



GARLAND

AGENDA

CITY COUNCIL WORK SESSION City of Garland

REMOTE MEETING

Monday, March 15, 2021
6:00 p.m.

DEFINITIONS:

Written Briefing: Items that generally do not require a presentation or discussion by the staff or Council. On these items the staff is seeking direction from the Council or providing information in a written format.

Verbal Briefing: These items do not require written background information or are an update on items previously discussed by the Council.

NOTICE: Due to the COVID-19 emergency, and pursuant to Section 551.125 of the Texas Government Code and the executive orders of Governor Greg Abbott suspending provisions of the Texas Government Code and other applicable laws of the State regarding normal open meetings, the City Council will hold this meeting by internet/telephonic remote means.

The meeting will be broadcast by webinar or telephone at the following URL:

https://garlandtx.zoom.us/webinar/register/WN_-ljTd3mIT3K9hnpgQRrHBw

Registration for the online meeting is required. The meeting will be recorded and will be available for viewing the next day at www.garlandtx.gov.

For those without internet access to the meeting, a dial-in option is available. The numbers are:

346-248-7799
470-250-9358
470-381-2552

The Meeting ID is: 998 8775 1448

For participants (online and by phone) who wish to speak, a public comments period is provided as the first item on the agenda. If you desire to address the City Council on a matter that is posted on this agenda, please be prepared to do so at the beginning of the meeting. After the City Council has begun its discussion of the agenda, you will not be recognized to speak. The public comments portion of the meeting is provided for citizen comments. You are invited to offer a comment or make a statement on any item on the agenda. However, please bear in mind that offering comments should not be done in the form of posing questions. Generally, due to legal restrictions, the City Council is not able to answer questions during the public comments portion of the agenda. Your comments must relate to an item on this agenda - non-germane comments are not in order.

If an Executive Session is included as part of the agenda for this meeting, the Executive Session will be conducted by teleconference between and among the members of the City Council and relevant City staff. Public access to that call is prohibited by State law.

COUNCIL HOUSE RULES

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| 1. Decisions based on issues, goals and vision. | 9. Follow goals, principles and action agenda. |
| 2. Do not take things personal. | 10. Decide, vote and move on. |
| 3. Project a positive attitude. | 11. Avoid ambushes - Council or staff. |
| 4. Focus on issues, not on the person. | 12. Talk to staff before meetings. |
| 5. Be prepared to discuss issues. | 13. Vote our convictions, but be willing to compromise <i>"What is best for Garland."</i> |
| 6. Maintain decorum. | 14. Follow Roberts Rules of Order consistently. |
| 7. Keep your sense of humor. | 15. Agree to disagree. |
| 8. Honor and respect each other; accept each other as individuals. | 16. Be open and honest. |

NOTICE: The City Council may recess from the open session and convene in a closed executive session if the discussion of any of the listed agenda items concerns one or more of the following matters:

(1) Pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct. Sec. 551.071, Tex. Gov't Code.

(2) The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.072, Tex. Gov't Code.

(3) A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.073, Tex. Gov't Code.

(4) Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Sec. 551.074, Tex. Gov't Code.

(5) The deployment, or specific occasions for implementation of security personnel or devices. Sec. 551.076, Tex. Gov't Code.

(6) Discussions or deliberations regarding commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay, or expand in or near the territory of the City and with which the City is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect of the sort described in this provision. Sec. 551.087, Tex. Gov't Code.

(7) Discussions, deliberations, votes, or other final action on matters related to the City's competitive activity, including information that would, if disclosed, give advantage to competitors or prospective competitors and is reasonably related to one or more of the following categories of information:

- generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;
- bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;
- effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
- risk management information, contracts, and strategies, including fuel hedging and storage;
- plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and
- customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies. Sec. 551.086; Tex. Gov't Code; Sec. 552.133, Tex. Gov't Code]

1. Public Comments on Work Session Items

Persons who desire to address the City Council on any item on the Work Session agenda are allowed three minutes to speak. Speakers are taken only at the beginning of the meeting, other than invited testimony.

Speakers are grouped by Work Session item and will be taken in the order of the Work Session agenda. Speakers must submit to the City Secretary a completed speaker's card before the beginning of the meeting. Speaker cards will not be accepted after the Mayor calls the meeting to order. Speaker cards are available in the lobby, at the visitor's side of the Work Session Room, and from members of staff.

Speakers are limited to addressing items on the Work Session agenda – any item relating to a Regular Session agenda item should be addressed at the Regular Session and any item not on an agenda may be addressed during the open microphone at the end of the Regular Session.

2. Consider the Consent Agenda

A member of the City Council may ask for discussion or further information on an item posted as a consent agenda item on the next Regular Meeting of the City Council. The Council Member may also ask that an item on the posted consent agenda be pulled from the consent agenda and considered for a vote separate from consent agenda items on the regular agenda. All discussions or deliberations on this portion of the work session agenda are limited to posted agenda items and may not include a new or unposted subject matter.

3. Written Briefings:

a. Americans with Disabilities Act (ADA) Transition Plan

Council is requested to authorize staff to proceed with engaging a consultant to assist with development of an ADA Transition Plan to improve access through-out the City's transportation infrastructure. If Council concurs, a contract will be brought back for consideration at a future Council Meeting.

b. Master Agreement with Dallas County for Major Capital Improvements Program (MCIP)

Council is requested to adopt a resolution which authorizes the City Manager to execute the attached Master Agreement with the County for MCIP projects. This represents a renewal of the Master Agreement executed in 2012. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the April 6, 2021 Regular Meeting.

c. 2019 Homeland Security Grant Program Additional Allocation Application Resolution

Council is requested to approve a resolution of support for the 2019 Homeland Security Grant Program (HSGP) Additional Allocation application which would provide additional funding for public safety. This item is scheduled for formal consideration at the March 16, 2021 Regular Meeting.

d. Repeal Article VI, Chapter 30, "Sign Regulations," of Code of Ordinances

Council is requested to approve the repeal of Article VI, Chapter 30, "Sign Regulations," of the Code of Ordinances. Article VI, Chapter 30 of the Code of Ordinances is a duplication of the sign ordinance provisions of the GDC under which the City has been operating. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the April 6, 2021 Regular Meeting.

e. Modification of Single Stream Recyclable Materials Transport, Processing and Marketing Agreement

Council is requested to consider a modification to Single Stream Recyclable Materials Transport, Processing and Marketing Agreement between the City of Garland (City) and Fomento de Construcciones y Contratas, Inc (FCC) to extend the current contract through the end of fiscal year 2020/21 and consider whether to enter into a new 3-year contract with FCC with an effective date of October 1, 2021. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the April 4, 2021 Regular Meeting.

4. Verbal Briefings:

a. COVID-19 Response Update and Further Actions

Staff will provide an update to Council and ask for Council direction, if needed, on various matters related to COVID-19 and actions being taken by the City.

- 1. Update on case trends.*
- 2. Vaccination efforts and proposed actions to decrease "no shows."*
- 3. Potential vaccine allocations to GISD.*
- 4. Direction on re-opening and restrictions related to City services and facilities.*
- 5. Direction related to continuation of Zoom Council Meetings.*

b. Garland Chamber of Commerce Presentation on Assistance to Businesses

At the request of Council Member BJ Williams and Mayor Scott LeMay, the Garland Chamber of Commerce will discuss assistance to small businesses during the COVID-19 pandemic.

c. Briefing/Update on CARES Funding Status

At the request of Council Member Ricky McNeal and Council Member BJ Williams, staff and Catholic Charities of Dallas will provide an overview of the federally funded Rental/Mortgage Assistance programs offered to residents of Garland impacted by the COVID-19 pandemic.

d. Amendments to the Garland Development Code (GDC) Regarding Home Occupations

At the request of Council Member Robert John Smith, and Mayor Scott LeMay, Council is requested to discuss GDC Amendments related to Home Occupations.

e. Discuss Re-Establishing the City's Membership in the National League of Cities

At the request of Council Member BJ Williams and Council Member Ricky McNeal, Council is requested to discuss re-establishing the City's membership in the National League of Cities.

5. Announce Future Agenda Items

A member of the City Council, with a second by another member, or the Mayor alone, may ask that an item be placed on a future agenda of the City Council or a committee of the City Council. No substantive discussion of that item will take place at this time.

6. Council will move into Executive Session

**EXECUTIVE SESSION
AGENDA**

NOTICE: The City Council may recess from the open session and convene in a closed executive session if the discussion of any of the listed agenda items concerns one or more of the following matters:

The City Council will adjourn into Executive Session pursuant to Sections 551.071 and 551.086 of the Texas Government Code regarding attorney-client communications and competitive matters relating to GP&L operations in the recent weather-related electric curtailment event.

The City Council will adjourn into Executive Session pursuant to Section 551.074 of the Texas Government Code (relating to personnel) to conduct the annual review of the Municipal Judges, the City Auditor, the City Attorney and the City Manager.

7. Adjourn



GARLAND POLICY REPORT

City Council Work Session Agenda

3. a.

Meeting Date: March 15, 2021
Item Title: Americans with Disabilities Act (ADA) Transition Plan
Submitted By: Paul Luedtke, Transportation Director
Strategic Focus Areas: Well-Maintained City Infrastructure
Safe Community
Vibrant Neighborhoods and Commercial Centers
Reliable, Cost Efficient Utility Services
Customer-Focused City Services
Sound Governance and Finances
Future-Focused City Organization

ISSUE

The City of Garland must expand the ADA Transition Plan for the city in order to recognize the efforts that the city has made and is making with regard to making the city accessible to all citizens and in order to be in compliance with federal law.

RECOMMENDATION

Authorize staff to proceed with engaging a consultant to assist with development of an ADA Transition Plan to improve access through-out the City's transportation infrastructure. If Council concurs, a contract will be brought back for consideration at a future Council Meeting.

BACKGROUND

The City of Garland has been actively and enthusiastically working toward making every part of the city accessible to every citizen.

Several Garland programs have been ongoing that address accessibility such as the Sidewalk Program, the Traffic Signal Modernization Program, the Operational and Safety Program, the Street Department Reconstruction Program, the Facilities Upgrade Program, and the Parks Maintenance Program.

The Americans with disabilities act of 1990 requires the development and periodic review of an ADA Transition Plan. It has been several years since the City reviewed its ADA Plan.

ADA Transition Plans identify the locations within the city such as public rights of way, parks, and public city facilities that are in need of upgrade and provide a timeline for those upgrades.

Having an ADA Transition Plan will assist in securing grant funding.

CONSIDERATION

An ADA Transition Plan is required by federal law.



GARLAND POLICY REPORT

City Council Work Session Agenda

3. b.

Meeting Date: March 15, 2021
Item Title: Master Agreement with Dallas County for Major Capital Improvements Program (MCIP)
Submitted By: Michael Polocek, Engineering Director
Strategic Focus Areas: Well-Maintained City Infrastructure
Sound Governance and Finances

ISSUE

Consider whether to enter into a Master Agreement with Dallas County (County) for Major Capital Improvements Program (MCIP) projects.

OPTIONS

- A. Adopt a resolution which authorizes the City Manager to execute the attached Master Agreement with the County for MCIP projects.
- B. Take no action.

RECOMMENDATION

Option A: Adopt a resolution which authorizes the City Manager to execute the attached Master Agreement with the County for MCIP projects. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the April 6, 2021 Regular Meeting.

BACKGROUND

1. In 1999, the County adopted their Major Capital Improvements Program (MCIP) providing a cost share program between the County and individual Cities in Dallas County to construct major transportation projects.
2. As part of the County's program, each City is required to execute a Master Agreement with the County. The agreement establishes the governing and general financial responsibilities for each agency with respect to the design, right-of-way acquisition and construction of individual projects.
3. The City signed its original Master Agreement with the County in 2002 and signed a new Master Agreement in September 2012.
4. The County requires a new Master Agreement every 10 years. Although the current agreement is not set to expire until 2022, Dallas County has requested the City of Garland to execute the Master Agreement now so we are on the same 10-year cycle as all other Cities in Dallas County.

CONSIDERATION

1. Council action is required to authorize the City Manager to sign the Master Agreement with the County.
2. The Master Agreement was reviewed by the City Attorney's Office.

Attachments

Dallas County & COP MCIP Master Agreement

**MASTER AGREEMENT GOVERNING
MAJOR CAPITAL IMPROVEMENT PROGRAM**

THIS MASTER AGREEMENT is made by and between the City/Town of _____, Texas, hereinafter ("City") or ("Town"), and Dallas County, hereinafter ("County"), acting by and through its duly authorized officials, which desire to enter into an Interlocal Agreement, hereinafter ("Master Agreement") for the purpose of transportation improvements on roads inside Dallas County that are in the Dallas County Mobility Plan, hereinafter ("Mobility Plan").

WITNESSETH

WHEREAS, pursuant to Court Order _____, dated _____, County Commissioners Court approved participation in Transportation Major Capital Improvement Program ("MCIP") within the cities and towns inside Dallas County; and

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

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

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

ARTICLE I. DEFINITIONS

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

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

use the essential elements of CSS in all approaches to deliver the project. Some projects will dictate a very intense use of CSS, while others will only use a few of the elements, but the County will always consider CSS.

- E. **COUNTY** shall mean County of Dallas, State of Texas.
- F. **DIRECT PROJECT and PROGRAM COSTS** shall mean those costs that can be identified specifically with a particular project or program cost objective. These costs generally include compensation of employees for the time devoted and identified specifically to the performance of the project or program, cost of materials acquired, consumed or expended specifically for the purpose of the project or program; equipment changes; damage claims and other approved capital expenditures; change orders; travel expenses incurred specifically to carry out the project including, but not limited to, design, right-of-way, road or street drainage, utility relocation and adjustment, and construction. Direct Cost does not include the City/Town or the County's general overhead.
- G. **EFFECTIVE DATE** shall mean the date of the signature of the last person necessary for this Master Agreement to become effective.
- H. **FIVE PHASE PROJECT DELIVERY SYSTEM** shall mean the process for delivering a project from conception to completion as detailed in Attachment A, Project Management Practices Manual ("Practices Manual" or "Attachment A"), which is attached hereto and incorporated herein by reference, as well as any amendments, updates, additions, or supplements thereto, which are also incorporated herein by reference. This Master Agreement references the most current edition of the Practices Manual. Amendments, updates, additions, or supplements may be issued by the Dallas County Public Works Department to the Practices Manual, which may be provided to the city/town on an as-needed basis during the term of this Master Agreement. The five phases of the project delivery system are planning, design, right-of-way, utility clearance, and construction.
- I. **FUNDING AGREEMENT ("FA")** shall mean the agreement between the County and a City/Town to establish a preliminary proposed budget for a project, including the required funding match from the City/Town in an amount equal to or greater than County MCIP funding commitment. As design is completed and the engineering estimate is refined, the Funding Agreement ("FA") shall be incorporated into the Project Specific Agreement ("PSA"). A FA and/or PSA is necessary before beginning engineering design.
- J. **INDIRECT COSTS** shall mean those costs that benefit more than one project and cannot be readily identified with a particular final project or program cost objective. Their precise benefits to a specific project are often difficult or impossible to trace.
- K. **IN-HOUSE PROJECT DELIVERY COSTS ("IHPD")** shall mean all costs associated with the development of the Major Capital Improvement Program (MCIP) "Call for Projects", selection of projects, scoping of projects, project design, property acquisition and construction of projects. Cost Accounting shall include but is not limited to employee time reimbursement, materials, equipment, and other expenditures necessary for the management and continuation of the MCIP.
- L. **INTERLOCAL AGREEMENTS** shall mean contracts or agreements entered into between City/Town and County in accordance with the Texas Government Code, Chapter 791.
- M. **LEAD AGENCY** shall mean that entity responsible for project management, including, but not limited to planning, design, right-of-way acquisition, approved utility relocation or adjustment and construction unless otherwise designated.

- N. **MASTER AGREEMENT (“MA”)** shall mean this document including all incorporated documents, attachments, and exhibits.
- O. **MEMORANDUM OF AGREEMENT (“MOA”)** shall mean a written document that includes, but is not limited to a MOA, MOU, FA, and/or PSA, which incorporates the results of the Preliminary Design Charrette.
- P. **MEMORANDUM OF UNDERSTANDING “MOU”)** shall mean a written document that includes, but is not limited to a MOA, MOU, FA, and/or PSA, which incorporates the results of the Preliminary Design Charrette.
- Q. **MULTI-MODAL CONNECTIVITY IMPROVEMENTS** shall mean projects which comply with the concepts in the Moving Ahead for Progress in the 21st Century Act (“MAP-21”), any supplements and/or amendments thereto, or any future federal transportation acts which increase safety, accessibility, flexibility, efficiency, and enhance the integration and connectivity of the transportation system, across and between modes throughout the County for motorized and non-motorized users.
- R. **ORPHAN ROADS** shall mean all or part of a street or road right-of-way, which are outside the incorporated limits of a municipality (or municipalities) and the incorporated area of the municipality (or municipalities) abuts or extends into the right-of-way. These roadway segments have, in effect, been “orphaned” by the abutting City/Town (or cities) that they serve in that they have been left unincorporated. Thus, the County has primary responsibility for maintenance, operation, enforcement, police and/or emergency services within these unincorporated rights of way.
- S. **PARCEL OR PARCELS** shall mean those portions or part of land and improvements located either wholly or partially thereon, identified by County, City/Town or other stakeholder as required for right-of-way requirements of the Project. Such right-of-way shall include the existing street, road, drainage or other City/Town or County real property ownership and all additional real property to be utilized for the Project.
- T. **PRELIMINARY CONCEPT CHARRETTE (“PCC”)** shall have the same meanings and purposes as the Preliminary Design Charrette, but be conducted very early in the design start, before substantial design is underway. The conditions for which a PCC is appropriate will be determined by the lead agency. Use of CSS will usually mean that a PCC will be conducted, since its use fits perfectly into CSS concepts. Other conditions encountered may dictate the use of a PCC, such as poor soils, presence of unconsolidated solid waste dumps, innovative integration of master planning with project delivery, unusual right-of-way (“ROW”) challenges, budgetary constraints (thus calling for significant Value Engineering efforts), etc. The results of properly using a PCC will be that early consensus will be achieved on a basic approach to the project design and construction, thus avoiding wasted design funding and loss of momentum for project delivery.
- U. **PRELIMINARY DESIGN CHARRETTE (“PDC”)** shall mean meetings of representatives of independent engineers and stakeholders of the contracting parties of the project for the purpose of discussing feasible design alternatives, forging consensus for the selected alternative, and includes entering into a MOA, MOU, FA, and/or a PSA for the overall estimate, alignment, and scope of the project. The PDC will be scheduled when the preliminary design is complete or near completion. This means horizontal and vertical alignment alternatives have been designed, ROW requirements are at least approximately known for each alternative, and the design is 40% to 60% complete. The result of a PDC that is conducted with all the stakeholders present is that it may help assure the project is able to

overcome any challenges with design completion, ROW acquisition, utility design and relocation, and finally, road construction.

- V. **PROJECT MANAGER** shall mean the person appointed by the Lead Agency who is assigned the primary duty for assuring Project Participant coordination and timely project delivery. There will be only one Project Manager assigned to a Project.
- W. **PROJECT PARTICIPANTS/TEAM** shall mean independent representatives from the County, City/Town, and other stakeholders of the contracting parties as may be mutually agreed upon by the County, City/Town, and stakeholders or otherwise with responsibility for delivering the completed Project.
- X. **PROJECT(S)** shall mean the proposed thoroughfare and multi-modal connectivity improvements approved by the Commissioners Court for inclusion in the Transportation MCIP and approved by the City/Town.
- Y. **PROJECT DURATION** shall mean the active life of the Project. Project shall commence with the application for a Project by the City/Town and approval by the Dallas County Commissioners Court. The Project shall be considered complete when construction has been fully completed and the maintenance period has expired or the Project has been terminated in accordance with Article IV of this Master Agreement.
- Z. **PROJECT SPECIFIC AGREEMENT (“PSA”)** shall mean a written agreement subsequent to this Master Agreement, which is entered into to establish the contractual rights and responsibilities of the City/Town and County as it relates to a particular Project. A PSA supersedes a MOA, MOU or FA.
- AA. **RIGHT - OF WAY- (“ROW”)** is a strip of land that is granted, through a ROW deed, an easement or other mechanism, for the Project. ROW shall mean that real property or property interest identified by the County or the City/Town, as necessary for the construction of the Project which shall include the existing street, road, drainage or other City/Town or County real property ownership and all additional real property to be utilized for the Project.
- BB. **SCOPING SHEETS** will be attached to PSA’s involving construction. Scoping sheets may be attached to PSA’s involving a study or design. These sheets will set forth the design criteria to be used for the Project, including the alignment, appropriate specifications, typical section and other parameters of the Project. As project goals and needs are more clearly defined, the Scoping Sheets shall be updated and revised by the Project Manager to reflect current construction goals.
- CC. **SMALL WATERSHED DAM** shall mean floodwater retarding structures that were constructed by the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”), formerly named the Soil Conservation Service (“SCS”), in watersheds less than 250,000 acres under the authority of the Flood Control Act of 1944 and the Watershed Protection and Flood Prevention Act of 1954. These structures typically have earthen embankments with principal and auxiliary spillways.
- DD. **STANDARD BASIC PROJECT DESIGN** shall mean the standard County-approved City/Town criteria for paving, bridges, drainage and appurtenances, traffic control items including pavement marking, warranted uniform signals, street light foundations, pull boxes, conduit, sidewalks, medians, storage/turn lanes, access, required structural retaining walls and standard driveways excluding road or street amenities, or such design criteria as may be agreed upon by the contracting parties and listed in a Project’s Scoping Sheets.

- EE. **TxDOT** shall mean the Texas Department of Transportation.
- FF. **UTILITIES** shall mean each City/Town utility, public utility, common carrier, governmental or quasi-governmental facility, fiber optic facility, or other facility located within the limits of the Project by virtue of Texas or federal law or agreement between the entity and the City/Town, County, or State of Texas.
- GG. **UTILITY, CITY/TOWN**, also known as **CITY/TOWN UTILITY** shall mean those utilities that are owned or operated by the City/Town, which requires relocation or adjustment for the purpose of the construction of the Project as identified by Project plans.
- HH. **UTILITY IN PUBLIC RIGHT-OF-WAY** shall mean all Utilities located within the limits of any governmental entity.
- II. **UTILITY IN PRIVATELY OWNED RIGHT-OF-WAY** shall mean all Utilities, excluding City/Town Utilities, whose facilities are located within a private easement.
- JJ. **UTILITY BETTERMENT** shall mean any increase in the capacity of any Utility's Facility adjusted or relocated as a part of the Project as compared to the existing Facility, or any upgrading of the Utility's Facility above the standard practices, devices or materials, specified by the Utility and customarily used by the City/Town or Utility on Projects solely financed by the City/Town or Utility. Provided, however, that any adjustments necessary to successfully accomplish the Project shall not be considered a Betterment, and further, that any increase in the capacity of the Utility Facility resulting solely from the replacement of devices or materials no longer regularly manufactured, processed or installed shall not be considered a Betterment, provided that such replacement shall be only to the standard devices or materials currently used on other projects financed solely by the City/Town or Utility. This meaning shall apply to utilities that are part of the Project as well as the standard basic street components (See "STANDARD BASIC PROJECT DESIGN").

ARTICLE II. PERIOD OF THE AGREEMENT

This Master Agreement becomes effective when signed by the last party whose signing makes the respective agreement fully executed (The "Effective Date"). This Master Agreement shall expire ten (10) years from the Effective Date unless terminated in accordance with Article IV of this Master Agreement.

ARTICLE III. AMENDMENTS

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

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

A. TERMINATION

- a. This Master Agreement may be terminated by any of the following conditions:
 - 1. By expiration of the term of the agreement.

2. By either party, by providing written notice of termination pursuant to Article XIX, Paragraph I. of this Master Agreement establishing the effective date of termination to the other party as consequence of the party being in default of the provisions of this Master Agreement and/or any original, supplemental and/or any amended MOA, MOU, FA, and/or PSA or the failure to timely provide funding, with proper allowances being made for circumstances beyond the control of the defaulting party.
 3. By either party for any reason with ninety (90) days written notice to the other party pursuant to Article XIX, Paragraph I. of this Master Agreement.
- b. Should either party terminate this Master Agreement as herein provided, all existing, fully executed original and/or supplemental and/or amended MOA, MOU, FA, and/or PSA made under this Master Agreement shall not be terminated and shall automatically incorporate all the provisions of this Master Agreement.
 - c. In the event that any original and/or supplemental and/or amended MOA, MOU, FA, and/or PSA is terminated prior to completion of the Project, no additional Costs shall be incurred other than Costs due and payable at the time of termination for services actually performed or that shall become due and payable due to such termination. The Lead Agency, to the extent permitted, may terminate all Project contracts, unless written notice is given by either party to the other of its intent to complete the Project, and prepare a final accounting for the Project.
 - d. If the Project is terminated by the City/Town prior to the award of any construction contract and the Project is located within the City/Town limits, City/Town shall pay to the County the full amount expended by the County on the Project and the County shall transfer to the City/Town its rights and all deliverables that it may be entitled to receive under the existing professional services or other project contracts or agreements. Such amount shall be included in the final accounting for the Project. Such amount shall be due and payable in full ninety (90) days subsequent to the termination, or thirty days subsequent to delivery of final accounting.
 - e. Once the construction contract has been awarded by the governing body of the Lead Agency, the PSA for that Project cannot be terminated until completion of the construction.
 - f. In the event that a Project is terminated prior to the award of the construction contract, either party may, upon written notice pursuant to Article XIX, Paragraph I. of this Master Agreement, take over the Project and prosecute the work to completion by contract or otherwise at its sole cost and expense. In the event that the party completing the work is not the Lead Agency, it is agreed that the Project Manager will furnish to the Completing Party a listing of current records pertaining to any outstanding obligations or other records or information required by any project contract, including any Work Order, or requested in writing by Completing Party in either printed or electronic format or both. The Lead Agency agrees to cooperate with the Completing Party. The Lead Agency will use its best efforts to transfer to the Completing Party all contracts. Obligations under such contracts shall become the sole obligation of the Completing Party upon transfer. Completing party agrees to timely pay all future obligations under such contract as they become due and payable. Completing Party hereby releases the Lead Agency from any and all liability under such assigned contracts subsequent to date of transfer, effective upon the transfer date. Lead Agency shall exercise its best efforts to ensure a transition of services without interruption.

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

- g. In the event that no FA is approved within five (5) years of Commissioners Court approval of County MCIP funding commitment, then the County in its sole discretion, can reallocate the County MCIP funding commitment.
- h. In the event the Project is being completed in phases and more than five (5) years has transpired after a completed phase without any activity on subsequent approved phases, then the County in its sole discretion, can terminate the Project and reallocate the remaining County MCIP funding.
- i. In the event that the City/Town enters into a PSA with the County, if the Project has not been completed within ten (10) years from the date of Commissioners Court approval of the original PSA, then the County in its sole discretion, can terminate the Project and reallocate the remaining County MCIP funding.
- j. Provisions b through j of this Article IV, Section A shall survive the termination of this Master Agreement and any MOA, MOU, FA, and/or PSA and shall be a continuing obligation until the transition of services, all payments made and the Projects are complete. All items listed or required in this provision shall be furnished by Lead Agency to Completing Party without additional cost or expense to completing party.

B. FORCE MAJEURE:

Neither County nor City/Town shall be in default or responsible for delays or failures in performance resulting from causes reasonably beyond its control and not attributable to its neglect. Such acts include but are not limited to acts of God, fire, storm, pandemic, epidemic, flood, earthquake, natural disaster, nuclear accident, strike, air traffic disruption, invasion, insurrection, lockout, stoppage of labor, riot, freight embargo, public regulated utility, or governmental statutes, orders, or regulations superimposed after the fact. Any party delayed by force majeure shall as soon as reasonably possible give the other party written notice of the delay. If reasonably practical, the party claiming the suspension shall give notice of such impediment or delay in performance to the other party within ten (10) days of the knowledge of such occurrence. The party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other party written notice thereof and shall resume performance under this Master Agreement as soon as practicable. In the event of such an occurrence, the time for performance of such obligations or duty shall be suspended until such time that such inability to perform, shall be removed. Each party shall make all reasonable efforts to mitigate the effects of any suspension. The provisions of this Article IV, Section B shall survive the termination of this Master Agreement.

ARTICLE V. IMMUNITY AND LIABILITY FOR ACT AND OMISSIONS

County and City/Town agree that no provision of this Master Agreement is in any way intended to constitute a waiver of any immunities from suit or liability, or a waiver of any tort limitation, that the parties have by operation of law, or otherwise. County and City/Town agree that both County and City/Town shall each be responsible for their own negligent acts or omissions or other tortious conduct in the course of performance of this Master Agreement without waiving any sovereign or governmental immunity available to either County or City/Town or their respective officials, officers, employees, or agents under Texas or other law and without waiving any available defenses under Texas or other law. In the event of joint and concurrent negligence of the parties to this Master Agreement, responsibility, if any, shall be apportioned

comparatively in accordance with the laws of the State of Texas, without waiving any defenses, including sovereign or governmental immunity, or other defenses available to the parties under federal or Texas law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. The provisions of this Article V shall survive the termination, expiration, or cancellation of this Master Agreement, or any determination that this Master Agreement or any portion hereof is void, voidable, invalid, or unenforceable.

ARTICLE VI. LEAD AGENCY

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

ARTICLE VII. CITY/TOWN AGREES AS FOLLOWS:

- A. To execute, within five (5) years of Commissioners Court approval of funding commitment, the necessary agreements with the County for the implementation of design and construction of the Projects mutually agreed upon and incorporated herein by reference with a PSA. Without at least a FA within five (5) years of Commissioners Court approval of the funding commitment, the County in its sole discretion can reallocate the funding commitment.

- B. City/Town agrees not to allow more than five (5) years to transpire after a completed phase without any activity on subsequent approved phases, in the event that the Project is being completed in phases. If more than five (5) years transpire after a completed phase without any activity on subsequent approved phases, the County in its sole discretion, can reallocate the remaining County MCIP funding.
- C. City/Town agrees to complete the Project within ten (10) years from the date of Commissioners Court approval of the PSA. If more than ten (10) years transpire, the County in its sole discretion can reallocate the remaining County MCIP funding.
- D. To provide City/Town Council Resolution adopting approved preferred alignment, proposed estimated budget, and commitment to meet MCIP Project funding for each milestone as specified herein in the Master Agreement or in the FA and/or PSA.
- E. The County in its sole discretion can require the City/Town to provide a plan to address outstanding issues before entering into necessary agreements for the Project to proceed.
- F. City/Town agrees to share the funding of each Project with County on an equal share basis of 50%/50% or an otherwise agreed cost sharing arrangement as specified in a FA and/or PSA with the following exclusions:
 - a. City/Town shall bear the entire cost of:
 - 1. City/Town owned utilities relocation or adjustment such as water and sanitary sewer facilities, except utility adjustments directly attributable to storm sewer improvement conflicts;
 - 2. Amenities including but not limited to street pavers, colored concrete, planters, decorative lighting, special signage, or any other feature over the Standard Basic Project Design;
 - 3. Utility Betterments;
 - 4. Direct costs of City/Town which is fulfilling the role of Lead Agency, shall be totally funded by City/Town unless supported by a detailed hourly accounting system equal to County's accounting system; and
 - 5. City/Town Indirect Costs.
- G. After the City/Town and County enter into a MOA, MOU, FA and/or PSA, regarding the Project's concepts, design elements and limits by the County and City/Town at the PDC, the City/Town agrees to acquire ROW required for designated projects by voluntary dedication, the subdivision platting process and/or other legal means, to the maximum extent possible, and to ensure through the building permitting process that setback requirements are imposed to limit encroachment upon the required ROW. City/Town agrees to fund ROW not acquired, but reasonably expected to be acquired. City/Town also agrees to fund the removal of improvements that are encroachments within existing or proposed ROW areas.
- H. In the event of any proposed use of the Project ROW that will conflict with the proposed Project and City/Town is unable to obtain such ROW as described above, City/Town shall notify County of such conflict. County and City/Town shall determine if the acquisition of the conflicting parcel would be in the best interest of the Project. In the event that agreement is reached and the parcel is acquired such cost shall be included in the pro rated cost of the project in the agreed upon proportions.

- I. City/Town hereby grants the County authority to enter into eminent domain proceedings within the City/Town limits on each specific ROW alignment and/or project as approved by the City/Town and County.
- J. To require all Utilities located within or using the present public ROW on all designated transportation projects within City's/Town's municipal limits to adjust and/or relocate said Utilities as required by the proposed improvement of the designated transportation project. City/Town Utilities shall be relocated or adjusted at no cost to County except as may be specifically set forth in this Master Agreement.
- K. City/Town agrees to be cooperative on issues relating to billboards, advertising signs, non-conforming uses, zoning and similar restrictions and to exercise its best efforts to provide variances when possible to minimize costs and minimize delays of the Project. Additional Project costs caused or contributed to by the City/Town ordinance, zoning, non-conforming use determination or other requirement shall be paid in full by the City/Town.
- L. City/Town shall require the adjustment and/or relocation of Utilities to be accomplished and finalized, as expeditiously as possible after approval of final plans to prevent Project schedule delays. Notwithstanding anything contained herein to the contrary, all Utilities shall be adjusted or relocated and the ROW clear for construction not later than thirty (30) days prior to the award of the construction contract. City/Town will notify the County and other stakeholders when utility conflicts would impact progress of the Project's completion. County and City/Town agree to work with all stakeholders to solve the problem; which includes engaging elected officials in the problem's resolution to prevent delays in the commencement or prosecution of construction on the Project.
- M. Where planned roadway improvements (including, but not limited to storm drainage,) are in conflict with City/Town owned water and sanitary sewer systems, that could otherwise remain in place, the actual costs of the necessary adjustment of City/Town water and sewer utilities shall be pro rated at the overall percentage agreed to by City/Town and County for cost sharing. City/Town shall be responsible for funding one hundred percent (100%) of any Betterment; as well as 100% of any relocation that is caused by City/Town installation during the Project Duration. Except as provided herein, all costs for adjustment and/or relocation of utilities in the public ROW shall be the responsibility of the Utility Owner or of the City/Town Utility. Any Project delay or other damages caused by City/Town or the Utility's failure to timely relocate or adjust the facility shall be at the entire cost of City/Town.
- N. To provide for continuing surveillance and control of ROW to prevent the construction, placement, storage or encroachment of any signs, personal property or other appurtenances in the existing or proposed ROW. In the event that the aforementioned features are allowed by City/Town to encroach on necessary ROW during the duration of the project, City/Town shall bear the entire cost of removal or relocation of said encroachment.
- O. To provide to County for County's or County's designee's use, at no cost, adequate copies of all construction standards, codes, (specifically including zoning and development codes), plats, specifications, guidelines, standards or any other pertinent information as determined by County to be required for the completion of the Project. Additionally, City/Town shall furnish County, at no cost, such documents as necessary to keep all items previously furnished to County current.
- P. To actively participate and provide authorized representation with decision-making power at the PCC and/or the PDC, preconstruction meeting, and project meetings, which are necessary to Project development and completion.

- Q. City/Town agrees to provide timely review of interim submittals. “Timely review” will be agreed upon during the PCC and/or PDC as a part of the Project schedule. City/Town further agree that if no review notes are submitted by the City/Town in writing to the County in a timely basis, plans are approved as submitted.
- R. When City/Town is Lead Agency, City/Town agrees to allow forty-five (45) days for County review of submittals and that any of the County’s comments shall be incorporated into the final document.
- S. City/Town agrees that it will pay all additional Project cost for any City/Town requested discretionary change, including, but not limited to Amenities and Utility Betterments, in or in addition to the design or construction of the Project subsequent to the City/Town’s opportunity to review the sixty five percent (65%) design plans.
- T. Provide at City’s/Town’s cost for the continuing maintenance of all the Project ROW, such as mowing, drainage, trash removal, etc., during the period between acquisition and construction.
- U. During the construction of the Project and after completion of the Project, City/Town will be responsible for the control, operation, police enforcement and/or emergency services, without cost or contribution from the County.
- V. After the completion of a Project and the maintenance period, the City/Town will be responsible for all future maintenance without cost or contribution from the County.
- W. City/Town shall bear the entire cost of design, construction and administration for landscaping, streetscaping, streetlighting, as such items are not included in the Standard Basic Project Design and other amenities specified or requested by the City/Town in excess of the Standard Basic Project Design.
- X. It is the intent of this Master Agreement that the County will be the Lead Agency. In the event that the City/Town and County agree in writing that the City/Town will manage and administer one or more projects, the City/Town and the County will enter into a FA and/or PSA as to that project(s). In such instance, the City/Town agrees to assume all Lead Agency responsibilities except as may be determined by mutual agreement and set forth in the FA and/or PSA.

ARTICLE VIII. UTILITY IMPACTS.

- A. In cases where a Utility is located in a Privately Owned ROW, and it is necessary to relocate the facility or make adjustments by reason of the widening or improvement of the designated Project, the County (or City/Town if acting as the Lead Agency) will, after submission by the utility company of ROW documentation and cost estimates acceptable to the City/Town, County and other stakeholders, assign the actual costs for the relocation and/or adjustment of said utility to the Project.
- B. In cases where a Utility in Public ROW, excluding City/Town Utilities, occupies any portion of the Project ROW by Texas or federal law or by agreement with the City/Town that allows or permits the City/Town to cause the relocation of the utility for the construction of the Project, the City/Town shall timely require and enforce the relocation or adjustment requirement at no cost to the Project. In the event that the City/Town has no legal or contractual right to cause the relocation, the relocation or adjustment shall be relocated or adjusted and all cost shall be a Project Cost. City/Town shall take all steps necessary to ensure that such relocation or adjustment shall not conflict with or delay the Project schedule.

ARTICLE IX. COUNTY AGREES AS FOLLOWS:

- A. To provide, as a Project Cost, preliminary engineering which will define project details, e.g., location, scope of work and specific right-of-way alignment for each improvement. Such preliminary engineering shall be submitted to the City/Town for approval, prior to proceeding with the final design and any right-of-way acquisition.
- B. To provide, as a Project Cost, for the construction of transportation improvements based upon design criteria conforming to Standard Basic Project Design in conformity with applicable City ordinances and standards, to the extent of Commissioners Court approved program funding. Scope of work shall include the agreed upon design standards as the basis for improvement criteria. Deviations from mutually agreed upon application of City/Town standards and/or design criteria shall require prior approval of the City/Town. Where City/Town standards do not exist, TxDOT standards as of the Effective Date of this Master Agreement shall be utilized unless otherwise mutually agreed to by the parties in the FA and/or PSA.
- C. To actively participate and provide authorized representation at the PCC and/or the PDC, preconstruction meetings, and Project meetings, which are necessary to project development through project completion.
- D. To provide project management of each Project where the County is Lead Agency from commencement to completion of construction. City and County may agree to redefine project management roles as beneficial to the Project as defined in the MOA, MOU, FA, and/or PSA, and/or supplemental and/or amended agreements.
- E. Upon receipt of written request detailing the information requested, to provide information related to the Project to the City/Town or the City /Town's designee at no cost to the City/Town.
- F. County agrees to provide review of interim submittals within forty-five (45) days of receipt, and hereby agrees that if no review notes are submitted by the County (if City/Town is filling the role as Project Manager) in writing to the City/Town within that time period, plans are to be approved as submitted.
- G. To submit final engineering plans for review and written approval by the City/Town forty-five (45) days prior to submitting documents to the County Purchasing Department for advertising the project for construction.
- H. To provide for the acquisition, including acquisition by Eminent Domain, of the necessary additional ROW, on designated projects, in accordance with minimum standard requirements and utilizing existing public ROW to the maximum extent possible as a Project cost.
- I. To require all contractors to secure all necessary permits required by the City/Town on said construction projects.
- J. To furnish record drawings of construction plans for the permanent records of the City/Town within twelve (12) months upon completion and acceptance of the transportation improvement Project.
- K. To transfer the real property or property interest acquired by the County and used for the Project to the City/Town.
- L. In the event the County and the City/Town agree in writing that the City/Town will be the Lead Agency for the agreed upon Project, the County will reimburse the City/Town for agreed costs as detailed in Article XII. (Funding) in this Master Agreement in an amount not to exceed the Project cost as approved by Dallas County Commissioners Court and incorporated in the FA and/or PSA.

All County payments shall be in accordance with Texas law and County policies and procedures as may be mutually agreed to by the parties and incorporated by reference in a FA and/or PSA.

ARTICLE X. PRELIMINARY DESIGN CHARRETTE (PDC), PRELIMINARY CONCEPT CHARRETTE (PCC)

- A. City/Town and County, as specified in Articles VII, IX, and X of this Master Agreement, respectively, will designate officials or representatives to participate in a PCC and/or PDC to be conducted on a mutually agreed to date and location. At least part of this meeting will be conducted on the Project site.
- B. Results from the PCC will identify the general project scope, the basic approach and concepts to be taken with the project, the elements of CSS that will be included, and some ideas for alignments alternatives. The Lead agency will already have been determined, as well as the project administration and management roles, which include the Project Manager. Key project participants shall be introduced to stakeholders at the PCC and or PDC. Results from the PDC will identify the preferred alignment of the project, and provide all stakeholders a commitment for project delivery schedules and project budgets.

ARTICLE XI. FISCAL FUNDING

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

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

ARTICLE XII. FUNDING

- A. City/Town and County mutually agree to proportionately fund the Direct Project and Program costs as agreed by the parties in a FA and/or PSA. Unless otherwise specified in the FA and/or PSA, the County shall bear fifty percent (50%) of the total Direct Project and Program costs

excluding the Amenities, relocation or adjustment of City/Town Utilities, Utility Betterment, Indirect Cost, Direct Cost not supported by detailed hourly accounting system and other items as specified in this Master Agreement, FA, and/or PSA. County shall not be responsible for any amount of funding in excess of the Project not-to-exceed amount as shown in the FA and/or PSA. Unless otherwise specified in the FA and/or PSA, the City/Town shall bear fifty percent (50%) of all Direct Project and Program costs. In addition, the City/Town agrees to fund all other City/Town cost as provided herein, including, but not limited to, Amenities, relocation or adjustment of City/Town Utilities, Utility Betterment, Indirect Cost, Direct Cost not supported by detailed hourly accounting system, and other items as specified in this Master Agreement, FA, and/or PSA.

- B. Unless otherwise stated in a FA and/or PSA, the milestones for each project shall be (1) preliminary and primary design (2) ROW acquisition and utility relocation or adjustment and (3) construction. The Lead Agency shall prepare an estimated cost for each milestone. Upon approval of the cost by the other party, each party shall fund its share of the respective milestones by placing that amount of money in an escrow account or otherwise encumber the funds to ensure that the Lead Agency will have sufficient funding available from current revenue for the timely payment of Project milestone costs. The Lead Agency may bill the other party for periodic payments for the actual amount of work completed toward the completion of the milestone. Upon completion of the milestone, the non-management party will be furnished a notice that such work has been completed and the amount of funding that may be utilized to pay subsequent milestone Project cost. Notwithstanding any other term or condition contained herein in this Master Agreement or in any FA and/or PSA, neither party will be required to award any contract until written certification has been received that funding has been placed in escrow or encumbered for the payment of the non-awarding party's portion of the Project cost.
- C. In the event that the cost of the Project shall exceed the not-to-exceed amount, City/Town and County agree to either reduce the scope of construction or seek additional funding to complete the Project at the agreed upon cost share percentages. At the termination of the Project, the Lead Agency will do a final cost accounting of the Project. In the event that the amount paid by either party exceeds its portion of the actual cost, the difference will be remitted to such party. In the event that additional funds are due, the Lead Agency will bill the other party who agrees to pay such funds within thirty (30) days of receipt of such billing.
- D. If the City/Town elects to manage the Project, the County will reimburse the City/Town based on invoices for actual costs expended as supported by documentation approved by the County Auditor. Any and all supporting documentation required by the County Auditor shall be included with the invoice from the City/Town.
- E. After approval by the County's Commissioners Court and the City/Town's City/Town Council, and after the execution of an FA and/or PSA, the City/Town shall escrow an amount adequate for estimated Project costs, which the County may use to pay for professional services, which include, but are not limited to scoping, preliminary design, and primary design.
- F. City/Town and County shall enter into a FA to establish funding commitments for both parties as required for each project within at least five (5) years of project selection unless the County and City decide to enter directly into a PSA. If the City/Town agree the Project is to be completed in phases, no more than five (5) years may transpire after a completed phase without any activity on subsequent approved phases.

- G. If the City/Town and County agree to enter into a PSA without first entering into a FA, the City/Town shall enter into a PSA with the County and complete the Project within ten (10) years or less.
- H. Suggested timeframes for FA's, PSA's, and/or any supplements and/or amendments thereto are:
- a. As soon as the project is accepted by Commissioners Court and as a result of the Kick-off meeting, a FA to establish the Lead Agency for preliminary engineering and general funding responsibilities and procedures for reimbursement by the Participating Agency; or
 - b. For a PSA, when the preliminary engineering plans are at sixty percent (60%) complete, providing specific details on project scope to enter into a PSA; or
 - c. After construction bids are opened, amend the PSA as needed.

ARTICLE XIII. NO THIRD PARTY BENEFICIARY ENFORCEMENT

It is expressly understood and agreed that enforcement of the terms and conditions of this Master Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City/Town and the County. Nothing contained in this Master Agreement shall give or allow any claim or right of action whatsoever to any other person or entity. The terms and provisions of this Master Agreement are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of the City/Town and the County that any entity or person other than the City/Town or the County receiving services or benefits under this Master Agreement shall be deemed an incidental beneficiary only. This Master Agreement is intended only to set forth the contractual right and responsibilities of the parties hereto.

ARTICLE XIV. RIGHT OF ENTRY

The City/Town agrees that the County shall have the right to enter upon the Project area for the time period necessary for the completion of the Project. The City/Town agrees to furnish such police or other City/Town personnel as requested by the County for traffic control or other public safety matters at no cost to the Project or the County.

ARTICLE XV. LIST OF PROJECTS

City/Town agrees that it has been furnished with a list of the potential Projects as approved by the Dallas County Commissioners Court, subject to the agreement between the parties in a MOA, MOU, FA and/or PSA. City/Town stipulates and agrees that the Commissioners Court Order approving the projects identifies the potential project location and describes the type of project in sufficient detail that the City/Town is fully aware of the location and type of projects being considered.

ARTICLE XVI. REALLOCATION OF COUNTY MCIP FUNDING

The County in its sole discretion has the ability to reallocate County MCIP funding away from the City/Town's Project if the City/Town has not entered into a FA confirming the City/Town funding match within five (5) years from Commissioners Court approval of the funding commitment. The County in its sole discretion has the ability to reallocate the remaining County MCIP funding in the event the Project is being completed in phases and more than five (5) years has transpired after a completed phase without any activity on subsequent approved phases. The County, in its sole discretion, also has the ability to reallocate the remaining County MCIP funding away from the

City/Town's Project if the City/Town has not completed the Regional Transportation milestone within ten (10) years.

ARTICLE XVII. ORPHAN ROAD POLICY

- A. The County encourages all cities adjacent to orphan roads in the county to develop, commit to and submit a plan to the County for completing the annexation of the orphan road segments and assuming full responsibility for these roadways. In instances where two cities abut the same orphan road segment, the County encourages the two cities to jointly develop a plan for the annexation of that segment. The County offers its assistance to the cities in developing such plans.
- B. The County, at the discretion of the Commissioners Court, may give additional selection value to projects in cities that have submitted a specific plan for the annexation of orphan roads when the County selects, approves, and schedules projects for funding in the County's Major Capital Improvement Program ("MCIP"). Such preference may also be given in approving projects for road and bridge district participation (Type "B" work).
- C. The County, at the discretion of the Commissioners Court, may also refuse to participate in discretionary projects, such as road and bridge district projects or MCIP projects, in a City that elects not to pursue the annexation of orphan road segments that abut its boundaries. Failure to notify the County of the City's intent to annex and/or failure to submit a plan for annexation in a timely manner shall be construed by the County as the City's election not to pursue annexation.
- D. The County, at the discretion of the Commissioners Court, may select specific orphan road segments for improvement when a City commits to annexation of the segment upon completion of the project. However, the specific plan for annexation of orphan roads submitted by the City will not be limited to annexation upon completion of improvements by the County. The County improvements may be made as road and bridge projects or as MCIP Projects (subject to other MCIP criteria, including but not limited to regional thoroughfare plan designation and City cost participation).
- E. This policy application is prospective and projects selected by the County and approved by the Commissioners Court prior to the date of the adoption of this policy shall not be impacted by this policy.
- F. The County shall provide written notification of the adoption of, and future revisions of, this policy to the cities abutting orphan road segments.
- G. The County Director of Public Works shall maintain a listing of orphan roads and the city or cities they abut and shall provide updates to the Commissioners Court and to the cities as changes occur. The listing and changes to the listing shall be based on municipal boundary and annexation information provided to the County's Public Works by the cities as required by Texas Local Government Code, Section 242.001(c).
- H. The provisions of this Article XVII of this Master Agreement shall survive the termination of this Master Agreement.

(Dallas County Code, Chapter 102, Article IV, Sec. 102-131 - 102-133, 6-27-2006, 8-10-2020).

ARTICLE XVIII. SMALL WATERSHED DAMS

The County encourages all cities/towns adjacent to small watershed dams maintained by the County to develop, commit to and submit a plan to the County for assuming full responsibility for the operations and maintenance of these dams. In instances where more than one city/town abuts a small watershed dam, the County encourages the cities/towns to develop a plan for operation and maintenance of the dam. The County offers its assistance to the cities/towns in developing such plans.

- A. The County, at the discretion of the Commissioners Court, may refuse to participate in MCIP projects in a City/Town that elects not to pursue accepting full responsibility for the operations and maintenance of small watershed dams within their jurisdiction. Failure to notify the County of the City/Town's intent to submit a plan for operations and maintenance of small watershed dams in a timely manner shall be construed by the County as the City/Town's election not to pursue operations and maintenance of these dams.
- B. Projects selected by the County and approved by the Commissioners Court prior to the Effective Date of the adoption of this policy, shall not be impacted by this policy.
- C. The County shall provide written notification of the adoption of, and future revisions of, this policy to the cities abutting small watershed dams.
- D. The provisions of this Article XVIII shall survive the termination of this Master Agreement.

ARTICLE XIX. MISCELLANEOUS GENERAL PROVISIONS

A. **Applicable Law/Venue.** This Master Agreement and all matters pertinent thereto shall be governed by and enforced in accordance with the laws and case decisions of the State of Texas. Exclusive venue for any legal action regarding this Master Agreement and all matters pertinent thereto filed by either the County or the City/Town shall be in Dallas County, Texas. Notwithstanding anything herein to the contrary, this Master Agreement is expressly made subject to the County's and the City/Town's sovereign and/or governmental immunity, pursuant to Title 5 of the Texas Civil Practice and Remedies Code, and all applicable State of Texas and federal laws.

B. **Entire Agreement.** This Master Agreement constitutes the entire agreement between the parties respecting the subject matter contained herein, supersedes all prior and contemporaneous understandings and agreements, whether oral or in writing, between the parties respecting same, and may not be modified except by an instrument in writing executed by the parties hereto as herein provided.

C. **Severability.** If one or more of the provisions in this Master Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not cause this Master Agreement to be invalid, illegal or unenforceable, but this Master Agreement shall be construed as if such provision had never been contained herein, and shall not affect the remaining provisions of this Master Agreement, which shall remain in full force and effect.

D. Default/Waiver/Mitigation. It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Master Agreement does not preclude pursuit of other remedies in this Master Agreement or as provided by law.

E. Federal or State of Texas Funding. In the event that any work or part thereof is funded by State of Texas or U. S. Government funding and any statute, rule, regulation, grant, contract provision or other State of Texas or U. S. Government law, rule, regulation or other provision imposes additional or greater requirement(s) than stated herein, the City/Town agrees to timely comply therewith without additional cost or expense to the County.

F. Headings. The headings and titles, which are used following the roman numeral of each paragraph are only for convenience in locating various provisions of this Master Agreement and shall not be deemed to affect the interpretation or construction of such provisions.

G. Number and Gender. Words of any gender used in this Master Agreement shall be held and construed to include any other gender, and words in the singular shall include the plural and vice versa, unless the text clearly requires otherwise.

H. Counterparts. This Master Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

I. Notice. Any notice provided for in this Master Agreement to be given by either party to the other, shall be required to be in writing and shall be deemed given when personally delivered, or three (3) business days after being deposited in the United States Mail, postage prepaid, via certified mail, return receipt requested, or via registered mail, and addressed as follows:

County:	County of Dallas Director of Public Works Dallas County Administration Building 411 Elm Street, Fourth Floor Dallas, Texas 75202-3389
To City/Town:	City/Town of _____ Name Title Address Town/City, Zip Code

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

J. Assignment. This Master Agreement may not be assigned or transferred by either party without the prior written consent of the other party and formal approval by the governing body of each party.

K. **Binding Agreement, Parties Bound.** When this Master Agreement has been duly executed and delivered by both parties, this Master Agreement shall constitute a legal, valid, and binding obligation of the parties, their successors, and permitted assigns.

L. **Amendment.** This Master Agreement may not be amended except in a written instrument specifically referring to this Master Agreement and signed by the parties hereto.

M. **Effective Date.** This Master Agreement shall commence on the Effective Date. The Effective Date of this Master Agreement shall be the date it is executed by the last of the parties. Reference to the date of execution shall mean the Effective Date.

N. **Contingent.** This Master Agreement is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and by resolution of the City/Town Council.

O. **No Joint Enterprise/Venture.** City/Town and County agree that neither party is an agent, servant, or employee of the other party. The parties, including their agents, servants, or employees, are independent contractors, and not an agent, servant, joint enterprise/venture, or employee of any other party, and are responsible for their own acts, forbearance, negligence, and deeds, and for those of their agents, servants, or employees in conjunction with this Master Agreement. No joint enterprise/venture exists between the City/Town and County.

The City/Town of _____, State of Texas, has executed this Master Agreement pursuant to duly authorized City/Town Council Resolution _____, Minutes _____ dated the ____ day of _____, 20__.

The County of Dallas, State of Texas, has executed this Master Agreement pursuant to Commissioners Court Order Number _____ and passed on the ____ day of _____, 20__.

(the remainder of this page intentionally left blank)

(signatures appear on the following page)

CITY/TOWN OF _____

COUNTY OF DALLAS

BY _____

BY _____
Clay Lewis Jenkins, County Judge

TITLE _____

DATE _____

DATE _____

ATTEST _____
CITY SECRETARY \ ATTORNEY

APPROVED AS TO FORM*:
JOHN CREUZOT
DISTRICT ATTORNEY

BY _____
Jana Prigmore Ferguson
Assistant District Attorney

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

ATTACHMENT A



DEPARTMENT OF PUBLIC WORKS

411 ELM ST., 4TH FLOOR
DALLAS, TEXAS 75202

PROJECT MANAGEMENT PRACTICES MANUAL

5 PHASE PROJECT DELIVERY SYSTEM

2021

City/Town and County agree that neither party is an agent, servant, or employee of the other party. The parties, including their agents, servants, or employees, are independent contractors, and not an agent, servant, joint enterprise/venture, or employee of any other party, and are responsible for their own acts, forbearance, negligence, and deeds, and for those of their agents, servants, or employees in conjunction with this Master Agreement. No joint enterprise/venture exists between the City/Town and County.

Nothing in this manual creates a joint enterprise/venture between the County and the City/Town. This manual is being included so that it could help encourage these protocols to be followed because it will assist in the efficiencies and thereby possibly help reduce monetary obligations and duration of the projects. These guidelines are strongly recommended to be followed in order to avoid potential cost-related and/or time delay issues.

The purpose of this Dallas County Public Works Project Management Practices Manual (“Practices Manual”) is primarily to provide a standard practice guide on project management practices within the Dallas County Public Works (“DCPW”) department. It is meant to ensure that a standard approach is used by all Project Managers (“PMs”) and other project members in the delivery of County Major Capital Improvement Program (“MCIP”) funded transportation projects. The guidelines are meant to meet the requirements and intent of the American Public Works Association’s (“APWA”) publication entitled “The Public Works Management Practices Manual” (“the APWA Manual”). The APWA Manual contains recommended practice statements that describe the critical elements necessary for a full-service public works agency to accomplish its mission. The practice statements in the APWA Manual “call for the development and implementation of a policy or procedure in the form of a rule, regulation, written directive, or for the execution of an activity, report, procedure or other action.”

The resulting Practices Manual is intended to list a number of applicable recommended practice statements. Our basic methodology is a strong matrix approach, so that our PMs are assigned from the time a planning initiative becomes an approved project, to completion of the total project. We use the terminology found in the Project Management Institute’s “A Guide to the Project Management Body of Knowledge” (“PMBOK”). This includes the definition of a “Matrix Organization.” The definition is “any organization structure in which the project manager shares responsibility with the functional managers for assigning priorities and for directing the work of individuals assigned to the project.”

The intent of this Practices Manual is to provide an overview guide to project delivery practices, not an exhaustive “how to” manual. Greater detail on these and other Public Works practices can be found in the APWA Manual for more detailed instructions on the specific elements of project delivery. Our experience is that really thick manuals are not used as much as shorter guidelines that provide the boundaries of good practice and a standard approach on the essentials, with empowerment to individual PMs on the details of how they work to deliver their individual projects.

- 3

MCIP and the application process. Various aspects of this Call for Projects Workshop and process will be adjusted based on prior input from the cities/towns in Dallas County. The amount of time and submittal deadline for the cities and/or towns to nominate projects will be adjusted based on feedback from the cities/towns. This is to ensure that the cities/towns have enough time to brief their elected officials, plan for inclusion of projects in city bond elections, etc.

3. DCPW's Transportation & Planning Division helps ensure that all of the information has been submitted correctly by cities/towns. If necessary, assistance may be provided to some of the smaller city/town staffs with preparation of their project submissions. A matrix team that consists of DCPW employees begins with field evaluations of the projects for conducting a feasibility review that precedes developing recommendations for selection of projects by Commissioners Court to be included in the County's MCIP. The DCPW team, with staff participation from each of the four DCPW divisions involved, provides assistance with risk assessments from various perspectives, which include cost estimates, scope definition, political aspects, funding, technical issues, utilities, safety, environmental, and traffic factors, etc. The DCPW Property Division team members examine Right-of-Way ("ROW"), utilities involvement, railroad involvement, relocations, etc.
4. Every project selected for MCIP funding commitments is then placed into a Program Year (PY) (year slated for construction start) in a spreadsheet called the "MCIP Transportation Funding Commitments" that is presented in Briefing format in a public forum to the Commissioners Court for their formal approval.
5. The MCIP has been formulated on the premise that legal agreements should reflect the nature and character of the program. Equal funding, Project Management (groups of independent stakeholders and cities/towns) methods of project delivery, and principles applied in every phase of project delivery are the essential elements of the MCIP. The time it takes for getting interlocal agreements approved should never be on the critical path of project delivery. Therefore, much effort was expended between the Civil Division of the Dallas County District Attorney's staff and DCPW staff to formulate a Master Agreement Governing Transportation Major Capital Improvement Projects ("Master Agreement"). This MCIP Master Agreement has been signed by all the cities/towns with approved projects and serves as the legal basis for future agreements between the various cities/towns and Dallas County, including but not limited to a Memorandum of Agreement ("MOA") and Memorandum of Understanding ("MOU"). Later, during project design, enough information will be known to forge a Funding Agreement ("FA") or a Project Specific Agreement ("PSA") that details the specifics of that particular project. None of the basic elements of a city-county legal agreement have to be repeated in the FA and/or the PSA, thus simplifying the process and time involved.
6. A project management planning meeting is held next with each City or Town, which has projects selected. This meeting is to initially review the selected projects and determine the basic parameters for each of the projects, such as cash flow requirements, for each participant of the project, who the lead agency for project delivery will be, agreed upon technical criteria, known risks, roles for each stakeholder, etc., all focused on assuring timely project delivery and moving the project into construction during the selected PY. If there is a great deal of uncertainty associated with the project (e.g. part of some economic development such as transit oriented development, or part of brown field development, or other significant environmental challenges, or a very significant change in planned use of an area in the future

such as industrial area converted to mixed use, etc), then the lead agency may conduct a Planning Charrette.

The purpose of the Planning Charrette meeting, with all significant participants and stakeholders, is to determine the beginning scope and the realm of possible approaches. Serious design cannot begin until there is an agreement on a relatively reasonable set of alternatives, which bear some relationship to the scope of funding currently available. Relationships will also be established at the Planning Charrette meeting involving the city/town, stakeholders, utilities and other participants of the project, which may be sustained throughout the life of the project.

7. DCPW commits to using Principles of Trust, Commitment, and Shared Vision in addition to Best Practices of Project Management Principles throughout the life of the project. Each city/town is invited to use the same principles to deliver the selected projects. This type of approach is also an integral part of Context Sensitive Solutions (“CSS”), which is a design methodology that involves early and continuous involvement of all participants and stakeholders of a project. The Planning Charrette meeting is a form of CSS. The Dallas County Mobility Plan should also be considered as part of applying CSS for project delivery.
8. For every project that the city and/or town and county stakeholders agree to assign Dallas County as the Lead Agent, a PM will be assigned by DCPW. In addition, the DCPW Assistant Director (“AD”), in consultation with the PM and other AD’s or designated DCPW business unit leaders, will identify their own matrix team members for the project. Any available Project Management tools will be used to optimal effect during the life of the project.
9. An initial Project Funding & Execution Status (“PFES”) and Program Management & Planning Status (“PMAPS”) form will be developed by the PM for each project in coordination with the ADs (or designees) from the DCPW divisions including Program & Engineering Management Division (“PEMD”), the Engineering & Construction division and Transportation & Planning Division. Each AD or designated DCPW business unit leader will review PFES and PMAPS in order to provide an adequate workforce for each project, and ensure that their own employees’ assignments are balanced.
10. A decision on the use of Subsurface Utility Engineering (“SUE”) will be made before initiating design. In the analysis of candidate projects, utility relocation risks will have been identified. When these risks are high (the usual situation), then funding will be planned in the design for SUE efforts. Dallas County Public Works (“DCPW”) will have in place an Indefinite Delivery, Indefinite Quantity (“IDIQ”) contract for quick implementation of SUE consultant efforts. Initiatives for joint efforts of utilities are anticipated between independent participants and stakeholders wherever feasible. This information will be critical for designers to use as they launch the design. Total integration of the SUE methodology will help ensure that all utility impacts are considered in every phase of project delivery.

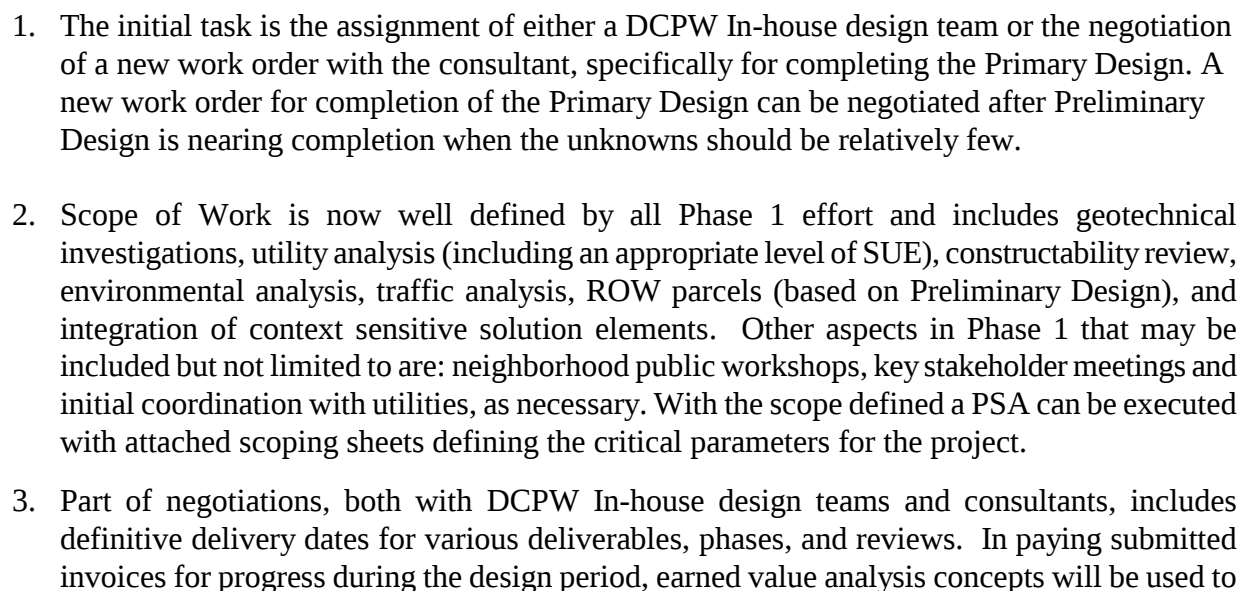


STEP TWO, PRELIMINARY DESIGN



1. A systematic decision process as part of the DCPW Business Operating Plans (“PWBOP”) updating is done to determine which design efforts will be completed with in-house designers and which will be done by consultants. For consultant selection, a rigorous and systematic process will be used to select the best qualified consultants for each project. An initial contract will be signed with a best qualified consultant to perform the entire preliminary design, or participate as a Preliminary Design liaison, trainer, or expert to advise an in-house design force for the project. As much as possible, an Indefinite Delivery, Indefinite Quantity (“IDIQ”) methodology will be used to help ensure that inordinate amounts of time are not used in the best qualified selection process required by state law. Cities and/or towns who participate in the process are welcome to provide input to the County in the consultant selection process.
2. The DCPW’s team of in-house design staff, a city/town, or a selected consultant firm will begin the initial design efforts under the leadership of the PM. One initial objective is to resolve alignment issues early in the design process with the participation of all stakeholders. In some circumstances, a feasibility study may be required to compare and contrast different alternatives before real design can begin. Estimated ROW takes, utility impacts, and environmental effects for each alternative may need to be reported before stakeholders decide on a preferred alternative for preliminary design.
3. CSS methodology will continue to be used, stressing total stakeholder involvement, throughout the project delivery process. Task Force meetings will be scheduled. Dallas County Public Works employees’ matrix team meetings will also be scheduled.
4. When a consultant is used as the design agent, a contract will be negotiated for the preliminary design only, unless the project is relatively simple and the final solutions are not in question. The goal is to avoid protracted negotiations on the total scope and fee at the very beginning of the project, when many of the factors influencing final design consideration are not yet known. The decision to issue a new work order for completion of the Primary Design will be made after an interim evaluation on the Preliminary Design is completed using the County’s consultant evaluation system.
5. A Preliminary Design Charrette (“PDC”) will be planned by the PM who will lead the execution with all stakeholders (cities/towns, utilities, county, any private parties or other decision-makers/stakeholders). The scope of invitees to the PDC will be dependent upon the project’s complexity and number of unknowns. The goal of the PDC is to build support behind the project and the alignment alternative that is selected. Many projects have been derailed by a lack of support by the project’s independent representatives from the county, city/town, and other stakeholders. A great effort will be made to ensure attendance of all of the independent key players.
6. This consensus building effort is an integral part of any CSS approach to design. The DCPW Director and/or AD’s will be personally involved and the PM will make special efforts to notify political leaders of meetings, so that the political leaders can have the meetings on

7. As part of the CSS approach, a public involvement strategy will be forged under the leadership of the PM, and the advisement of the DCPW Transportation & Planning Division (“T&P”). Staff of DCPW’s T&P will advise PMs on various public involvement techniques and methods to use to best involve the public and other stakeholders. DCPW will use innovative methods, such as workshop/small group formats. City/town methods and approaches will be respected and adhered to in this area.
8. Phase 1 ends with approval of the Preliminary Design Report, Preliminary Alignment/Profile and Preliminary Sizing of bridges and drainage structures along with SUE determination, Preliminary Survey Report, and Preliminary Utility Investigation Report.
9. The design firm or DCPW in-house design team will have begun necessary permitting and environmental assessments. Basically, the level of effort will approximate that required of the Preliminary Schematic and Environmental Assessment Phase that currently is required on TxDOT projects.
10. Project plans are estimated to be 60-65% complete at the end of Preliminary Design. A risk assessment may occur before proceeding into Primary Design to identify key aspects that may need to be resolved before or during the Primary Design.



track cost and schedule progress. DCPW generally does not make “cost plus” assumptions about a consultant’s work efforts. Greater clarity on scope definition can be achieved with the typical multi-phase design approach of issuing separate work orders for Preliminary Design and Primary Design avoiding or minimizing the instances of misunderstanding on the true project scope.

4. The consultant or DCPW in-house design team works with all stakeholders, including utilities, under the guidance and direction of the County PM. The lead designer is the Technical Manager at this point in the process, and is always under the leadership of the PM. When an IDIQ consultant is hired to perform a survey, miscellaneous design, SUE, or materials testing, the PM is closely monitoring the progress. Also, the design firm for water and/or wastewater services will be integrated, and whenever possible, we will attempt to ensure that the design consultant for the transportation or infrastructure project is also selected by the city/town to design the municipal utility improvements. We anticipate and expect our consultants to become familiar with our 5 Phase Project Delivery System's processes and deliverables.
5. Traffic and utilities data will be considered in design, with data from the city/town, County, NCTCOG, and/or consultant. An agreed upon level of SUE will be key to input into the design details, and including utility companies involvement throughout all phases of the project.
6. Environmental assessment will be completed during this phase. Significant issues should be addressed without wasting time on clearly unimportant areas. An environmental impact analysis will be completed if the assessment shows that this analysis is required. The goal is to execute environmentally sustainable solutions that improve the overall quality of life of the transportation users and citizens of Dallas County and the city/town.
7. Right-of-Way (ROW) documents will be finalized, with quality control by the consultant or DCPW's in-house design team. The quality assurance ("QA") function will be completed by both the PM and DCPW's Property Management & Utility Coordination Division ("PMUC") in a smooth manner, using pre-coordinated checklists. At the appropriate time, the documents will be delivered to PMUC, but the PM still retains overall responsibility for timely project delivery. Early involvement on ROW issues, including utility relocation aspects such as getting possible Rights of Entry ("ROE") can be critical for obtaining vital information to ensure successful utility relocations. Early provision of final and accurate ROW documents will be a critical milestone of the design contract.
8. The Design Consultant or the DCPW In-house design team completes the work on a provided schedule. Consultants and/or DCPW's In-house design team are expected to ensure that they accomplish "muddy boots" design with true "eyes-on" on the total project site. These actions will avoid lengthy rounds of passing designs back and forth, in favor of "over-the-shoulder" reviews, as required to meet design completion timelines. These will include city/town, utilities and other interested stakeholders under the orchestration of the PM.
9. The PM completes the interim evaluation of the consultant. Special note will be taken of the consultant's system for assuring quality control ("QC") of all design efforts, including ROW documents.
10. After construction is complete, the PM performs a final consultant evaluation, using the standard evaluation system. The Consultant is given an opportunity to evaluate DCPW's project management process.



PHASE 3 – DESIGN COMPLETION & RIGHT-OF-WAY INITIATION



1. This phase begins with the delivery of the initial, unsealed ROW documents to the County by the consultant. Consultants will first bring a few ROW documents for initial review by the PM and DCPW Property Division team members, to ensure that they fully understand the details and level of Quality Control that the County expects in their submittals. Standards and scheduling will be clearly spelled out in writing within the Consultant's contract. Deliverables will include ROW maps and deed records.
2. Consultant is required by contract to submit property owner deeds along with right-of-way maps, which have received an internal quality control process. The PM ensures utility representatives are informed of the project and all known utilities are shown on the plans. Diligent efforts must be made to ensure that all private or public utility easements are identified on the maps and plans as required in Consultant Contract. All the SUE efforts should be included in the design documents.
3. Consultants or In-house Design Team are to avoid taking ROW that is not necessary to the construction of the project. The PM works with the project participants to minimize the ROW takings and ensures the appropriate leadership is used so that project delivery dates are met.
4. The PM ensures that the county or the city/town's ROW Functional Manager works towards the efficient execution of ROW planning, appraisal and acquisition services. The DCPW's Property Division will manage the ROW Acquisition Services IDIQ contract, if this delivery tool is used. Before writing a Work Order for the ROW Acquisition Services IDIQ, the DCPW Property Division Manager may meet with the DCPW Engineering & Construction Manager or DCPW Transportation & Planning Manager, DCPW Program Engineering Manager and the PM, to ensure that an adequate project budget is available for the added cost of procuring ROW services.
5. The county or city/town PM monitors and tracks progress on ROW acquisition. The County or the city/town's PM resolves issues as they develop, keeping all stakeholders, including utilities, informed.
6. DCPW may have further final discussions with city/town, utilities and stakeholders, early enough to preclude re-work by the prime consultant. The goal is to achieve this prior to completing the final design documents.
7. Consultant will make minor design changes as directed by the PM resulting from property owner requests or other changes that arise naturally in ROW negotiations.
8. As required, the PM will be prepared to present expert testimony at any Eminent Domain hearings and any related litigation.
9. ROW is complete when all parcels necessary for construction have been acquired.

4 – ROW Complete Utility Adjustment

- 10

E 5 -- CONSTRUCT

- 11

TWO, PROJECT CLOSURE

1. The PM ensures the final pay estimate is paid to Contractor on a timely basis with assistance from the DCPW Program & Engineering Management Division (“PEMD”).
2. The PM completes final Evaluation on the Contractor, using interim evaluation results (if one was done), and performance during the entire contract period. Contractor evaluates DCPW (on a voluntary basis).
3. The PM ensures that as-built plans are provided to the ultimate owner of the project, typically the city/town, from marked-up construction plans.
4. The PM works with the PEMD to ensure total project costs are finalized, a final PFES is completed, and Program Management is able to disencumber any remaining funds to be put back into the MCIP fund.
5. The PM ensures the city/town is invoiced for their remaining portion of the Total Project Costs.
6. The PM formally turns the project over to the City by letter citing the date of return to City for maintenance.
7. The PM plans an After Action Review (“AAR”) to capture lessons learned and celebrate project completion with all participants involved in project delivery from design to construction completion.
8. The PM conducts the applicable one (1) or two (2) year Maintenance Bond Inspection in conjunction with all applicable stakeholders.
9. The PM completes close out project report, including retaining the key project documents digitally and documenting key lessons learned.

18. Share accurate information with all companies and try to help ensure that they share information with each other.
19. Communicate the need to follow city/town ordinances, particularly those relating to traffic control, backfill and pavement restoration. Traffic control plan must be filed and approved.
20. Ensure that the companies have measures for handling complaints about their work and that they do not inconvenience customers more than is absolutely essential. **Remember, ORR!!**



GUIDELINES FOR ENSURING SMOOTH RELATIONSHIPS BETWEEN LOCAL GOVERNMENTS AND THE UNION PACIFIC RAILROAD (UPRR)



- **Start Early Coordination** – Set up a meeting with UPRR’s local representative to share project selection lists and to ascertain projects with UPRR impacts. Then on impacted projects, share preliminary designs, invite UPRR to early meetings, such as stakeholder preliminary design charrettes, public workshops, etc.
- **Work out precisely the location of railroad project impacts**, before contacting UPRR. This speeds the coordination process greatly. Use MAPSCO location, subdivision, and RR Mile Post wherever possible.
- **Use the UPRR website for a wealth of information, maps, etc.** This can save time in answering questions and can provide much information about UPRR, including points of contact, e-mail and telephone information, instructions, applications, specifications, DOT crossing information, permit requirements, ROW agreements, etc. DCPW in-house or consultant designers need to explore this web-site before launching road design whenever there is going to be a RR crossing. Procedures and responsibilities are clearly laid out, as are design guidelines and specifications. Avoid nasty surprises that can impact project costs if not budgeted.
- **Expect the UPRR owned ROW to contain many other utilities (telecommunications, power, pipelines, etc.), that you will have to pay to relocate.** These are private easements the utilities have paid for and the project will have to bear the costs of relocation. UPRR is a good source of information on the potential conflicts that you will encounter. Budgeting accurately for these costs will avoid nasty surprises later.
- **Check with UPRR before pursuing any changes to their standard agreement or attachments.** UPRR has agreements to work out in 23 states, and their lawyers are very vigilant to watch for precedents that might bind UPRR elsewhere. Work on win-wins in the body of the agreement.
- **Avoid adversarial actions and relationships.** Do not presume upon the UPRR (e.g., impossible requests that are not pursued in a timely manner, making demands they cannot meet, presuming the worst).
- **Look for ways to forge win-wins, for UPRR and the local community.** Understand that the United States Department Of Transportation (“USDOT”) has a policy to reduce at-grade RR crossings. This puts tremendous pressure on railroad companies to accomplish this goal. Are there some rarely used at-grade railroad crossings in the city/town that could possibly be closed? Explore ways to eliminate them and UPRR could be more interested to meet the needs of the project that is needing UPRR assistance.
- **When appropriate, have Dallas County’s attorneys communicate directly with UPRR attorneys.** If we follow the spirit of win-win, then both sides will have better results, even if our attorneys are involved, as they may have to be. The Project Manager should stay involved to ensure that going down “legal rabbit trails” is avoided whenever possible.
- **When you are in doubt and have searched all the readily available information, contact UPRR’s Real Estate Division in Omaha, NE.** Even though UPRR staff have large territories to cover, they are never too busy to help you proactively solve a problem and forge a win-win situation. If you setup a “folder number,” with UPRR this will save them much time in looking up the project file information.



GARLAND POLICY REPORT

City Council Work Session Agenda

3. c.

Meeting Date: March 15, 2021

Item Title: 2019 Homeland Security Grant Program Additional Allocation
Application Resolution

Submitted By: Mistie Gardner, Emergency Management Director

Strategic Focus Areas: Safe Community

ISSUE

The Department of Homeland Security Grant Program (HSGP) is managed, at the state level, by the Office of the Governor (OOG). As has been the case for many years, the OOG requires jurisdictions applying for HSGP funding to have a Council approved resolution each year prior to utilizing awarded funds which identifies the submitted projects as well as the authorized official to manage the administration of the grant. For 2019, the state “swept” funds from other jurisdictions and is allowing us an additional allocation to spend those funds on a Garland project.

OPTIONS

1. Approve a resolution of support for the 2019 Homeland Security Grant Program (HSGP) Additional Allocation application which would provide additional funding for public safety.
2. Take no action.

RECOMMENDATION

The Office of Emergency Management (OEM) staff recommends support of the HSGP application to gain access to the additional grant funding. The resolution will assist the City of Garland with acquiring funding to help support and improve public safety response and recovery capabilities. This 2019 UASI additional allocation will be used to purchase resources to support the following Garland projects:

- Garland Explosive Ordinance Disposal (EOD) Personal Protective Equipment enhancement (LETPA)
 - Funding this project will support the Garland EOD Team by providing critical personal protective suits to utilize during responses.

This item is scheduled for formal consideration at the March 16, 2021 Regular Meeting.

BACKGROUND

The primary purpose of the Department of Homeland Security's (DHS)/Federal Emergency Management Agency's (FEMA) Homeland Security Grant Program (HSGP) is to provide funding to states, territories, urban areas, and other local and tribal governments to prevent, protect against, mitigate, respond to, and recover from potential terrorist attacks and other hazards. HSGP plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment and delivery of core capabilities essential to achieving the National Preparedness Goal (The Goal) of a secure and resilient Nation. Among the five noted mission areas, Prevention, Protection, Mitigation, Response, and Recovery, HSGP supports the goal to Strengthen National Preparedness and Resilience.

The UASI program funds address the unique risk-driven and capabilities-based planning, organization, equipment, training, and exercise needs of high-threat, high-density Urban Areas based on the capabilities identified during the THIRA process and associated assessment efforts. The funds also assist them in building an enhanced and sustainable capacity to prevent, protect against, mitigate, respond to, and recover from acts of terrorism.

DHS/FEMA requires at least 25 percent (25%) of the combined HSGP funds allocated under SHSP and UASI are dedicated towards Law Enforcement Terrorism Prevention Activities (LETPA), per section 2006 of the Homeland Security Act of 2002, as amended (6 U.S.C. 607). This requirement is met by mandating all SHSP and UASI recipients to ensure that at least 25% of the combined HSGP funds allocated under SHSP and UASI are dedicated towards LETPA initiatives. Activities eligible for use of law-enforcement focused funds are outlined in the National Prevention Framework.

Attachments

2019 HSGP Additional Allocation Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR OF THE STATE OF TEXAS FOR CERTAIN PUBLIC SAFETY, LAW ENFORCEMENT, AND HOMELAND SECURITY PROJECTS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds it in the best interests of the citizens of Garland that the following projects be operated for the Fiscal Year of 2020 - 2021: 2019 Urban Area Security Initiative (UASI) - additional allocation, which is a Law Enforcement Terrorism Prevention Activity (LETPA) and 2019 UASI LETPA Garland EOD Personal Protective Equipment Enhancement; and

WHEREAS, the City Council agrees that in the event of loss or misuse of the Office of the Governor's funds, the City assures that the funds will be returned to the Office of the Governor in full;

WHEREAS, the City Council designates the Director of the Garland Office of Emergency Management as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

Section 1

The City Council approves implementation of grant projects submitted under the 2019 Urban Area Security Initiative (UASI) additional allocation, which includes Law Enforcement Terrorism Prevention Activity (LETPA).

Section 2

The City Council hereby designates the Director of the Garland Office of Emergency Management as the City's authorized official to act in all matters relating to the foregoing grant application(s) and that authorized official is hereby given the power to apply for, accept, reject, alter or terminate the grant on behalf of the City.

Section 3

That this Resolution shall be and become effective immediately upon and after its adoption and approval.

PASSED AND APPROVED this the ____ day of _____, 2021.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

Grant Number:
4246001



GARLAND
CITY COUNCIL ITEM SUMMARY SHEET

City Council Work Session Agenda

3. d.

Meeting Date: March 15, 2021

Item Title: Repeal Article VI, Chapter 30, "Sign Regulations," of Code of Ordinances

Submitted By: Brad Neighbor, City Attorney

Summary of Request/Problem

With the passing and adoption of the Garland Development Code (GDC) in 2015, many provisions of the Code of Ordinances became obsolete. The sign provisions of Chapter 30 of the Code of Ordinances were left in place as the City transitioned to the GDC. To resolve any potential legal conflict between the GDC and the Code of Ordinances, a conflict provision was drafted in the GDC that expressly states that the regulations contained within the GDC supersede any conflicting standards imposed by the Code of Ordinances. Having operated under the sign provisions of the GDC for several years, including making several amendments to the GDC since the transition from the Code of Ordinances to the GDC, the obsolete sign provisions of Chapter 30 of the Code of Ordinances should now be removed.

Recommendation/Action Requested and Justification

Approve the repeal of Article VI, Chapter 30, "Sign Regulations," of the Code of Ordinances. Article VI, Chapter 30 of the Code of Ordinances is a duplication of the sign ordinance provisions of the GDC under which the City has been operating. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the April 6, 2021 Regular Meeting.

Attachments

Ord Repeal Sign Provisions

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 30, "BUILDING INSPECTION," OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS, REPEALING ARTICLE VI, "SIGN REGULATIONS," OF THE GARLAND CODE OF ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY UNDER THE PROVISIONS OF SECTION 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SEVERABILITY CLAUSE; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 30.85, "Purpose," of Article VI, "Sign Regulations," of Chapter 30, "Building Inspection," of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended in its entirety to read as follows:

"Section 30.85 General.

(A) Garland Development Code. It being the intent of the City to consolidate ordinances regarding or related to property development in the City into a comprehensive set of development ordinances apart from those contained in this Code, the former provisions of this Article VI, "Sign Regulations," have been recodified in the Garland Development Code ("GDC"). To the extent any portion of this Article VI conflicts with the most recent iteration of the GDC, the provision contained in the GDC shall control.

(B) Imitation of Traffic and Emergency Signs Prohibited. No person shall cause to be erected or maintained any sign using any combination of forms, words, colors or lights which imitate standard public traffic regulatory, emergency signs or signals.

(C) Powers and Duties of the Building Official.

(1) Generally. The Building Official is hereby authorized and directed to enforce all the provisions of this Code.

(2) Stop orders. Whenever any work is being done contrary to the provisions of this article, the Building Official may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such person shall forthwith stop such work until authorized by the Building Official to proceed with the work.

(D) Design.

(1) Construction. All signs and their supports shall be built, constructed, and erected in conformance with the requirements of all laws and ordinances, including this Code and the GDC.

(2) Structural. Signs shall comply with the design standards of the Building Code as adopted by the City.

(3) Electrical. Signs in which electrical wiring and connections are used shall comply with the requirements of the Electrical Code of the City.

(4) Plumbing and mechanical. Signs in which plumbing or mechanical devices are used shall comply with the requirements of the Plumbing Code and Mechanical Code of the City.

(5) Materials. The type of materials used in the construction, wiring, plumbing or mechanical portion of a sign shall conform to the structural codes of the City (Building, Electrical, Mechanical, and Plumbing Codes).

(6) Protection. Electrical devices within reach of persons on public property shall be protected by wire glass, safety glass, locked box of metal or wood, or other approved methods. No sign shall be erected nearer than two feet from any telephone cable, electrical street light standard, electrical power poles, or electrical power distribution lines when voltage between conductors is less than three hundred (300) volts. If the voltage between conductors is three hundred (300) volts or greater, clearances shall be maintained as follows:

Voltage of Conductors	Horizontal Clearance in Feet	Vertical Clearance in Feet
300 to 8,700	3	8
8,700 to 15,000	8	8
15,000 to 50,000	10	10
50,000 and up	10 plus 9.5" per kv in excess	10 plus .5" per kv in excess
Note: For spans greater than one hundred fifty (150) feet, refer to the National Electrical Safety Code.		

(7) Clearance from fire escapes, exits, or standpipes. No sign or its supports shall be erected in such a manner which will interfere in any way with the use of any fire escape, exit or standpipe. No sign or its supports shall be attached to a standpipe or fire escape.

(8) Obstruction of openings in buildings. No sign or its supports shall obstruct any required openings to such an extent that light or ventilation is reduced below that required.

(9) Weatherproofing. All signs shall be constructed so as to prevent the accumulation of water.

(10) Materials. All freestanding signs shall be constructed of materials that are noncombustible or slow burning (as in the case of plastic insert of facings) and shall be supported by noncombustible material only and finished in a presentable manner. Untreated wood or unpainted or nongalvanized steel supports are specifically prohibited."

Section 2

That the following Sections 30.86 - 30.116 of Article VI, "Sign Regulations", of Chapter 30, "Building Inspection", of the Code of Ordinances of the City of Garland, Texas, are hereby repealed in their entirety:

- (1) Section 30.86, "Definitions;"
- (2) Section 30.87, "General Provisions;"
- (3) Section 30.88, "Imitation of Traffic and Emergency Signs Prohibited;"
- (4) Section 30.89, "Roof Signs;"
- (5) Section 30.90, "Signs in Rights-Of-Way Prohibited;"
- (6) Section 30.91, "Signs on Public Property;"
- (7) Section 30.92, "Floating Sign Prohibited;"
- (8) Section 30.93, "Portable Signs Prohibited;"
- (9) Section 30.94, "Special Purpose Signs;"
- (10) Section 30.95, "Movement Control Signs;"
- (11) Section 30.96, "Protective Signs;"
- (12) Section 30.97, "Sale or Lease Signs;"
- (13) Section 30.98, "Homebuilder/Real Estate Directional Signs;"
- (14) Section 30.99, "Vehicular Signs;"
- (15) Section 30.100, "Government Signs;"
- (16) Section 30.101, "Creation of Site;"
- (17) Section 30.102, "Presumption;"
- (18) Section 30.103, "Provisions for Business Zoning Districts;"
- (19) Section 30.104, "Programmable Signs, Changeable Images, and Sign Illumination;"
- (20) Section 30.105, "Freestanding Signs;"
- (21) Section 30.106, "Attached Signs;"
- (22) Section 30.107, "Provisions for Residential Zoning Districts;"
- (23) Section 30.108, "General Provisions Applicable to Signs in Residential Zoning Districts;"
- (24) Section 30.109, "Freestanding Signs;"
- (25) Section 30.110, "Attached Signs;"
- (26) Section 30.111, "Powers and Duties of the Building Official;"
- (27) Section 30.112, "Permits, Applications, Fees;"
- (28) Section 30.113, "Design;"
- (29) Section 30.114, "Existing Signs;"
- (30) Section 30.115, "Variance Procedure/Plan Commission;"
and
- (31) Section 30.116, "Public Hearings Provided."

Section 3

That Sections 30.86 through 30.124 of Chapter 30 of the Code of Ordinances for the City of Garland, Texas, be reserved.

Section 4

That Chapter 30 of the Code of Ordinances for the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 5

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 6

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 7

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the ____ day of _____, 2021.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary



GARLAND POLICY REPORT

City Council Work Session Agenda

3. e.

Meeting Date: March 15, 2021

Item Title: Modification of Single Stream Recyclable Materials Transport, Processing and Marketing Agreement

Submitted By: Uriel Villalpando, EWS Director

Strategic Focus Areas: Reliable, Cost Efficient Utility Services

ISSUE

Consider a modification to Single Stream Recyclable Materials Transport, Processing and Marketing Agreement between the City of Garland (City) and Fomento de Construcciones y Contratas, Inc (FCC) to extend the current contract through the end of fiscal year 2020/21 and consider whether to enter into a new 3-year contract with FCC with an effective date of October 1, 2021.

OPTIONS

1. Modify the Single Stream Recyclable Materials Transport, Processing and Marketing agreement between the City and FCC that authorizes the City Manager to continue making payments to FCC at the current rate for transporting recyclable materials through September 30th, 2021. Also, this option would include entering into a new fixed-rate 3-year agreement with an effective date of October 1, 2021.
2. Start new Single Stream Recyclable Materials Transport, Processing, and Marketing Agreement between the City and FCC at a higher new rate and authorize the City Manager to initiate payments to FCC for transporting recyclable materials with an effective date of May 1, 2021.
3. Start a new Single Stream Recyclable Materials transport, Processing, and Marketing agreement between the City and Republic Services with an effective date of May 1, 2021. The conditions and pricing under this option would be less certain than those described in Options 1 and 2.

RECOMMENDATION

Staff recommends Option 1. Unless otherwise directed by Council, this item will be scheduled for formal consideration at the April 4, 2021 Regular Meeting.

BACKGROUND

The City utilizes a third party to transport, process and market the recyclable materials that are gathered through typical city-wide EWS routes. In April 2017, the City and FCC entered into an agreement for Single Stream Recyclable Materials Transport, Processing and Marketing Services. FCC transports recyclables from the City's Recycling Drop-Off Center to their Materials Recovery Facility (MRF) in Dallas, Texas where the materials are processed and sold. Since the contract was signed in 2017, the global and national recycling markets have become turbulent and difficult to manage. The primary result is a large surplus of recycling materials on the market, which result in unsustainable losses for recyclers like FCC.

An important feature of the contract is that the City receives a portion of any profits realized by FCC on a monthly basis, however, the City is not liable for any losses incurred. While Net Revenue totaled negative \$205,756.68 between October 2017 and September 2018, the City did not make any payments to FCC due to the provision in the Agreement as aforementioned. The initial term of this Agreement was for a one-year period and may be extended for up to four (4) additional one year renewal periods. A renewal may be accepted or rejected by either party. Currently, the City and FCC are engaged in the third year agreement renewal period.

Because of the uncertain market, FCC has twice asked for contract modifications to the 2017 contract. Adding a transportation fee in 2018 and an additional "tipping fee" in 2019. In both cases, the City Council agreed to accommodate the additional expenses rather than risk potentially higher costs through issuing another RFP for the services. Both of these amendments increased the average annual city expenses by \$591,522.

In November 2020, FCC again notified the City of a proposed increase in their tipping fee from \$20 per ton to \$60 per ton and stated that if the City did not agree to the proposed rate increase, FCC would not agree to a fourth year agreement renewal period scheduled to begin April 3, 2021. The projected annual increase in costs to the City from this proposal is \$560,000 which, with the cost from the previous two amendments, represents a \$1.15 million increase over the original 2017 contract amount.

After reviewing the proposal, staff determined that additional market options were needed and in December 2020, the City

issued a Request for Proposals (RFP) for Recyclable Materials Transport, Processing, and Marketing. In order to decrease market uncertainties, staff was especially interested in a guaranty of a fixed fee for up to three years. Two vendors submitted best and final proposals, but only one vendor committed to a flat-fee, fixed-rate for the first 3 years of the initial agreement.

Current Fees	FCC Proposal	Republic Services Proposal
• 199.41 Transportation Fee • \$20 per ton processing fee • Collected 14,072 tons of recyclable materials • \$591,522 annual cost during FY 2019/2020 • Equivalent to \$42.03 per ton	• Extend current agreement until September 30, 2021, continue paying current rate , and save the City approximately \$165,000 from May 1 through September 30, 2021 • Initiate a new fixed-rate 3-year agreement with FCC with an effective date of October 1, 2021 • Pay a flat fee of \$66.68 per ton for the first 3 years of the agreement • The City would not be subject to any additional costs • The anticipated annual cost of \$933,520	• Pay a flat fee of \$62.50 per ton for the first 3 years of the agreement • Anticipated annual cost of \$875,000 Or; • A compounded annual rate as follows: • Year 1 - \$60.70 per ton • \$849,800 per year • Year 2 - \$62.52 per ton • \$875,280 per year • Year 3 - \$64.40 per ton • \$901,600 • Both proposals from Republic Services are subject to rate adjustments every 12 months if costs shift over 20%

CONSIDERATION

Staff believes it is in the best interest of the City to minimize risk and liability for negative amounts for processing costs and accept Option 1 to modify the Single Stream Recyclable Materials Transport, Processing, and Marketing agreement through September 30, 2021 and initiate a new 3-year, fixed rate agreement with FCC with an effective date of October 1, 2021. If Option 1 is selected, there will be no financial impact to the City's recycling program for the remainder of fiscal year 2020/21. However, a residential and commercial rate increase is anticipated for fiscal year 2021-22 to continue paying for the processing of recyclable materials.

Attachments

Recycling Agreement 2021

Single Stream Recyclable Materials Transport, Processing and Marketing Agreement

Uriel Villalpando, EWS Director
Scott Pasternak, Burns & McDonnell



Recycling Market Overview

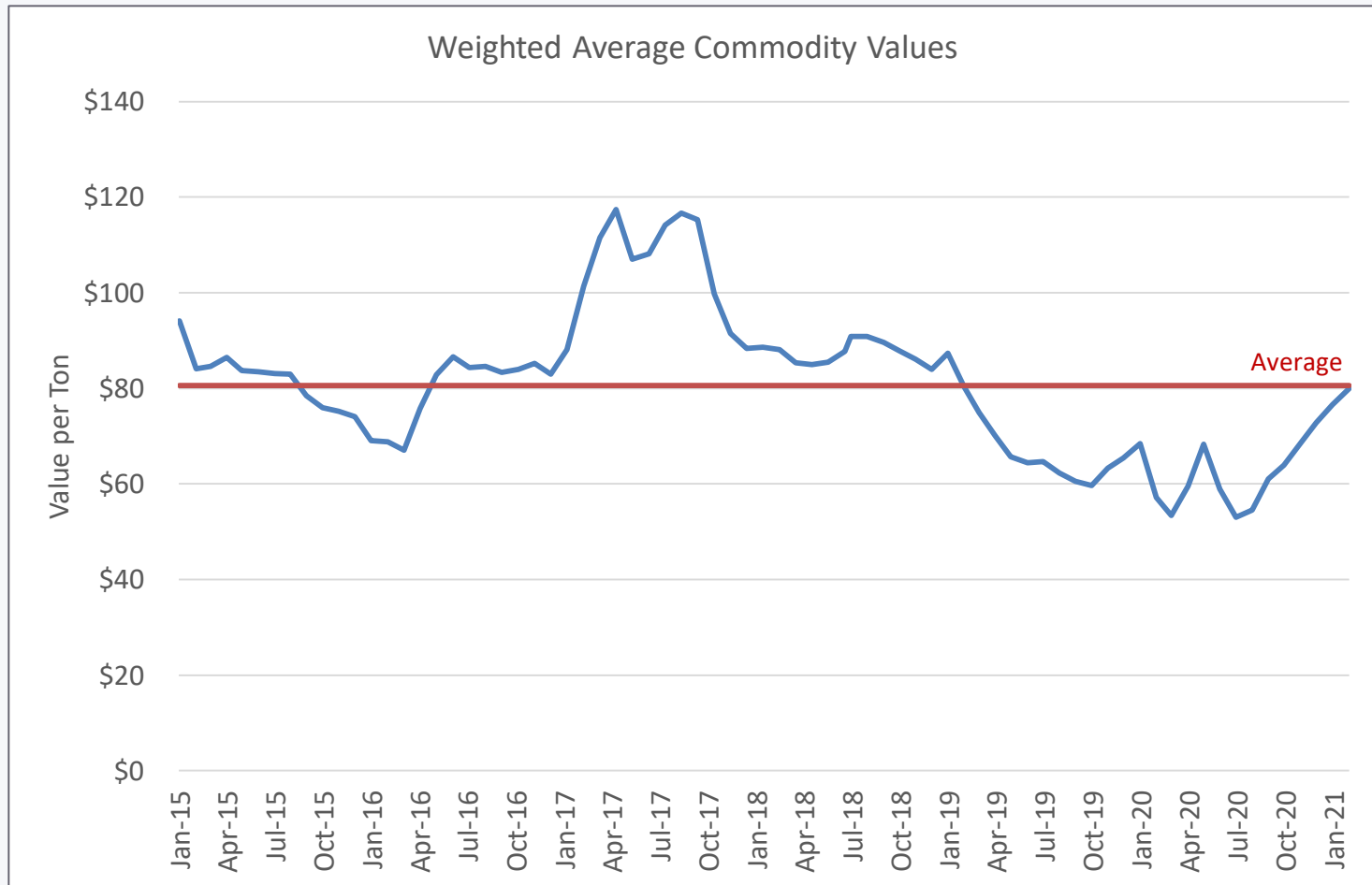
Recycling Materials are Commodities

- Sold to combination of domestic and international markets
- Values constantly fluctuate based on market forces and regulations

Several Factors Can Impact Commodity Values and Processing Fees

- Value of the US Dollar
- Market demand (both domestic and international)
- Value of related commodities (e.g., oil)
- Export restrictions
- Stricter quality standard requires more resources at the MRF, resulting in higher processing fees

Recycling Market Overview



Agreement History

Signed initial agreement with FCC in April 2017

- City not liable for negative balances

Modified agreement in April 2018

- Implemented Transportation Fee
- Added \$310,000 in city expenses

Modified agreement in April 2019

- Implemented Tipping Fee
- Added \$280,000 in city expenses

Requested agreement modification in December 2020

- Increase tipping fee to \$60 per ton
- Potential increase of \$560,000 per year in city expenses
- Potential annual cost of \$1,150,000 per year

Request For Proposal (RFP) Process

- Issued RFP in December 2020
- Two Vendors submitted Best & Final Offers

CURRENT FEES	PROPOSAL #1	PROPOSAL #2
• \$199.41 Transport Fee • \$20 per ton Tipping Fee • 14,072 tons collected in FY2019/20 • \$591,522 in annual expenses • Equivalent to \$42.03 per ton	• Extend current agreement to September 30, 2021 • Extension will save the City \$165,000 this FY • Initiate new 3-year agreement • Pay a fixed rate of \$66.68 per ton • Not subject to additional costs • \$933,520 per year	• Pay a flat fee of \$62.50 per ton for first 3 years • \$875,000 per year • Or; • Pay a compounded annual rate • Year 1 - \$60.70 per ton • \$849,800 per year • Year 2 – \$62.52 per ton • \$875,280 per year • Year 3 - \$64.40 per ton • \$901,600 per year • Subject to rate adjustments if costs shift over 20%

Staff's Recommendation

PROPOSAL #1

- Extend current agreement to September 30, 2021
- Extension will save the City \$165,000 this FY
- Initiate new 3-year agreement on October 1, 2021
- Pay a fixed rate of \$66.68 per ton
- Not subject to additional costs
- Anticipated cost of \$933,520 per year

QUESTIONS?



**GARLAND
CITY COUNCIL ITEM SUMMARY SHEET**

City Council Work Session Agenda

4. a.

Meeting Date: March 15, 2021

Item Title: COVID-19 Response Update and Further Actions

Summary of Request/Problem

Staff will provide an update to Council and ask for Council direction, if needed, on various matters related to COVID-19 and actions being taken by the City.

1. Update on case trends.
2. Vaccination efforts and proposed actions to decrease "no shows."
3. Potential vaccine allocations to GISD.
4. Direction on re-opening and restrictions related to City services and facilities.
5. Direction related to continuation of Zoom Council Meetings.

Recommendation/Action Requested and Justification

Council discussion.



GARLAND
CITY COUNCIL ITEM SUMMARY SHEET

City Council Work Session Agenda

4. b.

Meeting Date: March 15, 2021

Item Title: Garland Chamber of Commerce Presentation on Assistance to Businesses

Summary of Request/Problem

At the request of Council Member BJ Williams and Mayor Scott LeMay, the Garland Chamber of Commerce will discuss assistance to small businesses during the COVID-19 pandemic.

Recommendation/Action Requested and Justification

Council discussion.



GARLAND
CITY COUNCIL ITEM SUMMARY SHEET

City Council Work Session Agenda

4. c.

Meeting Date: March 15, 2021

Item Title: Briefing/Update on CARES Funding Status

Summary of Request/Problem

At the request of Council Member Ricky McNeal and Council Member BJ Williams, staff and Catholic Charities of Dallas will provide an overview of the federally funded Rental/Mortgage Assistance programs offered to residents of Garland impacted by the COVID-19 pandemic.

Recommendation/Action Requested and Justification

Council discussion.



GARLAND PLANNING REPORT

City Council Work Session Agenda

4. d.

Meeting Date: March 15, 2021

Item Title: Consider amendments to Chapter 2, Section 2.61 of the Garland Development Code regarding Home Occupations.

REQUEST

Consider amendments to Chapter 2, Section 2.61 of the Garland Development Code regarding Home Occupations.

OWNER

Judson Rex, Assistant City Manager

PLAN COMMISSION RECOMMENDATION

During their November 12, 2018 meeting, the Plan Commission, with a seven (7) to zero (0) vote, recommended approval of amendments to Chapter 2, Section 2.61 of the Garland Development Code regarding Home Occupations.

STAFF RECOMMENDATION

Staff recommends the City Council consider the amendments that have been drafted.

BACKGROUND

Update:

This item was tabled at the December 4, 2018 City Council meeting after being discussed at the December 3, 2018 Work Session and the October 15, 2018 Development Services Committee meeting. The item was requested to be reconsidered at the February 1, 2021 City Council work session.

Attached is a copy of the most recent amendments proposed to Section 2.61 of the Garland Development Code (GDC), which relates to Home Occupations. These modifications are based on the feedback received by the Development Services Committee and the City Council during work session discussions.

Background information provided for the 12/4/2018 City Council meeting:

The proposed amendments add clarification regarding what constitutes a violation of the Home Occupations section of the GDC (Section 2.61) in relation to automobile repair and sales; as well as contracting, lawn care and construction services within a residential zoning district. Subsequent GDC amendment language has been reviewed and recommended accordingly by

the Development Services Committee of the City Council. As mentioned above, the Plan Commission reviewed and recommended approval of the amendments during their November 12, 2018 meeting.

CONSIDERATIONS

1. The proposed amendments would make it a violation to perform major automobile repair in a residential zoning district, or minor or major automobile repair in a residential zoning district if the vehicle is not registered to a person who owns the property (or named on the electric utility bill) on which the motor vehicle is located.

“Automobile Repair, Major” is defined in the GDC as: General repair or reconditioning of automobiles such as the following: engines, air-conditioning systems and transmissions for motor vehicles, collision repair services including body, frame or fender straightening or repair, customizing, painting, vehicle steam cleaning, undercoating and rustproofing, the uses listed under Automobile Repair (Minor), and other similar uses.

“Automobile Repair, Minor” is defined in the GDC as: Minor repair of automobiles such as the following: replacement of parts, tires (includes tire store), tubes and batteries, diagnostic services, minor maintenance services such as grease, oil (includes oil or lube facility), spark plug and filter changing, tune-ups, emergency road service, replacement of starters, alternators, hoses and brake parts, automobile washing and polishing, performing state inspections and making minor repairs necessary to pass state inspections, normal servicing of air-conditioning systems, the repair and replacement of automotive glass and upholstery, and other similar maintenance services, but not including any operation named under Automobile Repair (Major) or any other similar use.

2. The proposed amendments would also make it a violation to store, park, or stage construction equipment, materials, or a trailer or motor vehicle loaded with construction equipment or materials in a residential zoning district.
3. In addition, the proposed amendments would make it a violation to sell vehicles that are not registered to a person who owns the property (or named on the electric utility bill) on which the motor vehicle is located, parked, or stored.

Attachments

Home Occupations Prohibited Activities

Section 2.61 Home Occupations and Related Prohibited Activities in Residential Zoning Districts

- (A) Definition. A Home Occupation may be lawfully conducted only as a secondary, accessory use.
- (B) General Prohibition. A Home Occupation is prohibited, unless: (i) it is conducted entirely indoors, only by a person residing in the home; (ii) it offers no goods for sale or display on the premises; and (iii) it does not require the delivery or shipment of goods from the residence.
- (C) Criteria. It is an affirmative defense to prosecution under Section 2.61(B) above, that the Home Occupation meets each of the following criteria:
- (1) Only one person, other than occupants of the residence, is engaged in the Home Occupation at the residence regardless whether that person is a volunteer, an employee or is otherwise compensated;
 - (2) There is no outside storage of materials connected with the Home Occupation;
 - (3) There is not more than one vehicle used in connection with the Home Occupation located on the premises or on an adjacent residential street. A vehicle used in the operation of the home occupation may be no larger than a passenger van or pick-up truck;
 - (4) There is no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the Home Occupation, and no use of a sign, including any sign on a vehicle parked on the premises or on an adjacent street, directing potential customers to the residence for the performance of the Home Occupation;
 - (5) There is no substantial increase in traffic and no need for additional parking;
 - (6) The Home Occupation does not create noxious conditions to abutting or neighboring property such as noise, odor, light, or smoke; and
 - (7) The business is conducted completely indoors, except where the business activities conducted outdoors do not unreasonably disturb or interfere with the peace, comfort, and repose of neighboring persons of ordinary sensibilities.
- (D) Prohibited Activities. Notwithstanding any other provision of this Section 2.61, the following are hereby expressly prohibited in a residential zoning district:
- (1) Vehicle sales. It shall be an offense for any person within view from a public right-of-way in a residential zoning district to cause, allow, suffer, or permit the sale or advertising for sale of a motor vehicle that is not registered to a person who owns the property (or named on the electric utility bill) on which the motor vehicle is located, parked, or stored. It is an affirmative defense to prosecution under this section that the vehicle being sold or advertised for sale is registered to a relative of the owner of the property (or person named on the electric utility bill) by blood, adoption, or marriage within two degrees of affinity or consanguinity, and that the registered owner of the vehicle resides at the property on which the vehicle is located, parked, or stored, according to the address listed on a current driver's license or state identification card.
 - (2) Vehicle repairs.

(a) It shall be an offense for any person, within view from a public right-of-way in a residential zoning district, to cause, conduct, allow, suffer, or permit Major Automobile Repair, as defined in Chapter 6 of the Garland Development Code.

(b) It shall be an offense for any person in a residential zoning district to cause, conduct, allow, suffer, or permit Major or Minor Automobile Repair, as defined in Chapter 6 of the Garland Development Code, to a motor vehicle if the vehicle being repaired is not registered to a person who owns the property (or named on the electric utility bill) on which the motor vehicle is located. It is an affirmative defense to prosecution under this section that the vehicle being repaired is registered to a relative of the owner of the property (or person named on the electric utility bill) by blood, adoption, or marriage within two degrees of affinity or consanguinity.

(3) Wrecker service;

(4) Animal breeding; and

(5) Contracting or construction services.

(a) It shall be an offense for any person, within view from a public right-of-way in a residential zoning district, to cause, conduct, allow, suffer, or permit the storage, parking, or staging of construction equipment or materials, or a trailer or motor vehicle loaded with construction equipment or materials, where the equipment and materials are primarily used for a commercial enterprise..

(b) It is an affirmative defense to prosecution under 2.61(D)(6)(a) that the construction equipment, construction materials, or vehicle or trailer loaded with the construction equipment or materials is lawfully parked or stored on property in which there is ongoing, lawfully permitted, construction or remodeling activities for which the equipment or materials are necessary to complete the project.



**GARLAND
CITY COUNCIL ITEM SUMMARY SHEET**

City Council Work Session Agenda

4. e.

Meeting Date: March 15, 2021

Item Title: Discuss Re-Establishing the City's Membership in the National League of Cities

Summary of Request/Problem

At the request of Council Member BJ Williams and Council Member Ricky McNeal, Council is requested to discuss re-establishing the City's membership in the National League of Cities.

Recommendation/Action Requested and Justification

Council discussion.
