLACE OF BEGINNING and CONTAINING 11,693 square feet or 0.268 acres of land.

Basis of Bearings: North line of Lot 3, Block A, of Irving Square Shopping Center/Willow Creek North, per plat recorded in Volume 94137, Page 1101, Map Records, Dallas County, Texas.

Date: 12/18/2019

Ben D. Rychlik
R.P.L.S. No. 1630

Sheet 1 of 2

**FROM:** S-P-1 (Detailed Site Plan) District for R-AB (Restaurant with the Attendant Accessory Use of the Sale of Alcoholic Beverages for On-Premises Consumption) and entertainment uses

**TO:** Amending S-P-1 (Detailed Site Plan) District for R-AB (Restaurant with the Attendant Accessory Use of the Sale of Alcoholic Beverages for On-Premises Consumption) and entertainment uses to reconfigure floor plan

- This case is scheduled for the Thursday, June 25, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Prajwal Chhetri, applicant, offered himself for any questions the Commission may have.

Chairman Spurlock called for individuals wishing to speak in favor or opposition of this item. There was no one wishing to speak in favor or opposition of this item.

Discussion was closed to the floor and returned to the Commission for their consideration and a motion.

Vice-Chairman Burns stated that he visited the site and since they are only updating the site plan, he feels comfortable supporting this request. He also added that there is adequate parking on the site and the use compatible with the rest of the business in the area.

Vice-Chairman Burns moved to forward Zoning Case #ZC20-0028 to the City Council with a recommendation of approval. Commissioner McPhail seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried unanimously.

**Ayes:** Jack Spurlock, Bruce Burns, Mark Cronenwett, Michael McPhail, Jamie Patel, Alicia Kliner, Mike Joy

**Absent:** Misaki Collins, Mark Zeske

Discussion Time: 3 minutes
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<td>IRVING ISD</td>
<td>JIM SCRIVNER</td>
</tr>
</tbody>
</table>
LEGAL DESCRIPTION:
IRVING SQUARE SC/WILLOW CRK NORTH
BLK A LOT 3 ACS 1.97
INT20180096400 DD04112018 CO-DC

NOTES:
- All fences, signs, lighting, luminaries and exterior auditory speakers will comply with City of Irving ordinances.
- Proposed deck will not interfere with fire lane according to survey.
NOTE:
ALL WORKS TO, STRUCTURES AND MATERIALS WILL MEET MINIMUM CITY STANDARDS.
THE PROJECT BREAKDOWN OF REVENUES IS 50% FOOD AND 50% ALCOHOLIC BEVERAGES.
### Bottled & Can Beers

- Dos XX $5
- Modelo $5
- Corona Extra $5
- Corona Light $5
- Heineken $5
- Sapporo $5
- Stella Artois $5
- Blue Moon $5
- Guinness $5
- Angry Orchard $5
- Deep Ellum IPA $5
- Community Mosaic $5
- Revolver Blood & Honey $5
- Heineken Non Alcoholic $3
- O’Doul’s Non Alcoholic $3
- Bud Light $4
- Budweiser $4
- Coors Light $4
- Michelob Ultra $4
- Miller Lite $4
- Sam Adams Lager $5

### WHITE WINE

- Benvolio Pinot Grigio, Italy $5/$27
- Shine Riesling, Germany $10/$33
- Murphy Goode Sauvignon Blanc, California $9/$30
- Oyster Bay Sauvignon Blanc, New Zealand $11/$36
- McMonis Chardonnay, California $9/$30
- Kendall Jackson Chardonnay, California $10/$33
- Coppola Chardonnay, Russian River $39
- Villa Pozzi Moscato, Italy $5/$27

### RED WINE

- Murphy Goode Pinot Noir, California $9/$30
- Oyster Bay Pinot Noir, New Zealand $11/$36
- Punta Fino Malbec, Argentina $10/$33
- J Lohr Merlot, Central Coast $10/$33
- Heron Merlot, California $11/$36
- McMonis Cabernet, California $9/$30
- Louis & Martin Cabernet, Napa Valley $12/$40
- Stonestreet Cabernet, Alexander Valley $60

### TEQUILA

- Jose Cuervo $5
- Cozadore Silver $5
- Espolon Blanco $7
- Espolon Reposado $8
- 1800 $6
- 1800 Gold $7
- Milagro Silver $8
- Cozadore Reposado $8
- Patron Silver $8
- Don Julio Silver $8
- Cozadore Anejo $10
- Patron Anejo $12
- Casa Azules Reposado $12
- Tres Generaciones $6

### COCKTAILS

- Moscow Mule $7
- Irish Mule $7
- Margarita $7
- Classic Mojito $7
- Coconut Mojito $7
- Pineapple Mojito $7
- Lemon Ginger Fizz $7
- Old Fashioned $7
- Bloody Mary $8
- French Martini $8
- Cosmopolitan $8
- Blue Lagoon $8
- Strawberry Daiquiri $8
- Long Island Iced Tea $7
- Mango Fizz $8

### VODKA

- Absolut $4
- Grey Goose $6
- Titos $6
- Ketel One $6
- Ciroc $6
- Deep Eddy $6
- Stoli $7
- Belvedere $7

### TEQUILA

- BACARDI
  - Bacardi $5
  - Captain Morgan $5
  - Captain Morgan Black $6
  - Malibu $5
  - Old Monk XXX $5

### WHISKEY/SCOTCH

- Jock Daniels $5
- Crown Royal $6
- Johnny Walker Red $5
- Johnny Walker Black $8
- Chivas Regal $7
- Macallan $9
- Dewars $6
- Glenlivet $9
- Glenfiddich $9
- Hennessy $10
- Hennessy Black $8
- Remy 1736 $10
- Remy Martin $10

### CHAMPAGNE

- Lambert Prosecco, Italy $9
- Campo Viejo, Spain $8/$27
- Chandon Rose, Napa Valley $45
- Chandon Brut Sparkling, Napa Valley $45
- Veuve Clicquot Brut Champagne, France $80

### HAPPY HOURS

**Daily 4 pm - 7 pm**

Late night drinks special Mon-Thu 10 pm - CLOSE
Menu

Appetizers

Regular Fries $2.49
Sweet Potato Fries $3.49
Tator Tots $3.99
Queso and Chips $5.99
Mozzarella Stick $5.99
Loaded Potato Skin $6.99
Quesadillas $7.99
Onion Rings $4.99
Fried Pickles $3.99
Loaded Nachos $6.99
Dynamite Shrimp $8.99
Badel Sadeko $9.99

Wings

Traditional & Boneless Wings
6 pc - $5.59 | 12 pc - $10.99
Original Hot, Mango Habanero, Garlic Parmesan, Honey BBQ, Lemon Pepper, Teriyaki

Tacos

Chicken Tacos $3.99
Pork Tacos $4.99
Beef Tacos $5.99

Salads

Grilled Chicken Caesar $6.99
Grilled Chicken, Romaine, Parmesan & garlic croutons

House Salad $5.99
Romaine, iceberg lettuce, Red Cabbage, Onions, Carrots, Cucumber & cherry tomatoes

Chef's Salad $7.99
Romaine, tomatoes, cucumbers, feta, hard boiled egg, cheese, & croutons

Fried Shrimp Salad $8.99
Fried shrimp, tomato, Romaine, Cheese, hard boiled egg, & croutons

Asian Salad $7.99
 Greens, cucumber, tomato, avocado, mango, carrots, red onion, toasted cashews, sesame ginger vinaigrette

Dressing: Ranch, Italian, Honey Mustard, Blue Cheese, Balsamic Vinaigrette

Burgers & Sandwiches

(Served with your choice of French Fries)

Cheeseburger $5.99
Topped with American cheese, includes lettuce, tomato, onion, pickles and mustard or mayo.

Cheese Steak $7.99
Thinly Sliced Sirloin with Grilled peppers, onions and cheese served with lettuce and tomatoes on a French Roll.

Bacon Cheeseburger $7.99
Topped with Lettuce, tomato, bacon, cheddar, Swiss cheese

Hangout Heat Burger $8.99
Topped with Swiss cheese, jalapeños, grilled and sautéed onion and jalapeño jack cheese

Chicken Sandwich $6.99
Grilled or Fried, Lettuce, Tomato, Pickle, Onion & Provolone served with ranch or Blue Cheese

Pizzas

10" $11.99 | 16" $14.99
Pepperoni Explosion
Triple pepperoni & Extra Cheese

Meat Lovers Hangout
Pepperoni, Sausage, Canadian Bacon, Provolone, Sliced Onions, Cilantro

Hawaiian
Bbq Sauce, Mozzarella, Canadian Bacon, Pineapple, Sliced Onions, Cilantro

Veggie
Mozzarella, Onions, Peppers, Mushrooms, Tomatoes, Black Olives

Chicken Diablo
Grilled Chicken, Fresh Jalapeños, Spinach, Cherry Tomatoes, Red Onions, Cilantro

Build Your Own Pizza

Medium- $9.99, Large- $12.99
Additional toppings $1 each:
Pepperoni, Sausage, Chicken, Bacon, Canadian Bacon, Jalapeños, Spinach, Onions, Mushroom, Black Olives, Bell Peppers, Pineapple, Extra Cheese

From the Himalayas

Chicken Sekuwa $8.99
Meat cubes marinated with ginger garlic paste, flavored with Himalayan spices and BBQ in clay oven comes with bhujia, bhatmas, aloo achar

Mutton Sekuwa $9.99
Mutton marinated with ginger garlic paste, flavored with Himalayan spices and BBQ in clay oven comes with bhujia, bhatmas, aloo achar

Chicken Choila $7.99
BBQ chicken marinated with spices and herbs, comes with combination plate (chira, bhatmas, aloo achar)

Pork Choila $8.99
BBQ Pork marinated with spices and herbs, comes with combination plate (chira, bhatmas, aloo achar)

Chicken Momo (Steamed, Fried & Rolls) $5.99
Chicken ground meat mixed with green onion, cilantro, red onion, Nepalese spices, wrapped in a flour dough

Pork Momo $6.99
Pork ground meat mixed with green onion, cilantro, red onion, Nepalese spices, wrapped in a flour dough

Entrees

Fish & Chips $12.99
Southern fried flaky white fish, served with fries and your choice of side

Chicken Strip Basket $13.99
Hand Battered & Golden. Served with your choice of two sides

Shrimp Basket $14.99
Jumbo Gulf Shrimp, Beer Battered & golden fried, served with fries and tater tots

Sides:

Steam Broccoli, Green Beans, Fried Okra, Mac & Cheese, Sweet Corn, Mashed Potatoes, French Fries, Tater Tots

HAPPY HOUR DAILY

4 pm- 7 pm
Zoning Case ZC20-0028

- Approx. 11,693 sq. ft. at 3554 W. Airport Freeway
- **From**: S-P-1 (R-AB) and entertainment uses
  **To**: Amend the S-P-1 (R-AB) and entertainment uses to reconfigure the floor plan.
- Recommended for Approval by the P&Z; 7-0
- No opposition received
Ordinance -- Zoning Change ZC20-0034 - Considering a Zoning Change from ML-20A (Light Industrial) District to S-P-2 (Generalized Site Plan) for ML-20A (Light Industrial) District Uses - Approximately 4.15 Acres Located at 5021 Statesman Drive - AJL International, Applicant - DCT Statesman, LLC, Owner

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Business District uses for this property. This land use category is described as a flexible use district for retail, office and commercial uses. Predominantly mid-rise with a mix of surface and structured parking. The requested zoning is in conformance with the Comprehensive Plan.

3. This application is in support of Goal 1 of the 2017 Imagine Irving Comprehensive Plan ensuring that land use decisions are consistent with the adopted Comprehensive Plan and in particular Strategy 1.5.8 – Approve new development that is consistent with and enhances existing development.

4. The subject property is a 4.15 acre tract on the north side of Statesman Drive with a rail spur bisecting the property. The applicant is requesting to rezone to allow outside storage of commercial vehicles and an outside car wash bay for those vehicles.

5. The property is developed with a flex office/warehouse building. The ML-20a district does not allow outside parking of commercial vehicles. The applicant is proposing to use the property to operate a chauffeured transportation company.

6. The property contains a triangle-shaped concrete area on the northeast side of the railroad spur that bisects the property. No striped or required parking is currently located in this area. This area currently includes a 5,000 square foot storage building that will be demolished. This area is already paved, and is only adjacent to a drainage channel to the east and undeveloped floodplain area to the north. The applicant is seeking to use this area as an unscreened storage area for buses and other vehicles, such as limousines.

7. Outside storage would be limited to buses and similar vehicles. Tractor trailers, heavy equipment, and other outside storage would not be permitted. Auto sales would also be prohibited on this site.

8. While the storage area is not screened, it is also not easily visible from the street, is adjacent to Grapevine Creek to the north and to a parking garage and drainage channel to the east. It is only visible to the back of an office warehouse building to the west.

9. Use of this area for outside storage will not remove any current parking spaces on
the property.

10. Additionally, a covered carwash bay is being added to service the vehicles. This will be a hand wash area under a permanent structure, and will be located behind the building where there are currently dock doors and not visible from the public street. The example provided by the applicant shows a painted carwash area cover, with metal columns and a flat truss roof. A commercial wash sand trap for detergents and grease will need to be installed as part of the permitting process. No commercial washing of vehicles other than the chauffeur business is allowed.

11. A total of 11 public notices were mailed. Staff has not received any responses in support of or in opposition to this request.

12. Since the outdoor storage is limited to vehicles and has limited visual impact on surrounding properties, Staff has no objection to this use at this location.

Recommendation

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

ADDITIONAL COMMENTS:

Contract Required: Review Completed By:
Previous Action: Council Action:

ATTACHMENTS:

- Exhibit A: Legal Description (PDF)
- June 1, 2020 Planning and Zoning Meeting Minutes (PDF)
- Vicinity Map (PDF)
- Surrounding Zoning Map (PDF)
- Property Owner Notification Map and List (PDF)
- Site Plan (PDF)
- Staff Presentation to Council (PDF)

CURRENT YEAR FINANCIAL IMPACT:

NONE

REVISION INFORMATION:

Prepared: 6/3/2020 02:33 PM by Kenneth Bloom
Last Updated: 6/19/2020 11:53 AM by Linda Velazquez
ORDINANCE NO. (ID # 11060)

ZONING CASE NO. ZC20-0034
ZONING CLASSIFICATION - S-P-2

AN ORDINANCE AMENDING ORDINANCE NO. 1144, THE 1964 COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF IRVING, TEXAS, GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: A TRACT OF LAND OUT OF THE DFW FREEPORT, 3RD INSTALLMENT, 1ST REVISION ADDITION, AND LOCATED AT 5021 STATESMAN DRIVE, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM ML-20A LIGHT INDUSTRIAL DISTRICT USE UNDER ORDINANCE NO. 1144, AS AMENDED TO S-P-2 SITE PLAN DISTRICT USE FOR ML-20A USES UNDER ORDINANCE NO. 1144, AND ACCORDING TO THE SITE PLAN ATTACHED HERETO AND MADE A PART HEREOF; PROVIDING FOR SPECIAL CONDITIONS AND REGULATIONS RELATIVE TO LAND USE; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE CHANGE IS IN ACCORDANCE WITH A COMPREHENSIVE PLAN FOR THE PURPOSE OF PROMOTING THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE; PROVIDING THAT THIS ORDINANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDINANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied: safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

-1-
WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a need for this change in zoning and that there has been a change in conditions in the property adjacent to and in the surrounding area of the subject tract, therefore allowing and requiring this zoning change; and

WHEREAS, the City Council of the City of Irving, Texas, does find that this change in zoning under a site plan district for ML-20A uses with a site plan attached will further lessen the congestion in the streets; help secure safety from fire, panics, floods, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements;

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

SECTION 1. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attached Exhibit A which is presently zoned ML-20A Light Industrial District Use under Ordinance No. 1144, is changed to S-P-2 Site Plan District Use for ML-20A uses under Ordinance No. 1144 of the City of Irving, subject to all the requirements of Ordinance No. 1144 and subject to all the requirements and conditions of Section 1-A of this ordinance.

SECTION 1-A. That the district use on the property described in Section 1 is hereby approved and granted upon the following express conditions:

1. That development and use shall be in conformance with the site plan attached hereto and made a part hereof for all purposes.

2. A true copy of the site plan attached hereto shall be retained by the Department of Planning and Community Development of the City of Irving.

3. That all means of ingress and egress shall be approved by the Department of Public Works of the City of Irving.

4. That all paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with the standard City of Irving specifications adopted for such purpose, and the same shall be done to the satisfaction of the Department of Public Works of the City of Irving.

The above requirements shall not be construed as conditions precedent to the granting of a zoning change, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.

SECTION 2. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 3. That in all other respects the use of the tract or tracts of land hereinabove
described shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 4. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 6. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the tract or tracts of land described herein shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.

SECTION 7. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of the City of Irving, Texas.

________________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

____________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

____________________
Kuruvilla Oommen
City Attorney
Exhibit A: Legal Description

Zoning Case ZC20-0034

BEING all of Lot 2R, Block L, DFW Freeport 3rd Installment 1st Revision

**FROM:** ML-20a (Light Industrial) District

**TO:** S-P-2 (Generalized Site Plan) district for ML-20a (Light Industrial) uses to allow outside vehicle storage and an outdoor car wash facility

- This case is scheduled for the June 25, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Reese Flanagan, and Craig Godfrey, applicant’s representatives, gave an overview of the proposed request. Mr. Godfrey stated that AJL is a limousine company known as a corporate ground transportation company, they have recently moved to Irving, currently under contract to purchase the site. He added that their team attended a pre-development meeting to discuss a covered-wash area for the vehicles that are part of the operation and during that process, it was identified that the parking of the vehicles were technically outside of what zoning allows for the property, and that is why they are here today requesting a variance. He also added that the car wash will be specifically for the business and not for the public.

Chairman Spurlock called for individuals wishing to speak in favor or opposition of this item. There was no one wishing to speak in favor or opposition of this item.

Discussion was closed to the floor and returned to the Commission for their consideration and a motion.

Vice-Chairman Burns moved to forward Zoning Case #ZC20-0034 to the City Council with a recommendation of approval. Commissioner McPhail seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried unanimously.

**Ayes:** Jack Spurlock, Bruce Burns, Mark Cronenwett, Mark Zeske, Michael McPhail, Jamie Patel, Misaki Collins, Alicia Kliner, Mike Joy

Discussion Time: 3 minutes

There was no other business before the Commission and the meeting was adjourned at 8:04 p.m.
City of Irving

Property Owner Notification Map
Zoning Case
No. ZC20-0034

Property Under Consideration For Rezoning

200 Ft Notification Boundary
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City of Irving
Property Owner Notification List
Zoning Case
No. ZC20-0034

Date: May 1, 2020

Disclaimer/Limitation of Liability: This product is for informational purposes and may not have been prepared for or be suitable for legal engineering or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate location of the property. It is not intended to be used for approximate locations of property lines and other geographic features. All data, specifically including the geographic data herein are provided "as is" without warranty of any kind, either expressed or implied. Use of the information is the sole responsibility of the user.
EXISTING BUILDING
(TO BE DEMOLISHED)

STATESMAN DRIVE
LOT 2R
BLOCK L

378.49'    N 89°59'19" E

478.29'    N 00°14'00" E

476.68'    N 00°14'12" E

378.51'    N 89°46'03" E

STERLING STREET
LOT 1R
BLOCK L

CALL 3 BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE, OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES.

972-620-8204
Dallas, Tx. 75220
10003 Technology Blvd. West

Registration No: F-1629

Known below. Call before you dig.
Zoning Case ZC20-0034

- Approx. 4.15 acres at 5021 Statesman Drive
- **From**: ML-20a (Light Industrial)  
  **To**: S-P-2 (Generalized Site Plan) for ML-20a (Light Industrial) uses to allow outside vehicle storage and an outdoor car wash.
- Recommended for Approval by the P&Z; 7-0
- No opposition received
Subject Site
Ordinance -- Zoning Case ZC20-0025 - Considering a Zoning Change from HCD-TMU (Heritage Crossing District - Transit Mixed Use) to S-P-1 (Detailed Site Plan) District for HCD-TMU (Heritage Crossing District - Transit Mixed Use) and Wireless Telecommunications Facility Uses - Approximately 3.46 Acres Located at 201 Rock Island Road - Allpro Consulting Group, LLC, Applicant - Dallas Area Rapid Transit, Owner

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Transit Oriented Development uses for this property. This land use category is described as “Mixed-use development serving nearby rail stations. Pedestrian-friendly streets and buildings, high quality design, and reduced parking”. The requested zoning is in conformance with the Comprehensive Plan.

3. Although the 2017 Imagine Irving Comprehensive Plan does not directly address placement of cell towers, it does under Strategy 2.2 of the Economic Development Goals, Strategies + Actions section seeks to “Establish Irving as the top location in the US for 5G innovation.” For this reason continued development of cell tower locations across the city serves a role in support this initiative.

4. The applicant is proposing a new “Landmark Smart Light Standard”, which is a new light standard structure with radio and surveillance cameras for DART that will function as a cell tower on the property of the TRE Heritage Crossing Downtown Irving Station. The triangular-shaped tower will be a 38.5-foot tall "light standard" with six (6) bays, three (3) for antenna and three (3) for radio with concealment shrouds to screen the antenna arrays within the light standard.

5. The tower will include site lighting 20 feet off the ground.

6. The tower will be located near the eastern entrance to the bus and rail station area, approximately 39 feet north of Rock Island Road, approximately 215 feet from the east (side) property line and approximately 127 feet from the north (rear) property line. Access is provided from Rock Island Road through the drive aisle to the rail platform.

7. The tower will be able to accommodate up to three antenna arrays for future cellular carriers. The antenna arrays will be screened with exterior “concealment shrouds” painted white that is a “Mini Macro Multi-Tenant Light Standard”, a design that covers all the bay areas that house the equipment within the light poles.

8. New towers must be at least 200 feet or 3-to-1 ratio distance from residential buildings, whichever is greater, to provide for a fall zone. No residentially-zoned structures exist within 200 feet.
9. New towers must be separated from existing towers by 5,000 feet according to Sect. 52-32d 2(b) 3 of the Zoning Ordinance. According to the map provided by the applicant, there is at least one other tower approximately 2,000 feet east of the subject property. However, given the small height and different nature of this tower, staff has no objections to the proximity to other towers.

10. DART is proposing to install kiosks and to replace standard light poles with a multi-tenant light standard at all of its locations, which will house a GPS receiver, video surveillance cameras and radio bays in addition to being able to accommodate cellular antenna uses.

11. This proposed case and site plan are for consideration and approval of the “cell tower package” only and the detail of the site plan will not apply to the remainder of the property.

12. A total of 15 public notices were mailed. Staff has not received any responses in support of or in opposition to this request.

13. Since the proposed “landmark light standard” tower is less than 40 feet tall, can accommodate up to three antenna for future carriers, is part of a kiosk and light package for DART and it is primarily surrounded by commercial uses, staff can support this request.

**Recommendation**

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

**ADDITIONAL COMMENTS:**

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**ATTACHMENTS:**

- Exhibit A: Legal Description  (PDF)
- June 1, 2020 Planning and Zoning Meeting Minutes  (PDF)
- Vicinity Map  (PDF)
- Surrounding Zoning Map  (PDF)
- Property Owner Notification Map and List  (PDF)
- Site Plan  (PDF)
- Elevation Drawing  (PDF)
- Tower Map  (PDF)
- Towe Policy and Siting Worksheet  (PDF)
- Staff Presentation to Council  (PDF)

**CURRENT YEAR FINANCIAL IMPACT:**

NONE
ORDINANCE NO. (ID # 11057)

ZONING CASE NO. ZC20-0025
ZONING CLASSIFICATION - S-P-1

AN ORDINANCE AMENDING ORDINANCE NO. 1144, THE 1964 COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF IRVING, TEXAS, GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: A TRACT OF LAND OUT OF THE SOUTH IRVING STATION ADDITION, AND LOCATED AT 201 ROCK ISLAND ROAD, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM HCD-TMU (HERITAGE CROSSING DISTRICT-TRANSIT MIXED USE) DISTRICT USES UNDER ORDINANCE NO. 1144, AS AMENDED TO S-P-1 SITE PLAN DISTRICT USE FOR HCD-TMU AND WIRELESS TELECOMMUNICATION FACILITY USES UNDER ORDINANCE NO. 1144, AND ACCORDING TO THE SITE PLAN ATTACHED HERETO AND MADE A PART HEREOF; PROVIDING FOR SPECIAL CONDITIONS AND REGULATIONS RELATIVE TO LAND USE; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE CHANGE IS IN ACCORDANCE WITH A COMPREHENSIVE PLAN FOR THE PURPOSE OF PROMOTING THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE; PROVIDING THAT THIS ORDINANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDINANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied; safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to
conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overconcentration of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a need for this change in zoning and that there has been a change in conditions in the property adjacent to and in the surrounding area of the subject tract, therefore allowing and requiring this zoning change; and

WHEREAS, the City Council of the City of Irving, Texas, does find that this change in zoning under a site plan district for HCD-TMU and Wireless Telecommunication Facility uses with a site plan attached will further lessen the congestion in the streets; help secure safety from fire, panics, floods, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements;

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

SECTION 1. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attached Exhibit A which is presently zoned HCD-TMU (Heritage Crossing District-Transit Mixed Use) District Use under Ordinance No. 1144, is changed to S-P-1 Site Plan District Use for HCD-TMU and Wireless Telecommunication Facility uses under Ordinance No. 1144 of the City of Irving, subject to all the requirements of Ordinance No. 1144 and subject to all the requirements and conditions of Section 1-A of this ordinance.

SECTION 1-A. That the district use on the property described in Section 1 is hereby approved and granted upon the following express conditions:

(1) That development and use shall be in conformance with the site plan attached hereto and made a part hereof for all purposes.

(2) A true copy of the site plan attached hereto shall be retained by the Department of Planning and Community Development of the City of Irving.

(3) That all means of ingress and egress shall be approved by the Department of Public Works of the City of Irving.

(4) That all paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with the standard City of Irving specifications adopted for such purpose, and the same shall be done to the satisfaction of the Department of Public Works of the City of Irving.

The above requirements shall not be construed as conditions precedent to the granting of a zoning change, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.
SECTION 2. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 3. That in all other respects the use of the tract or tracts of land hereinabove described shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 4. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 6. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the tract or tracts of land described herein shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.

SECTION 7. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of the City of Irving, Texas.

_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney
EXHIBIT A: LEGAL DESCRIPTION

ZONING CASE ZC20-0025

BEING all of Lot 1, Block A, South Irving Station Addition

FROM: HCD-TMU (Heritage Crossing District-Transit Mixed Use)

TO: S-P-1 (Detailed Site Plan) District for HCD-TMU (Heritage Crossing District-Transit Mixed Use) and Wireless Telecommunications Facility uses

- This case is scheduled for the June 25, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Nate Ebers, applicant, offered himself for any questions the Commission may have.

Chairman Spurlock called for individuals wishing to speak in favor or opposition of this item. There was no one wishing to speak in favor or opposition of this item.

Discussion was closed to the floor and returned to the Commission for their consideration and a motion.

Vice-Chairman Burns stated that he visited the site and feels this request is compatible.

Vice-Chairman Burns moved to forward Zoning Case #ZC20-0025 to the City Council with a recommendation of approval. Commissioner McPhail seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried unanimously.

**Ayes:** Jack Spurlock, Bruce Burns, Mark Cronenwett, Michael McPhail, Jamie Patel, Alicia Kliner, Mike Joy

**Absent:** Misaki Collins, Mark Zeske

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City of Irving
Property Owner Notification List
Zoning Case
No. ZC20-0025
Page 1 of 1
MAXIMUM CONCEALMENT

- GPS Receiver
- Weather Station - Smart Metering Colocation
- WiFi AP Antennas
- Heat Exhaust Ventilation
- Beam Steerable Custom LED Lighting
- 1080P 360° Video Surveillance Cameras
- Fiber Optic Panel
- Optical Network Switch
- Video Surveillance Controller
- IoT Sensor Processing Unit

VERTEX V1 - INTEGRATED MINI-MACRO MULTI-TENANT LIGHT STANDARD
Name of Applicant: Dallas Area Rapid Transit  Zoning Case No. ZC20-0025

1. Describe the nature of the tower site:
   a. What type of supporting structure is proposed?
      1) A monopole (height: 36 ft);
      2) A self-supported structure (height: __________); or
      3) A guyed tower (height: __________).

   b. Attach photos or drawings of all equipment, structures and antennas.

   c. Will the structure meet all applicable FAA, FCC and other codes and standards? Be specific.
      Yes, Section 332(c)(7) of the Communications Act, Section 1455(a) of the Communications Act. Tower is too short to require FAA registration.
d. Given its position on the proposed location, if the structure should fall to the ground along its longest dimension, would it remain within the property boundaries? Would it avoid habitable structures? Would it avoid public streets, utility lines, and other antennas/towers?
Yes it would remain within the property and avoid habitable structures as well as public streets, utility lines, and other towers.

2. Why is this tower necessary?
   To provide necessary infrastructure for future collocation/5G expansion.

3. State the name(s) of the telecommunications providers or other potential users of the tower and describe the use to be made by each user.
   No agreements have been negotiated with any wireless carriers at this time, but this is a necessary intermediate step. V1 Smart pole would be open for collocation within the next 1-2 years.

4. Will this tower site be connected to other sites? If so, describe how it will be connected and who will be the back haul provider.
   To be determined, once agreements are negotiated with wireless carriers.

5. Have you made an effort to collocate the facilities proposed for this tower on existing towers or structures in the same general area? Please identify the location of these existing sites.
   No antennas for collocation are part of this V1 pole installation, this is a construction of the infrastructure to allow for future collocation.

6. Regarding No. 5 above, if yes, please describe in detail these efforts and explain in detail why these existing sites were not feasible.
   N/A

7. Attach all studies or tests performed which demonstrate why the existing sites in No. 5 above will not provide sufficient signal coverage.
   N/A

8. Please provide written documentation from these existing sites’ owners and/or operators, which confirm the statements in No. 6 above.
   N/A

9. Do these existing sites, in No. 5 above, allow/promote collocation and, if not, why not?
   N/A

10. Will collocation be allowed to other telecommunications providers at the requested site? If not, state every reason and the basis for each reason.
    Yes.
11. Will the applicant or the proposed provider reconfigure its antennas and other equipment to accommodate other telecommunications providers? If not, state every reason and the basis for each reason.

Yes.

12. What is the proposed provider’s current coverage area for the City of Irving?

N/A

13. In the response to No. 12, attach separate maps showing:

N/A

a. What areas the proposed provider’s existing antennas currently cover;

b. What areas the proposed provider’s existing sites and the sites described in No. 5 would cover; and

N/A
c. What areas the proposed provider’s existing sites and the requested site would cover.

N/A

14. What is the proposed provider’s master telecommunications plan for the City of Irving? Attach maps and other related documentation. Provide information indicating each phase of the plan.

N/A

15. Describe the proposed provider’s plan to minimize the number of telecommunications towers needed to cover the City of Irving.

N/A
Zoning Case ZC20-0025

- Approximately 3.46 acres at 201 Rock Island Road
- **From:** HCD-TMU (Heritage Crossing District – Transit Mixed Use)
  **To:** S-P-1 (Detailed Site Plan) for HCD-TMU (Heritage Crossing District – Transit Mixed Use) and Wireless Telecommunications Facility uses
- Recommended for Approval by the P&Z; 7-0
- No opposition received
MAXIMUM CONCEALMENT

- GPS Receiver
- Weather Station
- Smart Metering Colocation
- WiFi AP
- Antennas
- Heat Exhaust
- Ventilation
- Beam Steerable
- Custom LED Lighting
- 1080P 360°
- Video Surveillance Cameras
- Fiber Optic Panel
- Optical Network Switch
- Video Surveillance Controller
- IoT Sensor Processing Unit

VERTEX V1 - INTEGRATED MINI-MACRO MULTI-TENANT LIGHT STANDARD
MAXIMUM CONCEALMENT

- GPS Receiver
- Weather Station
- Smart Metering Colocation

- WiFi AP Antennas
- Heat Exhaust Ventilation

- Beam Steerable Custom LED Lighting
- 1080P 360° Video Surveillance Cameras

- Fiber Optic Panel
- Optical Network Switch
- Video Surveillance Controller
- IoT Sensor Processing Unit

MNO 1 Antenna Bay
MNO 2 Antenna Bay
MNO 3 Antenna Bay
MNO 1 Radio Bay
MNO 2 Radio Bay
MNO 3 Radio Bay
Landmark Secured Power Bay

VERTEX V1 - INTEGRATED MINI-MACRO MULTI-TENANT LIGHT STANDARD
Ordinance -- Zoning Chance ZC20-0030 - Considering a Zoning Change from S-P-2 (Generalized Site Plan) District for FWY (Freeway) District Uses to S-P-1 (Detailed Site Plan) District for FWY (Freeway) District and Wireless Telecommunications Facility Uses - Approximately 3.035 Acres Located at 4200 Jackson Street - Allpro Consulting Group, Inc, Applicant - Dallas Area Rapid Transit, Owner

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: June 1, 2020 – Favorable 7-0 (Commissioners Zeske and Collins, absent).

2. The 2017 Imagine Irving Comprehensive Plan Future Land Use Map recommends Transit Oriented Development uses for this property. This land use category is described as “Mixed-use development serving nearby rail stations. Pedestrian-friendly streets and buildings, high quality design, and reduced parking”. The requested zoning is in conformance with the Comprehensive Plan.

3. Although the 2017 Imagine Irving Comprehensive Plan does not directly address placement of cell towers, it does under Strategy 2.2 of the Economic Development Goals, Strategies + Actions section seeks to “Establish Irving as the top location in the US for 5G innovation.” For this reason continued development of cell tower locations across the city serves a role in support this initiative.

4. The applicant is proposing a new “Landmark Smart Light Standard”, which is a new light standard structure with radio and surveillance cameras for DART that will function as a cell tower on the property of the TRE West Irving Station. The triangular-shaped tower will be a 38.5-foot tall “light standard” with six (6) bays, three (3) for antenna and three (3) for radio with concealment shrouds to screen the antenna arrays within the light standard.

5. The tower will include site lighting 20 feet off the ground.

6. The tower will be within the station property, approximately 220 feet south of the western entrance from Jackson Street, approximately 329 feet east of the east (side) property line and approximately 267 feet north of the south property. Access is provided from Jackson Street through the drive aisle to the rail platform.

7. The tower will be able to accommodate up to three antenna arrays for future cellular carriers. The antenna arrays will be screened with exterior “concealment shrouds” painted white that is a “Mini Macro Multi-Tenant Light Standard”, a design that covers all the bay areas that house the equipment within the light poles.

8. New towers must be at least 200 feet or 3-to-1 ratio distance from residential buildings, whichever is greater, to provide for a fall zone. No residentially-zoned structures exist within 200 feet.

9. New towers must be separated from existing towers by 5,000 feet according to Sect. 52-32d 2(b) 3 of the Zoning Ordinance. According to the map provided by the applicant, there is at least one other tower approximately 4,800 feet east of the
subject property. However, given the small height and different nature of this tower, staff has no objections to the proximity to other towers.

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11. This proposed case and site plan are for consideration and approval of the “cell tower package” only and the detail of the site plan will not apply to the remainder of the property.

12. A total of 15 public notices were mailed. Staff has not received any responses in support of or in opposition to this request.

13. Since the proposed “landmark light standard” tower is less than 40 feet tall, can accommodate up to three antenna for future carriers, is part of a kiosk and light package for DART and it is primarily surrounded by commercial uses, staff can support this request.

Recommendation
The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

ADDITIONAL COMMENTS:

ATTACHMENTS:

- Exhibit A: Legal Description (PDF)
- June 1, 2020 Planning and Zoning Meeting Minutes (PDF)
- Vicinity Map (PDF)
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- Site Plan (PDF)
- Elevation Drawing (PDF)
- Tower Map (PDF)
- Tower Policy and Siting Worksheet (PDF)
- Staff Presentation to Council (PDF)

CURRENT YEAR FINANCIAL IMPACT:
NONE

REVISION INFORMATION:
Last Updated: 6/19/2020 11:47 AM by Linda Velazquez
ORDINANCE NO. (ID # 11059)

ZONING CASE NO. ZC20-0030
ZONING CLASSIFICATION - S-P-1

AN ORDINANCE AMENDING ORDINANCE NO. 1144, THE 1964 COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF IRVING, TEXAS, GRANTING A ZONING CHANGE ON A TRACT OF LAND DESCRIBED AS: A TRACT OF LAND OUT OF THE WEST IRVING COMMUTER RAIL STATION ADDITION, AND LOCATED AT 4200 JACKSON STREET, MORE FULLY AND COMPLETELY DESCRIBED IN EXHIBIT A ATTACHED HERETO; ORDERING A CHANGE IN THE USE OF SAID PROPERTY FROM S-P-2 SITE PLAN DISTRICT USE FOR FWY USES UNDER ORDINANCE NO. 1144, AS AMENDED TO S-P-1 SITE PLAN DISTRICT USE FOR FWY AND WIRELESS TELECOMMUNICATION FACILITY USES UNDER ORDINANCE NO. 1144, AND ACCORDING TO THE SITE PLAN ATTACHED HERETO AND MADE A PART HEREOF; PROVIDING FOR SPECIAL CONDITIONS AND REGULATIONS RELATIVE TO LAND USE; CORRECTING THE OFFICIAL ZONING MAP ATTACHED TO ORDINANCE NO. 1144; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE CHANGE IS IN ACCORDANCE WITH A COMPREHENSIVE PLAN FOR THE PURPOSE OF PROMOTING THE PUBLIC INTEREST, MORALS AND GENERAL WELFARE; PROVIDING THAT THIS ORDINANCE DOES NOT REPEAL OTHER PROVISIONS OF THE ZONING ORDINANCE EXCEPT IN CASES OF DIRECT CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, applications were made to amend the 1964 Official Zoning Map, City of Irving, Texas, attached to the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, by making applications for same with the Planning and Zoning Commission of the City of Irving, Texas, as required by State Statutes and the Zoning Ordinance of the City of Irving, Texas, and all the legal requirements, conditions and prerequisites having been complied with, the cases having come before the City Council of the City of Irving, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the City of Irving, Texas, at a public hearing called at a regular session of the City Council did consider the following factors in making a determination as to whether these requested changes should be granted or denied; safety of the motoring public and the pedestrians using the facilities in the area immediately surrounding the sites; safety from fire hazards and measures for fire control; protection of adjacent property from flood or water damages; noise producing elements and glare of the vehicular and stationary lights and effect of such lights on established character of the neighborhood; location, lighting and types of signs and relation of signs to traffic control and adjacent property; street size and adequacy of width for traffic reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood; adequacy of parking as determined by requirements of this ordinance for off-street parking facilities; location of ingress and egress points for parking and off-street loading spaces; protection of public health by surfacing on all parking areas to control dust; the effect on the promotion of health and the general welfare; effect on light and air; the effect on the overcrowding of the land; the effect on the concentration of population; the effect on the transportation, water, sewers, schools, drainage and surface water, parks and other public facilities; and

WHEREAS, the City Council of the City of Irving, Texas, further considered among other things the character of the district and its peculiar suitability for particular uses and with a view to
conserve the value of buildings and encourage the most appropriate use of land throughout the City; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a public necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, that the zoning change does not unreasonably invade the rights of those who bought or improved property with reference to the classification which existed at the time their original investment was made; and

WHEREAS, the City Council of the City of Irving, Texas, does find that the change in zoning helps lessen the congestion in the streets; helps secure safety from fire, panics, floods, and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements; and

WHEREAS, the City Council of the City of Irving, Texas, does find that there is a need for this change in zoning and that there has been a change in conditions in the property adjacent to and in the surrounding area of the subject tract, therefore allowing and requiring this zoning change; and

WHEREAS, the City Council of the City of Irving, Texas, does find that this change in zoning under a site plan district for FWY and Wireless Telecommunication Facility uses with a site plan attached will further lessen the congestion in the streets; help secure safety from fire, panics, floods, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provisions of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements;

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

SECTION 1. That City of Irving Ordinance No. 1144 being the 1964 Comprehensive Zoning Ordinance of the City of Irving, Texas, passed on November 5, 1964, be, and the same is amended and changed in that the use of the property described in the attached Exhibit A which is presently zoned S-P-2 Site Plan District Use for FWY uses under Ordinance No. 1144, is changed to S-P-1 Site Plan District Use for FWY and Wireless Telecommunication Facility uses under Ordinance No. 1144 of the City of Irving, subject to all the requirements of Ordinance No. 1144 and subject to all the requirements and conditions of Section 1-A of this ordinance.

SECTION 1-A. That the district use on the property described in Section 1 is hereby approved and granted upon the following express conditions:

(1) That development and use shall be in conformance with the site plan attached hereto and made a part hereof for all purposes.

(2) A true copy of the site plan attached hereto shall be retained by the Department of Planning and Community Development of the City of Irving.

(3) That all means of ingress and egress shall be approved by the Department of Public Works of the City of Irving.

(4) That all paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with the standard City of Irving specifications adopted for such purpose, and the same shall be done to the satisfaction of the Department of Public Works of the City of Irving.

The above requirements shall not be construed as conditions precedent to the granting of a zoning change, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.
SECTION 2. The City Planner is hereby directed to correct the Official Zoning Maps of the City of Irving, Texas, attached to Ordinance No. 1144.

SECTION 3. That in all other respects the use of the tract or tracts of land hereinabove described shall be subject to all the applicable regulations contained in said City of Irving Zoning Ordinance and all other applicable and pertinent ordinances of the City of Irving.

SECTION 4. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed, with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, drainage and surface water, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Irving affecting zoning and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this ordinance.

SECTION 6. That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the tract or tracts of land described herein shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.

SECTION 7. That any person, firm or corporation violating any of the terms and provisions of this ordinance shall be subject to the same penalties provided for in Ordinance No. 1144, Zoning Ordinance of the City of Irving, Texas.

RICHARD H. STOPFER
MAYOR

ATTEST:

Shanae Jennings
City Secretary

APPROVED AS TO FORM:

Kuruvilla Oommen
City Attorney
Exhibit A – Legal Description

Zoning Case ZC20-0030

BEING all of West Irving Commuter Rail Station Addition, Block B, Lot 1

**FROM:** S-P-2 (Generalized Site Plan) for FWY (Freeway) uses

**TO:** S-P-1 (Detailed Site Plan) District for FWY (Freeway) and Wireless Telecommunications Facility uses

- This case is scheduled for the June 25, 2020 City Council Public Hearing.

Chairman Spurlock read the item into the record. He then called on the applicant.

Nate Ebers, applicant, offered himself for any questions the Commission may have.

Chairman Spurlock called for individuals wishing to speak in favor or opposition of this item. There was no one wishing to speak in favor or opposition of this item.

Discussion was closed to the floor and returned to the Commission for their consideration and a motion.

Commissioner McPhail stated that he believes this is an excellent request for this site.

Commissioner McPhail moved to forward Zoning Case #ZC20-0030 to the City Council with a recommendation of approval. Vice-Chairman Burns seconded the motion.

Chairman Spurlock recognized the motion on the floor. There was no discussion of the motion. The motion carried unanimously.

**Ayes:** Jack Spurlock, Bruce Burns, Mark Cronenwett, Michael McPhail, Jamie Patel, Alicia Kliner, Mike Joy

**Absent:** Misaki Collins, Mark Zeske

Discussion Time: 2 minutes
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City of Irving
Property Owner Notification List
Zoning Case
No. ZC20-0030

Page 1 of 1
MAXIMUM CONCEALMENT

- GPS Receiver
- Weather Station
- Smart Metering Colocation
- WiFi AP Antennas
- Heat Exhaust Ventilation
- Beam Steerable Custom LED Lighting
- 1080P 360° Video Surveillance Cameras
- Fiber Optic Panel
- Optical Network Switch
- Video Surveillance Controller
- IoT Sensor Processing Unit

MNO 1 Antenna Bay
MNO 2 Antenna Bay
MNO 3 Antenna Bay
MNO 1 Radio Bay
MNO 2 Radio Bay
MNO 3 Radio Bay
Landmark Secured Power Bay

VERTEX V1 - INTEGRATED MINI-MACRO MULTI-TENANT LIGHT STANDARD
Name of Applicant: Dallas Area Rapid Transit  Zoning Case No. ZC20-0030- S-P-1

1. Describe the nature of the tower site:
   a. What type of supporting structure is proposed?
      1) A monopole (height: 36 ft);
      2) A self-supported structure (height: ); or
      3) A guyed tower (height: ).
   b. Attach photos or drawings of all equipment, structures and antennas.
   c. Will the structure meet all applicable FAA, FCC and other codes and standards? Be specific.
      Yes, Section 332(c)(7) of the Communications Act, Section 1455(a) of the Communications Act. Tower is too short to require FAA registration.
d. Given its position on the proposed location, if the structure should fall to the ground along its longest dimension, would it remain within the property boundaries? Would it avoid habitable structures? Would it avoid public streets, utility lines, and other antennas/towers?

Yes it would remain within the property and avoid habitable structures as well as public streets, utility lines, and other towers.

2. Why is this tower necessary?

To provide necessary infrastructure for future collocation/5G expansion.

3. State the name(s) of the telecommunications providers or other potential users of the tower and describe the use to be made by each user.

No agreements have been negotiated with any wireless carriers at this time, but this is a necessary intermediate step. V1 Smart pole would be open for collocation within the next 1-2 years.

4. Will this tower site be connected to other sites? If so, describe how it will be connected and who will be the back haul provider.

To be determined, once agreements are negotiated with wireless carriers.

5. Have you made an effort to collocate the facilities proposed for this tower on existing towers or structures in the same general area? Please identify the location of these existing sites.

No antennas for collocation are part of this V1 pole installation, this is a construction of the infrastructure to allow for future collocation.

6. Regarding No. 5 above, if yes, please describe in detail these efforts and explain in detail why these existing sites were not feasible.

N/A

7. Attach all studies or tests performed which demonstrate why the existing sites in No. 5 above will not provide sufficient signal coverage.

N/A

8. Please provide written documentation from these existing sites’ owners and/or operators, which confirm the statements in No. 6 above.

N/A

9. Do these existing sites, in No. 5 above, allow/promote collocation and, if not, why not?

N/A

10. Will collocation be allowed to other telecommunications providers at the requested site? If not, state every reason and the basis for each reason.

Yes.
11. Will the applicant or the proposed provider reconfigure its antennas and other equipment to accommodate other telecommunications providers? If not, state every reason and the basis for each reason.

Yes.

12. What is the proposed provider’s current coverage area for the City of Irving?

N/A

13. In the response to No. 12, attach separate maps showing:

N/A

a. What areas the proposed provider’s existing antennas currently cover;

b. What areas the proposed provider’s existing sites and the sites described in No. 5 would cover; and

N/A
c. What areas the proposed provider’s existing sites and the requested site would cover.

N/A

14. What is the proposed provider’s master telecommunications plan for the City of Irving? Attach maps and other related documentation. Provide information indicating each phase of the plan.

N/A

15. Describe the proposed provider’s plan to minimize the number of telecommunications towers needed to cover the City of Irving.

N/A
Zoning Case ZC20-0030

- Approx. 3.035 acres at 4200 Jackson St.
- **From**: S-P-2 (Generalized Site Plan) for FWY (Freeway) uses
- **To**: S-P-1 (Detailed Site Plan) for FW (Freeway) and Wireless Telecommunications Facility uses
- Recommended for Approval by the P&Z; 7-0
- No opposition received
MAXIMUM CONCEALMENT

- GPS Receiver
- Weather Station
- Smart Metering Colocation
- WiFi AP
- Antennas
- Heat Exhaust Ventilation
- Beam Steerable Custom LED Lighting
- 1080P 360° Video Surveillance Cameras
- Fiber Optic Panel
- Optical Network Switch
- Video Surveillance Controller
- IoT Sensor Processing Unit

VERTEX V1 - INTEGRATED MINI-MACRO MULTI-TENANT LIGHT STANDARD
Resolution -- Board Appointment to the Zoning Board of Adjustments and Appeals to an Unexpired Term

Administrative Comments
1. This item is recommended by the City Secretary’s Office.
2. Impact: Appointment of Irving residents to boards, commissions, and committees assures that our residents have a voice in city government.
3. The City Council conducted interviews to fill various vacancies on October 14, 21 and 28, 2019.
4. The vacant position under consideration is for the Zoning Board of Adjustments and Appeals.

Recommendation
The resolution be approved.

ADDITIONAL COMMENTS:

Contract Required: Review Completed By:
Previous Action: Council Action:
Discretionary Contract Disclosure Form Required: n/a

CURRENT YEAR FINANCIAL IMPACT:
N/A

REVISION INFORMATION:
Last Updated: 6/12/2020 02:48 PM by Cecilia Castillo
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the following individual be and is hereby appointed as a member of the Zoning Board of Adjustments and Appeals:

Carolyn Horner, Alternate

said term of office expiring November 2020.

As a result of the appointment heretofore stated, the Zoning Board of Adjustments and Appeals is represented by the following:

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SECTION II. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

_______________________________
RICHARD H. STOPFER
MAYOR

ATTEST:

_______________________________
Shanae Jennings
City Secretary

APPROVED AS TO FORM:

_______________________________
Kuruvilla Oommen
City Attorney