

City of Carrollton

1945 E. Jackson Rd.
Carrollton, Tx. 75006



REGULAR WORKSESSION & MEETING

Tuesday, March 3, 2015

5:45 PM

CITY HALL, 2nd Floor

City Council

Mayor Matthew Marchant
Mayor Pro Tem Bob Garza
Deputy Mayor Pro Tem Anthony Wilder
Councilmember Jeff Andonian
Councilmember Steve Babick
Councilmember Kevin Falconer
Councilmember Doug Hrbacek
Councilmember Lisa Sutter

*****PRE-MEETING / EXECUTIVE SESSION*******5:45 P.M. – COUNCIL BRIEFING ROOM**

1. Receive **information and discuss Consent Agenda.**
2. Council will convene in Executive Session pursuant to Texas Government Code:
 - Section 551.071 for private consultation with the City Attorney to seek legal advice with respect to pending and contemplated litigation and all matters on this agenda to which the City Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the City Council.
 - Section 551.087 to discuss Economic Development.
3. Council will reconvene in open session to consider action, if any, on matters discussed in the Executive Session.

*****WORKSESSION*****

4. Discuss City Hall Council Chambers Facelift.
5. Mayor and Council reports and information sharing.

*****REGULAR MEETING 7:00 PM*******INVOCATION****PLEDGE OF ALLEGIANCE****PRESENTATIONS**

6. Present A Proclamation Declaring March 14 & 15, 2015 As *American Indian Arts And Culture Weekend.*

PUBLIC FORUM

7. **Hearing of any citizen/visitor on items not listed on the regular meeting agenda. Citizens wishing to address the Council regarding items on the posted agenda will be called to speak during the Council's consideration of such items.**

Citizens/visitors should complete an appearance card located on the table at the entrance to the City Council Chambers. Speakers must address their comments to the presiding officer rather than to individual Council members or staff; Stand at the podium, speak clearly into the microphone and state your name and address prior to beginning your remarks; Speakers will be allowed between 2 and 5 minutes for testimony; Speakers making personal, impertinent, profane or slanderous remarks may be removed from the room; Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations will not be permitted; No placards, banners or signs will be permitted in the Chambers or in any other room in which the Council is meeting. In accordance with the State Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. Action can only be taken at a future meeting.

CONSENT AGENDA

*(*All items marked with a single asterisk are part of a Consent Agenda and require no deliberation by the Council. Each Council member has the prerogative of removing an item from this agenda so that it may be considered separately. Contracts and agreements are available in the City Secretary's Office.)*

MINUTES

- *8. Consider Approval Of The February 17, 2015 Regular Meeting Minutes.

BIDS & PURCHASES

- *9. Consider Approval Of The Purchase Of Two (2) Message Boards From Dallas Light & Barricade For The Public Works Department In An Amount Not To Exceed \$30,797.30.
- *10. Consider Approval Of The Replacement Of Two (2) Ambulances From Frazer Through An Inter-Local Agreement With BuyBoard In An Amount Not To Exceed \$424,583.25.
- *11. Consider Approval Of The Purchase Of One (1) Pursuit Vehicle For The Police Department From Caldwell Country Through An Inter-Local Agreement With BuyBoard In An Amount Not To Exceed \$37,662.00.

- *12. Consider Approval Of The Purchase Of One (1) Concrete Breaker From Associated Supply Company Through An Inter-Local Agreement With Houston Galveston Area Council (HGAC) In An Amount Not To Exceed \$112,387.00.
- *13. Consider Approval Of The Purchase Of Fencing For Rosemeade Dog Park, Rosemeade Practice Fields, And McInnish Dog Park In An Amount Not To Exceed \$123,560.00.
- *14. Consider Approval Of The Purchase Of Travel Services For The Carrollton Senior Center From Diamond Tours In An Amount Not To Exceed \$38,000.00.
- *15. Consider Approval Of The Purchase Of Contract Services With Layne Christensen Company For Emergency Repair To The Columbian Club Water Well In An Amount Not To Exceed \$279,135.50.

CONTRACTS & AGREEMENTS

- *16. Consider Authorizing The City Manager To Approve A Professional Services Contract With Birkhoff, Hendricks & Carter, LLP For Design Of The Frankford Lift Station Improvements In An Amount Not To Exceed \$60,320.00.
- *17. Consider Authorizing The City Manager To Approve A Professional Services Contract With Birkhoff, Hendricks & Carter, LLP For Design Of The Marsh South Elevated Water Storage Tank Repaint Project In An Amount Not To Exceed \$39,000.00.
- *18. Consider Authorizing The City Manager To Approve A Contract With Jim Bowman Construction Company For The Perry Road Sidewalk Improvements Project In An Amount Not To Exceed \$314,553.00.
- *19. Consider Authorizing The City Manager To Approve A Contract With Bridgefarmer & Associates To Complete A Rail Crossing Inventory And Notice Of Intent Study Along The Burlington Northern-Santa Fe (BNSF) Freight Rail Line In An Amount Not To Exceed \$47,626.00.
- *20. Consider Authorizing The City Manager To Amend An Inter-Local Agreement With The City Of Farmers Branch For Maintenance Expenditures For The Public Safety Radio System Administration In An Amount Not To Exceed \$235,000.00.
- *21. Consider Authorizing The City Manager To Approve An Inter-Local Agreement For A Joint Fire Training Center For The Cities Of Carrollton, Coppell, And Farmers Branch.

RESOLUTIONS

- *22. Consider A Resolution Authorizing The City Manager To Enter Into An Inter-Local Agreement With The Collin County Government Forum (CCGF) For Sharing Of Bid Awards.

PUBLIC HEARING-CONSENT AGENDA

- *23. Hold A Public Hearing And Consider An Ordinance To Amend The Zoning On An Approximately 1.8-Acre Tract Located At 1500 Crescent Drive, Suite 400, Presently Zoned For (FWY) Freeway District Uses To Establish A Special Use Permit For An Indoor Used Car Dealer With Special Conditions; And Amending The Official Zoning Map Accordingly. Case No. 02-15SUP3 Car Experts Group. Case Coordinator: Michael McCauley

PUBLIC HEARING - INDIVIDUAL CONSIDERATION

24. Hold A Public Hearing And Consider An Ordinance To Establish A Special Use Permit To Allow A Used Car Dealership With Special Conditions On An Approximately 6.1-Acre Tract Located At 3216 Kellway Drive, Amending Accordingly The Official Zoning Map. Case No. 02-15SUP2 Earth Motor Cars/Frank Cortese. Case Coordinator: Christopher Barton

ADJOURNMENT

CERTIFICATE - I certify that the above agenda giving notice of meeting was posted on the bulletin board at the City Hall of Carrollton, Texas on the 27th day of February 2015 at 12:00pm.

Krystle F. Nelinson
Krystle F. Nelinson, City Secretary

This building is wheelchair accessible. For accommodations or sign interpretive services, please contact City Secretary's Office at least 72 hours in advance at 972-466-3005. Opportunities and services are offered by the City of Carrollton without regard to race, color, age, national origin, religion, sex or disability.

Pursuant to Section 551.071 of the Texas Government Code, the City Council reserves the right to consult in a closed meeting with its attorney and to receive legal advice regarding any item listed on this agenda. Further, the Texas Open Meetings Act, codified in Chapter 551 of the Texas Government Code, does not require an agenda posting where there is a gathering of a quorum of the City Council at a regional, state or national convention or workshop, social function, convention, workshop, ceremonial event or press conference. The City Secretary's Office may occasionally post agendas for social functions, conventions, workshops, ceremonial events or press conference; however, there is no legal requirement to do so and in the event a social function, convention, workshop, ceremonial event or press conference is not posted by the City Secretary's Office, nothing shall preclude a quorum of the City Council from gathering as long as "deliberations" within the meaning of the Texas Open Meetings Act do not occur.



City of Carrollton

Agenda Memo

File Number: 1888

Agenda Date: 3/3/2015

Version: 1

Status: Work Session

In Control: City Council

File Type: Work Session Item

Agenda Number: 4.

CC MEETING: March 3, 2015

DATE: February 25, 2015

TO: Leonard Martin, City Manager

FROM: Carl W. Shelton, Fleet & Facilities Director

Discuss City Hall Council Chambers Facelift.

BACKGROUND:

The purpose of this worksession item is to present information regarding an upcoming aesthetic and functional facelift to the City Hall Council Chambers. The existing carpet and seating in the chambers is original to the facility, which was constructed in 1986. The audience seating is 18" in width and offers very little ergonomic support. Working closely with a leading auditorium seating manufacturer, staff tested several chairs and sampled numerous fabrics. Staff is recommending replacement with a color coordinating combination of 20" - 24" chairs and two strategically placed 30" bariatric chairs. Integral to the project is the inclusion of a center aisle in the lower level seating area to improve egress.

The initial phase of the project will include the replacement of the carpet. Staff has chosen a pattern and color which blends well with existing textures, colors, and finishes. A future phase will include the replacement of the podium with center placement to improve presentation versatility. The new location will allow optional presentations to both council and the audience.

Staff will present a short four slide presentation to Council depicting the overall improvements.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff will brief the City Council at the March 3rd worksession.



City of Carrollton

Agenda Memo

File Number: 1887

Agenda Date: 3/3/2015

Version: 1

Status: Presentations

In Control: City Council

File Type: Presentation

Agenda Number: 6.

CC MEETING: **March 3, 2015**

DATE: February 25, 2015

TO: Leonard Martin, City Manager

FROM: Krystle F. Nelinson, City Secretary/Management Analyst

Present A **Proclamation Declaring March 14 & 15, 2015 As *American Indian Arts And Culture Weekend.***

WHEREAS, the Eleventh Annual Santa Fe Days in the Park event will be held at Sandy Lake Amusement Park in Carrollton Texas on the 14th & 15th day of March, 2015; and

WHEREAS, Santa Fe Days in the Park provides an opportunity to enjoy the Native American Indian pageantry, culture, arts and crafts unique to the American Indian world which serves to acquaint us with the cultural diversity that exist within our community; and

WHEREAS, Santa Fe Days in the Park will Honor all Veterans and brings to Carrollton Texas special guests, Principal Chief Bill John Baker, members of the Cherokee Community of North Texas, special dignitaries of the Five Civilized Tribes, the artists of the Santo Domingo Pueblo Disabled Veterans Group and the Renegade Nation, the only all combat American Indian Color Guard in the State of Texas. Santa Fe Days is a festive activity that can be enjoyed by the entire family and which can result in a learning experience as well as entertainment and fun.

NOW, THEREFORE, BE IT RESOLVED that I, Matthew Marchant, Mayor of the City of Carrollton, Texas, do hereby proclaim March 14th & 15th, 2015 as

"AMERICAN INDIAN ARTS AND CULTURE WEEKEND" in Carrollton, Texas

and urge all citizens to become more involved in their community by visiting and participating in SANTA FE DAYS in the PARK

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Carrollton, Texas to be affixed this 3rd day of March, 2015.

A handwritten signature in black ink, appearing to read 'Matthew Marchant', written over a horizontal line.

Matthew Marchant, Mayor



City of Carrollton

Agenda Memo

File Number: 1886

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: *8.

CC MEETING: **March 3, 2015**

DATE February 25, 2015

TO: Leonard Martin, City Manager

FROM: Krystle F. Nelinson, City Secretary/Management Analyst

Consider **Approval Of The February 17, 2015 Regular Meeting Minutes.**

**CARROLLTON CITY COUNCIL
REGULAR WORKSESSION AND MEETING
FEBRUARY 17, 2015**

The City Council of the City of Carrollton, Texas convened in a Regular Worksession and Meeting on Tuesday, February 17, 2015 at 5:45 p.m. with the following members present; Mayor Matthew Marchant, Mayor Pro Tem Bob Garza, Deputy Mayor Pro Tem Anthony Wilder, Councilmembers Jeff Andonian, Kevin Falconer, Doug Hrbacek, Lisa Sutter, and Steve Babick. Also present were City Manager Leonard Martin, Assistant City Managers Marc Guy, Bob Scott and Erin Rinehart, City Attorney Meredith A. Ladd and City Secretary Krystle Nelinson.

5:45 P.M. – COUNCIL BRIEFING ROOM

*****PRE-MEETING/EXECUTIVE SESSION *****

Mayor Marchant called the meeting to order at 5:47 p.m.

1. Receive **information and discuss Consent Agenda.**
2. Council convened in **Executive Session** at pursuant to Texas Government Code:
 - **Section 551.071** for private consultation with the City Attorney to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the City Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the City Council.
3. Council **reconvened in open session** to consider action, if any, on matters discussed in the Executive Session.

The City Council did not convene in Executive Session.

*****WORKSESSION*****

4. Discuss **Appointment To Fill A Vacancy On The Capital Improvements Plan Advisory Committee.**

After a discussion, a consensus was reached to appoint Greg Kramer.

5. Discuss **DART Issues And Priorities.**

Mayor Marchant invited Tim Hayden to the table and acknowledged his nine years of service on the City Council representing Place 1 and now his appointment to the DART Board of Directors. Discussion was held about expansion; need to capitalize on efficiencies and more east/west routes; the need for more passenger rail; and the Cotton Belt line. Each member expressed their appreciation to Mr. Hayden for accepting the position. Mr. Hayden stated he was looking forward to serving and would stay in touch with the Council.

6. Discuss Releasing A Request For Proposals For City Owned Property Along Crosby Road.

Peter J. Braster, Senior Development Manager, advised that staff began drafting the RFP and opened a discussion about the master plan, buyer selection criteria, and the marketing of the RFP. He explained that the Master Plan had not been finalized but was a general plan that could be marketed that calls for a mix of single family homes with small yards and large houses that would be walkable to the Trail Head to Downtown and the DART station. He stated the idea was to market the site for single family use and noted that it could be denser than shown. Discussion was held about the elements of the RFP and qualifications of the developer such as experience with developing an in-fill product. Councilmember Falconer felt that, like Raiford, the site could be another showcase for Carrollton. Councilmember Babick stated he would like to see what the market feels would be appropriate and didn't disagree with the proposed elements for the RFP. Mr. Braster stated he would do as much as possible to manage expectations by including as much information as possible in the RFP.

7. Discuss Multi-Year Budget And Financial Forecast.

Chief Financial Officer Bob Scott explained that the purpose of the item was to provide the Council with an early look at the upcoming budget; identify topics for future work sessions; confirm assumptions and to incorporate the future years financial impacts of decisions made to date. He also provided a budget calendar with a projected adoption date of September 15.

Discussion was held with regard to taxing personal use leased vehicles by citizens, compensation and infrastructure.

8. Mayor and Council reports and information sharing.

Mayor Marchant recessed the Worksession at 7:37 p.m. to convene the Regular Meeting.

*****REGULAR MEETING 7:00 PM*****

Mayor Marchant called the Regular Meeting to order at 7:45 p.m.

INVOCATION – Councilmember Doug Hrbacek

PLEDGE OF ALLEGIANCE – Mayor Marchant

PUBLIC FORUM

9. Hearing of any citizen/visitor on items not listed on the regular meeting agenda. Citizens wishing to address the Council regarding items on the posted agenda will be called to speak during the Council's consideration of such items. Citizens/visitors should complete an appearance card located on the table at the entrance to the City Council Chambers. Speakers must address their comments to the presiding officer rather than to individual Council members or staff; Stand at the podium, speak clearly into the microphone and state your name and address prior to beginning your remarks; Speakers will be allowed between 2 and 5 minutes for testimony; Speakers making personal, impertinent, profane or slanderous remarks may be

removed from the room; Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations will not be permitted; No placards, banners or signs will be permitted in the Chambers or in any other room in which the council is meeting. In accordance with the State Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. Action can only be taken at a future meeting.

Herb Weidinger, 2704 N. Surrey, President of Country Place HOA, addressed a problem with Waste Management not picking up brush.

Tom Washington, 1805 Countryside, voiced objection to contracting with the Dallas County Elections Department to administer the election when there were more voters from Denton County.

CONSENT AGENDA

*(*All items marked with a single asterisk are part of a Consent Agenda and require no deliberation by the Council. Each Council member has the prerogative of removing an item from this agenda so that it may be considered separately. Contracts and agreements are available in the City Secretary's Office.)*

Mayor Marchant noted that Greg Kramer would be appointed to the Capital Improvements Advisory Committee.

Councilmember Hrbacek moved approval of Consent Agenda as stated for Items 10 - 16 with the name presented; second by Deputy Mayor Pro Tem Wilder and the motion was approved with a unanimous 7-0 vote.

MINUTES

***10. Consider Approval Of The February 3, 2015 Regular Meeting Minutes.**

BIDS & PURCHASES

***11. Consider Authorizing The City Manager To Approve A Bid Award And Enter Into A Contract With Innovative Interfaces Inc. For A Library Integrated System In An Amount Not To Exceed \$127,845.00.**

CONTRACTS & AGREEMENTS

***12. Consider Authorizing The City Manager To Approve A Contract With Quality Excavation Ltd. For The Carrollton Downs Street Reconstruction, Phase 1 Project In An Amount Not To Exceed \$2,432,018.50.**

ORDINANCE

***13. Consider An Ordinance Ordering The General Election On May 9, 2015 To Elect Council Places 1, 3, 5 & 7.**

***14. Consider An Ordinance Amending Title VII, Chapter 72 Of The City of Carrollton Code Of Ordinances Regulating Parking In The Downtown Carrollton Transit Center District.**

RESOLUTIONS

***15. Consider A Resolution Accepting The Investment Strategies And Investment Officers First Quarter Report For Period Ended December 31, 2014.**

***16. Consider A Resolution Appointing A Member To The Capital Improvements Plan Advisory Committee.**

ADJOURNMENT

Mayor Marchant adjourned the meeting at 7:57 p.m.

ATTEST:

Krystle Nelinson, City Secretary

Matthew Marchant, Mayor



City of Carrollton

Agenda Memo

File Number: 1876

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Bid/Purchases

Agenda Number: *9.

CC MEETING: March 3, 2015

DATE: February 17, 2015

TO: Leonard Martin, City Manager

FROM: Carl W. Shelton, Fleet and Facilities Director & Vince Priolo, Purchasing Manager

Consider Approval Of The Purchase Of Two (2) Message Boards From Dallas Light & Barricade For The Public Works Department In An Amount Not To Exceed \$30,797.30.

BACKGROUND:

Fleet Services is requesting the purchase of two (2) message boards. Council approved a similar item at the September 16, 2014 meeting. With this purchase, Public Works will have four fully functional and dependable message boards in their fleet. The current units (9080 & 9081) are both approximately 12 years old. These units will be retired per Fleet's policy on age/maintenance. Unit #9081 is experiencing an intermittent failure of the main processor board. Parts for these old message boards are obsolete. On average, message boards have a life expectancy of approximately 7-10 years. Staff investigated the possibility of refurbishing message boards, but found that option was cost prohibitive. Vendors estimated the refurbishing cost at \$14,000.00 to \$16,000.00 each, equal the cost of new/smaller message boards. The new solar powered message boards will have several new features; LED lights, programming via smart phone or desktop PC, remote diagnostics, and full animation.

These message boards are used for public notification of various events throughout the city. The existing message boards are extremely large, limiting their use to specific locations that can accommodate their size. Staff is recommending downsizing both units to allow for more placement flexibility. This downsizing will reduce replacement cost by approximately \$5,500.00 per unit.

The proposed units are available from multiple vendors and the quotes are shown below. There are no registered HUB (Historically Underutilized Business) vendors for this product line. Staff recommends moving forward with the most competitive quote from Dallas Light & Barricade.

Dallas Light & Barricade \$30,797.30

Lew Hudson Sales \$35,019.22
Solar Tech \$35,788.90

FINANCIAL IMPLICATIONS:

The equipment will be purchased from budgeted funds from the account and amount listed below.

ACCOUNT UNIT	ACCOUNT	BUDGET AMOUNT
576190 Fleet Fund Fleet Repl	68500 Mobile Equipment	\$30,797.30

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends approval to purchase the two (2) message boards from Dallas Light & Barricade in an amount not to exceed \$30,797.30.



City of Carrollton

Agenda Memo

File Number: 1877

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Bid/Purchases

Agenda Number: *10.

CC MEETING: March 3, 2015

DATE: February 18, 2015

TO: Leonard Martin, City Manager

FROM: Carl W. Shelton, Fleet & Facilities Director and Vince Priolo, Purchasing Manager

Consider Approval Of The Replacement Of Two (2) Ambulances From Frazer Through An Inter-Local Agreement With BuyBoard In An Amount Not To Exceed \$424,583.25.

BACKGROUND:

Fleet Services is requesting the purchase of two (2) Ambulances through our member agreement with BuyBoard. The current ambulances (units 3050 & 3060) are being retired per Fleet's policy on age/hours/maintenance. Fleet's current replacement interval for ambulances is five years. These two units will be an average of six years old when the new units are placed into service. This purchase will include refurbishing the medical box on unit 3060, then mounting on a new cab and chassis. The medical box on unit 3050 is obsolete and in need of replacement with the new cab and chassis.

For competitive purposes, quotes were obtained from two cooperatives that the City belongs to. Frazer is providing quotes from both cooperatives.

BuyBoard - \$404,365.00 (includes \$800 BuyBoard Fee), \$400,321.35 after 1% rebate

HGAC - \$404,365.00 (includes \$1,000 HGAC fee)

Staff recommends moving forward with the bid from Frazer via BuyBoard, based on the net price comparison and annual 1% BuyBoard rebate. This cooperative entity meets all state of Texas competitive bidding requirements. Texas law authorizes this process so that the City can save the time of developing specifications and avoid the duplication of the competitive bidding process.

Staff also recommends approval of a 5% contingency allowance (\$20,218.25) for any unexpected changes during the extensive build process. This contingency would only be authorized to fund necessary safety improvements, factory design changes, and/or code

compliance change orders.

FINANCIAL IMPLICATIONS:

The ambulances will be purchased from budgeted funds from the account and amount listed below.

ACCOUNT UNIT	ACCOUNT	BUDGET AMOUNT
576190 Fleet Repl	68500 Mobile Equipment	\$ 424,583.25

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends approval to purchase two (2) ambulances from Frazer in the amount of \$404,365.00 and approval of a contingency allowance of 5% (\$20,218.25) for a total of \$424,583.25, using our existing agreement with BuyBoard.



City of Carrollton

Agenda Memo

File Number: 1878

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Bid/Purchases

Agenda Number: *11.

CC MEETING: March 3, 2015

DATE: February 17, 2015

TO: Leonard Martin, City Manager

FROM: Carl W. Shelton, Fleet and Facilities Director & Vince Priolo, Purchasing Manager

Consider Approval Of The Purchase Of One (1) Pursuit Vehicle For The Police Department From Caldwell Country Through An Inter-Local Agreement With BuyBoard
In An Amount Not To Exceed \$37,662.00.

BACKGROUND:

Fleet Services is requesting the replacement of one (1) pursuit vehicle assigned to the Police Department. The existing vehicle (unit 2330) sustained major damage to a front end part; the control arm to frame assembly has fractured. Centerra recommends Original Equipment Manufacturer (OEM) level repairs for all front line pursuit vehicles, which precludes any welding on structural members. The vehicle is only repairable back to OEM standards by replacing the entire frame, but the cost is prohibitive. Estimates for this repair exceed \$9,500.00. With a current mileage of 78,684 this level of repair expense is not recommended at this time. This agenda item will authorize the replacement of unit 2330 with a Chevrolet Tahoe Police Pursuit Vehicle.

Unit 2330 is a candidate for an aftermarket repair for \$1,200.00, but it will need to be repurposed in an alternate capacity outside of front line pursuit. Staff recommends the aftermarket repair and reassignment to Fire Operations, which has a current inspector position needing permanent transportation. Repair and reassignment of this unit will delay the capital expense for a new Fire Inspector vehicle for at least 2-3 years and maximize the utilization and ROI of unit 2330.

Staff recommends the purchase of one (1) Police Pursuit Tahoe through our member agreement with BuyBoard. This cooperative entity meets all state of Texas competitive bidding requirements. Texas law authorizes this process so that the City can save the time of developing specifications and avoid the duplication of the competitive bidding process.

FINANCIAL IMPLICATIONS:

The equipment will be purchased from budgeted funds from the accounts and amounts listed below.

ACCOUNT UNIT	ACCOUNT	BUDGET AMOUNT
576190 Fleet Replacement	68500 Mobile Equipment	\$37,662.00

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends approval to purchase one (1) Chevrolet Tahoe Police Pursuit Vehicle from Caldwell Country in the amount of \$37,662.00, using our existing agreement with BuyBoard.



City of Carrollton

Agenda Memo

File Number: 1879

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Bid/Purchases

Agenda Number: *12.

CC MEETING: March 3, 2015

DATE: February 18, 2015

TO: Leonard Martin, City Manager

FROM: Carl W. Shelton, Fleet & Facilities Director & Vince Priolo, Purchasing Manager

Consider Approval Of The Purchase Of One (1) Concrete Breaker From Associated Supply Company Through An Inter-Local Agreement With Houston Galveston Area Council (HGAC) In An Amount Not To Exceed \$112,387.00.

BACKGROUND:

Fleet Services is requesting the purchase of one (1) concrete breaker through our member agreement with HGAC. The current unit (#9155) is 10 years old and with high utilization and life maintenance costs. This unit will be retired per Fleet's policy on age/hours/maintenance. On average, equipment of this type has a life expectancy of approximately 6-10 years, depending on application and use. Unit 9155 is used by the Streets Department in the construction and repair of concrete streets and alleys throughout the city.

The new unit, an Arrow Hammer Model 1350T, is a pneumatic-tired, mobile hydraulic hammer that operates on and off paved surfaces. A 74 HP John Deere, Tier 4, turbocharged, engine provides power for the Arrow Hammer. During operation, the unit propels itself through a hydraulically-controlled creeper gear, providing speeds up to 63 FPM. The Arrow Hammer Model 1350T breaks, cuts, and scores concrete, rock, and asphalt into sizes suitable for excavation and recovery. It compacts backfill with adjustable impact up to 13,000 foot pounds; or a fraction of that force when it's necessary to protect what's underground.

Staff recommends the purchase of the concrete breaker through our inter-local agreement with the Houston Galveston Area Council (HGAC). This inter-local agreement meets all state of Texas competitive bidding requirements. Texas law authorizes this process so that the City can save the time of developing specifications and avoid the duplication of competitive bidding process.

FINANCIAL IMPLICATIONS:

The equipment will be purchased from budgeted funds from the account and amount listed below.

ACCOUNT UNIT	ACCOUNT	BUDGET AMOUNT
576190 Fleet Replacement	68500 Mobile Equipment	\$112,387.00

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends approval to purchase one (1) concrete breaker from Associated Supply Company in the amount of \$112,387.00 using our existing agreement with HGAC.



City of Carrollton

Agenda Memo

File Number: 1882

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Bid/Purchases

Agenda Number: *13.

CC MEETING: March 3, 2015

DATE: February 25, 2015

TO: Leonard Martin, City Manager

FROM: Scott Whitaker, Parks and Recreation Director

Consider Approval Of The Purchase Of Fencing For Rosemeade Dog Park, Rosemeade Practice Fields, And McInnish Dog Park In An Amount Not To Exceed \$123,560.00.

BACKGROUND:

In the 2014/15 city budget, the City Council approved funds for the design and construction of Rosemeade Dog Park, Rosemeade Practice Fields, and McInnish Dog Park. Previously, City Council authorized the design of these three additions. After a schematic drawing was completed, staff worked with the designer and Purchasing Department to bid out fencing. To get a good feel of the cost, three types of fencing were bid, which included galvanized, black vinyl coated, and wrought iron. While galvanized metal is the most economical and wrought iron the most expensive, staff and the designer believe that black vinyl coated is our best option. The city has used this type of fence at McInnish Soccer Complex, the back side of Rosemeade Rainforest, and the Animal Shelter. This product blends in very well with its surroundings.

An RFP was sent out and eight bids were received. Of the eight that were reviewed, staff and the designer selected the lowest bid for vinyl coating and the mow strip, which is Save-On Fence, Inc. The mow strip is extremely important to enhance the life of the fence and aid in long-term maintenance of the grass around the fence. The mow strip also helps to keep the fence from being burrowed under by our friendly pooches.

Attached is the bid tab for fencing.

FINANCIAL IMPLICATIONS:

The funding for fencing comes from the capital accounts set up for these three projects. Since the exact quantity will be determined in the field after some grading work, we have added a 15% contingency and also included the cost of the gates for the three projects.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff and LanArc Design recommend contracting with Save-On Fence, Inc. for fencing at three locations. This is a not to exceed amount of \$123,560.00.

RFP #15-017 FENCING AT PARKS FACILITIES								
	Save-On Fence, Inc.	Net-Lock, Inc.	Construction Rent-A-Fence	Robinson Fence	Brownstone Companies	Acme Fence	Fence Pro	Llano River Fence Company
Rosemeade Soccer Field is approximately 1,350 LF								
LF 4’ Galvanized Fencing	\$ 11.25	\$ 11.50	\$ 14.00	\$ 12.25	\$ 13.88	\$ 12.50	\$ 12.58	\$ 14.50
LF 6” Galvanized Fencing	\$ 14.50	\$ 13.75	\$ 18.00	\$ 16.37	\$ 17.84	\$ 15.00	\$ 16.90	\$ 16.25
LF 6” Vinyl Coated Fencing	\$ 16.95	\$ 16.35	\$ 23.00	\$ 18.00	\$ 21.22	\$ 19.50	\$ 23.12	\$ 19.50
LF 6” Wrought Iron Fencing	\$ 29.30	\$ 19.00	\$34.00-\$49.00	\$ 50.00	\$ 85.00	\$ 69.00	\$ 39.68	\$ 31.20
LF Mow Strip	\$ 4.75	\$ 9.50	\$13.00-\$14.00	\$ 19.00	\$ 8.00	\$ 11.00	\$ 12.00	\$ 8.75
Rosemeade Dog Park is approximately 1,200 LF								
LF 4’ Galvanized Fencing	\$ 11.25	\$ 11.50	\$ 14.00	\$ 12.25	\$ 13.88	\$ 12.50	\$ 12.58	\$ 14.50
LF 6” Galvanized Fencing	\$ 14.50	\$ 13.75	\$ 18.00	\$ 16.37	\$ 17.84	\$ 15.00	\$ 16.90	\$ 16.25
LF 6” Vinyl Coated Fencing	\$ 16.95	\$ 16.35	\$ 23.00	\$ 18.00	\$ 21.22	\$ 19.50	\$ 23.12	\$ 19.50
LF 6” Wrought Iron Fencing	\$ 29.30	\$ 19.00	\$34.00-\$49.00	\$ 50.00	\$ 85.00	\$ 69.00	\$ 39.68	\$ 31.20
LF Mow Strip	\$ 4.75	\$ 9.50	\$13.00-\$14.00	\$ 19.00	\$ 8.00	\$ 11.00	\$ 12.00	\$ 8.75
McInnish Dog Park is approximately 2,200 LF								
LF 4’ Galvanized Fencing	\$ 11.25	\$ 11.50	\$ 14.00	\$ 12.25	\$ 13.00	\$ 12.50	\$ 12.58	\$ 14.50
LF 6” Galvanized Fencing	\$ 14.50	\$ 13.75	\$ 18.00	\$ 16.37	\$ 16.96	\$ 15.00	\$ 16.90	\$ 16.25
LF 6” Vinyl Coated Fencing	\$ 16.95	\$ 16.35	\$ 23.00	\$ 18.00	\$ 20.34	\$ 19.50	\$ 23.12	\$ 19.50
LF 6” Wrought Iron Fencing	\$ 29.30	\$ 19.00	\$34.00-\$49.00	\$ 50.00	\$ 85.00	\$ 69.00	\$ 39.68	\$ 31.20
LF Mow Strip	\$ 4.75	\$ 9.50	\$13.00-\$14.00	\$ 19.00	\$ 7.50	\$ 11.00	\$ 12.00	\$ 8.75



City of Carrollton

Agenda Memo

File Number: 1874

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Bid/Purchases

Agenda Number: *14.

CC MEETING: March 3, 2015

DATE: February 19, 2015

TO: Leonard Martin, City Manager

FROM: Lori Luckey, Recreation Coordinator

Consider Approval Of The Purchase Of Travel Services For The Carrollton Senior Center From Diamond Tours In An Amount Not To Exceed \$38,000.00.

BACKGROUND:

The Carrollton Senior Center has had a Trip program for approximately 28 years. At the request of many Seniors, the Senior Center began offering longer, sometimes overseas trips in 2007. Destinations have included: Ireland, Italy, Alaska, Switzerland and more. The trips are fully cost-recovered.

An extended trip for 2015 is a 9-day, 8-night trip to Niagara Falls and Toronto. The date for travel is October 3 through October 11, 2015 and the cost \$799.00/person double occupancy. Single occupancy is \$1,078.00. In addition, each participant is strongly encouraged to purchase trip insurance. This will allow the patron to receive a refund if they are unable to go on the trip. Approximately 95% of our participants purchase trip insurance.

Staff does obtain three quotes for the trips; however, other factors are included such as exact location of tour, excursions during the tour, customer evaluations on previous trips, etc. There is no HUB vendor listed for tour companies.

FINANCIAL IMPLICATIONS:

The funds for the cost center are listed below.

<u>COST CENTER</u>	<u>LINE ITEM</u>
3210	21340

Revenue collected from the participants covers the cost of the program.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends approval of the purchase of travel services for the Carrollton Senior Center to Diamond Tours in an amount not to exceed \$38,000.00.



City of Carrollton

Agenda Memo

File Number: 1881

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type:
Contracts/Agreements

Agenda Number: *15.

CC MEETING: March 3, 2015

DATE: February 16, 2015

TO: Leonard Martin, City Manager

FROM: Robert Kopp, Director of Public Works

Consider Approval Of The Purchase Of Contract Services With Layne Christensen Company For Emergency Repair To The Columbian Club Water Well In An Amount Not To Exceed \$279,135.50.

BACKGROUND:

This item is for the emergency procurement for contract services for the rehabilitation of the 2.2 million gallons per day (MGD) public drinking water well pump located at the Columbian Club Pump Station. The well pump assemblies locked up due to wear and material loss over time. The pump was originally installed in 1974 by the Layne Christensen Company. It is primarily used during seasonal high water demand periods and in emergency situations. The production of the well is calculated in with the Dallas Water Utilities potable water purchases to meet the required minimum capacity rule of the Texas Commission on Environmental Quality. The water well was last rebuilt in 1998. Since that time the pump assemblies have become obsolete.

Layne Christensen Company was contacted to pull the pump to investigate the cause of failure. This company has an excellent reputation in the industry and has done work for Carrollton's system in the past so staff initiated an emergency procurement for their services. Staff was unable to use the routine procurement process due to the substantial effort and process needed to inspect and repair the well system. A thorough, comprehensive and accurate analysis required the entire 2,000 foot pump system's removal and transport taken to Christensen's facility for inspection. It was discovered that the pump required a complete rebuild due to its age and life span of operation.

FINANCIAL IMPLICATIONS:

The cost to remove, rebuild the pump, replace piping, video inspection of the well casing, cleaning casing and reinstallation was \$279,135.50. Without this well the city's only alternative action would have been to replace the loss of 2.2 MGD of potable water through the current contract with the City of Dallas for an additional cost of approximately \$446,616.00

annually. The City of Dallas Water Utilities contract requires a five-year commitment when increasing potable water purchases. With the well operational, this results in a cost avoidance of about \$2.2 million over the five-year contract period.

IMPACT ON COMMUNITY SUSTAINABILITY:

With the water well out of service there is a risk of disruption of service, potential impact on firefighting capabilities and an additional long-term financial burden.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends compensating Layne Christensen Company in an amount not to exceed \$279,135.50 from account (855160 - 6190) for emergency repairs to the Columbian Club Water Well.



WATER • MINERAL • ENERGY

STATEMENT OF ACCOUNT

RECEIVED
DEPARTMENT OF
PUBLIC WORKS

FEB 13 2015

City of Carrollton
City of Carrollton
2711 Nimitz
Carrollton TX 75007

REMIT TO:
25666 Network Place
Lockbox 25666
Chicago IL 60673-1256

PLEASE SHOW INVOICE
NUMBER ON REMITTANCE

Page: 1 of 1
Date: 01/31/15
Account: 47946979
Statement No: 36641

Previous Balance		New Charges	Payments Received		Balance Due	
		279,135.50			279,135.50	

Invoice Number	Invoice Date	Remark	Previous Balance	New Invoices	Payments/ Adjustments	Outstanding Balance
89069488	01/28/15	City of Carrollton CCD Well R&I		279,135.50	0.00	279,135.50
				279,135.50	0.00	279,135.50
		USD U.S. Dollar		279,135.50	0.00	279,135.50

STATEMENT MESSAGE

We appreciate your business. This statement has been prepared in connection with routine audits of our financial system and does not include retainage not currently due, if applicable. Payments received after the statement date will not be reflected. Please direct remittances to the lockbox address shown in the upper right hand corner and include the invoice number so that the payment can be applied appropriately. For questions, please contact us at the e-mail listed below. Thank you.

ACCOUNT AGING

Current	31 - 60	61 - 90	91 - 120	121 - 150	Over 150	
279,135.50						

Please respond with any questions to Statements@layne.com

RECEIVED BY
DEPARTMENT OF
PUBLIC WORKS

FEB 2 2015

Layne Christensen Company

Remit to: 25666 Network Place Chicago, IL 60673-1256

Midwest Group - Houston, TX ~ 5931 Brittmoore Road Houston, TX 77041

PH: 262-246-4646 ~ FAX: 262-246-4784

INVOICE #: 89069488

VENDOR # _____
ACCT UNIT # _____
ACCOUNT # _____
ACTIVITY # _____
COM CODE _____
PO# _____
PRICE AGMT # _____
AP MAIL ☐ NO ☐

SOLD TO: City of Carrollton Texas
ATTN: Brian Little
2711 Nimitz
Carrollton, TX 75007
Client Phone: 972-466-3476

INVOICE DATE: 01/28/2015

PO#: Confirming Order

LAYNE ORDER#: 31711

CLIENT#: 47946979

TERMS: NET 30 DAYS

QUANTITY		DESCRIPTION	PRICE	TOTAL
COUNTRY CLUB DRIVE WATER WELL PUMP REPAIR				
WELL PUMP PULLING & INSPECTION				
7	HR	Pump technician travel to well site, set up and attempted to readjust well pump shaft lift. Pulled up pump shaft 2-3/8" and could not turn pump shaft. The well pump is locked up.	\$125.00	\$875.00
56	HR	Heavy duty pump service rig and crew mobilize to job site, rig up, pull of 1010'-10"x3-1/2"x2/3/16" oil lubricated well pump, measure well depths, load out pump, rig down, and demobilize from job site.	\$390.00	\$21,840.00
5	EA	Crew Per Diem	\$450.00	\$2,250.00
36	HR	Shop labor disassembling and inspecting well pump.	\$195.00	\$7,020.00
Sub Total for WELL PUMP PULLING & INSPECTION:				\$31,985.00
PULLING & INSPECTION OUTSIDE SERVICES				
1	EA	Hydraulic crane truck & operator mobilized to well site set up and pull 500 HP pump motor off well head.	\$560.00	\$560.00
1	EA	Hydraulic crane truck & operator mobilized to well site, and loading out well pump materials onto trucks.	\$1,550.00	\$1,550.00
1	EA	Two tractor trucks & trailers loading and hauling well pump to shop for disassembly & inspection.	\$1,795.00	\$1,795.00
Sub Total for PULLING & INSPECTION OUTSIDE SERVICES:				\$3,905.00
WELL PUMP REPAIR & REINSTALLATION				
48	HR	Shop Labor, gathering new materials, cleaning line shaft bearings, cleaning and straightening line shafts, assembly of oil tubing and bearings, installing line shafts inside oil tubing and in column pipe, assembly of pump bowl assembly, and loading pump onto trucks.	\$195.00	\$9,360.00
14	HR	Truck & trailer picking up and hauling new pump materials to shop.	\$150.00	\$2,100.00
1	EA	Downhole video survey of Country Club well.	\$2,600.00	\$2,600.00
80	HR	Pump service rig & crew mobilized to Carrollton job site, rig up, unload trucks, run bailer and spear down well to attempt to remove excess debris blockage from top of 10" liner at 2012'. Set pump bowl in well & set 1,010'-10"x3-1/2"x2-3/16" oil lubricated column assembly, set discharge head & pump motor. Hook up discharge and set up orifice, conduct two hour flow test, remove orifice equipment, rig down & demobilize from job site.	\$390.00	\$31,200.00
7	EA	Crew Per Diem	\$450.00	\$3,150.00
Sub Total for WELL PUMP REPAIR & REINSTALLATION:				\$48,410.00
REPAIR & REINSTALLATION OUTSIDE SERVICES				
1	EA	Two tractor trucks & trailers loading and hauling well pump to Carrollton job site & unloading pump.	\$1,795.00	\$1,795.00
1	EA	Hydraulic crane truck & operator mobilized to well site, and unloading well pump	\$1,550.00	\$1,550.00

Layne Christensen Company

Remit to: 25666 Network Place Chicago, IL 60673-1256

Midwest Group - Houston, TX ~ 5931 Brittmoore Road Houston, TX 77041

PH: 262-246-4646 ~ FAX: 262-246-4784

INVOICE #: 89069488

SOLD TO: City of Carrollton Texas
ATTN: Brian Little
2711 Nimitz
Carrollton, TX 75007
Client Phone: 972-466-3476

INVOICE DATE: 01/28/2015

PO#: Confirming Order

LAYNE ORDER#: 31711

CLIENT#: 47946979

TERMS: NET 30 DAYS

QUANTITY		DESCRIPTION	PRICE	TOTAL
1	EA	materials from trucks. Hydraulic crane truck & operator mobilized to well site set up and set 500 HP pump motor on well discharge head.	\$560.00	\$560.00
Sub Total for REPAIR & REINSTALLATION OUTSIDE SERVICES: \$3,905.00				
WELL PUMP MATERIALS				
1	EA	2-3/16"x 74-3/4" 416 St. St. motor drive shaft with 1/2" key & bronze pump lateral adjusting nut	\$1,043.00	\$1,043.00
1	EA	3-1/2" x 2-3/16" bronze oil tubing stretch adjusting nut	\$1,457.00	\$1,457.00
1	EA	3-1/2"x 5" top special oil tube	\$193.00	\$193.00
1	EA	2-3/16"x 62-3/4" 416 St. St. top special discharge head shaft	\$535.00	\$535.00
1	EA	10" x17-1/2" top special column pipe welded to discharge head	\$436.00	\$436.00
45	EA	10"x20' T&C pump column pipe, 0.365" wall, with lifting lugs	\$1,095.00	\$49,275.00
1	EA	10"x4" T&C pump column pipe, 0.365" wall	\$359.00	\$359.00
50	EA	10"x3-1/2" rubber oil tubing centering spiders	\$31.00	\$1,550.00
111	EA	3-1/2"x 2-3/16" bronze line shaft bearings	\$198.00	\$21,978.00
200	EA	3-1/2"x 5' oil tubes	\$109.00	\$21,800.00
27	EA	2-3/16"x 20' TBE Carbon Steel Lineshafts	\$591.00	\$15,957.00
53	EA	2-3/16" carbon steel shaft couplings	\$48.00	\$2,544.00
1	EA	10"x 3-1/2"x 2-3/16"x 5' mid column assembly oil tubing stretch joint	\$3,667.00	\$3,667.00
1	EA	Christensen 12CHC-LL-17 stage oil lubricated pump bowl assembly designed to produce 1400 GPM @ 975' TDH with extra lateral	\$52,483.00	\$52,483.00
1010	FT	1/4" St. St. Airline	\$2.15	\$2,171.50
1	EA	Misc. St. St. banding material, St. St. buckles turbine pump oil, chlorine, airline gauge, bolts & nus, gaskets, and installation supplies	\$1,693.00	\$1,693.00
1	LS	Shipping of new pump bowl assembly	\$989.00	\$989.00
Sub Total for WELL PUMP MATERIALS: \$178,130.50				
WELL SCREEN CLEANING				
5	HR	Shop labor gathering and loading out 10" wire brush and 100'- 4" work pipe, and misc. fittings.	\$195.00	\$975.00
12	HR	Truck loading 10" wire brush, 100-4" work pipe and supplies to job site, unload and return to yard.	\$95.00	\$1,140.00
24	HR	Pump service rig and crew unloading truck, setting up wire brush, run wire brush down hole, wire brushing well screens from 2245'-2455', pull wire brush from well, run bailer down hole and remove accumulated debris for well.	\$390.00	\$9,360.00
2	EA	Crew Per Diem	\$450.00	\$900.00
Sub Total for WELL SCREEN CLEANING: \$12,375.00				

Layne Christensen Company

Remit to: 25666 Network Place Chicago, IL 60673-1256

Midwest Group - Houston, TX ~ 5931 Brittmoore Road Houston, TX 77041

PH: 262-246-4646 ~ FAX: 262-246-4784

INVOICE #: 89069488

SOLD TO: City of Carrollton Texas

ATTN: Brian Little

2711 Nimitz

Carrollton, TX 75007

Client Phone: 972-466-3476

INVOICE DATE: 01/28/2015

PO#: Confirming Order

LAYNE ORDER#: 31711

CLIENT#: 47946979

TERMS: NET 30 DAYS

QUANTITY	DESCRIPTION	PRICE	TOTAL
MATERIALS AND EQUIPMENT			
1	EA 10" wire brush, 100'-4" work pipe and fitting rental	\$425.00	\$425.00
Sub Total for MATERIALS AND EQUIPMENT:			\$425.00

License No. 58158W - Regulated by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, (512)-463-7880, www.license.state.tx.us

Invoice Sub Total:	\$279,135.50
Tax:	\$0.00
Invoice Total:	\$279,135.50

Layne Christensen Company will institute a late payment charge at a rate of 18% per annum (unless a lower rate is required under applicable law, in which case the lower rate shall apply) for all payments not made on or before the due date. It is the policy of Layne Christensen to preserve all lien and payment bond rights where available. All notifications are sent strictly for this purpose.

Thank you for your business
Layne Christensen is an Equal Opportunity Employer
** ORIGINAL **



City of Carrollton

Agenda Memo

File Number: 1851

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type:
Contracts/Agreements

Agenda Number: *16.

CC MEETING: March 3, 2015

DATE: February 24, 2015

TO: Leonard Martin, City Manager

FROM: Cesar J. Molina, Jr., P.E., Director of Engineering

Consider Authorizing The City Manager To Approve A Professional Services Contract With Birkhoff, Hendricks & Carter, LLP For Design Of The Frankford Lift Station Improvements In An Amount Not To Exceed \$60,320.00.

BACKGROUND:

The Engineering and Public Works Departments routinely identify wastewater collection system problems which, due to age and condition, require replacement. This replacement program is part of an ongoing effort to improve utility service, reduce inflow and infiltration into the sewer system, and reduce the costs of operation and maintenance. Continuing from previous years, lift stations are now a main focus of rehabilitation efforts. The next lift station on the list is the Frankford lift station located south of Frankford Road and west of Trade Center Drive, which was constructed in 1986. This lift station is nearing 30 years old and is in need of upgrades to the electrical system and controls in addition to properly sizing the pumps for the service area. The reconstruction will also eliminate confined space conditions that currently exist at the station.

Consultant selection was performed using a request for qualifications (RFQ) method where engineering firms submitted a two-part statement of qualifications which was evaluated by a three person committee. The first part contained a project approach, understanding, schedule and similar-type-projects-completed section without knowing the firm's name. These were scored and ranked and from there the top 4 were evaluated further using the qualifications of the firm and the proposed design team members. The top firms were then selected for projects during the next two years.

FINANCIAL IMPLICATIONS:

Birkhoff, Hendricks & Carter, LLP has submitted a proposal to the City to perform the engineering design services for the project for an amount not to exceed \$60,320.00. Funding for this project is available in the Utility Consolidated Fund (Account Unit 855160-115470799) in

the amount of \$60,320.00.

IMPACT ON COMMUNITY SUSTAINABILITY:

This project will contribute to community sustainability by:

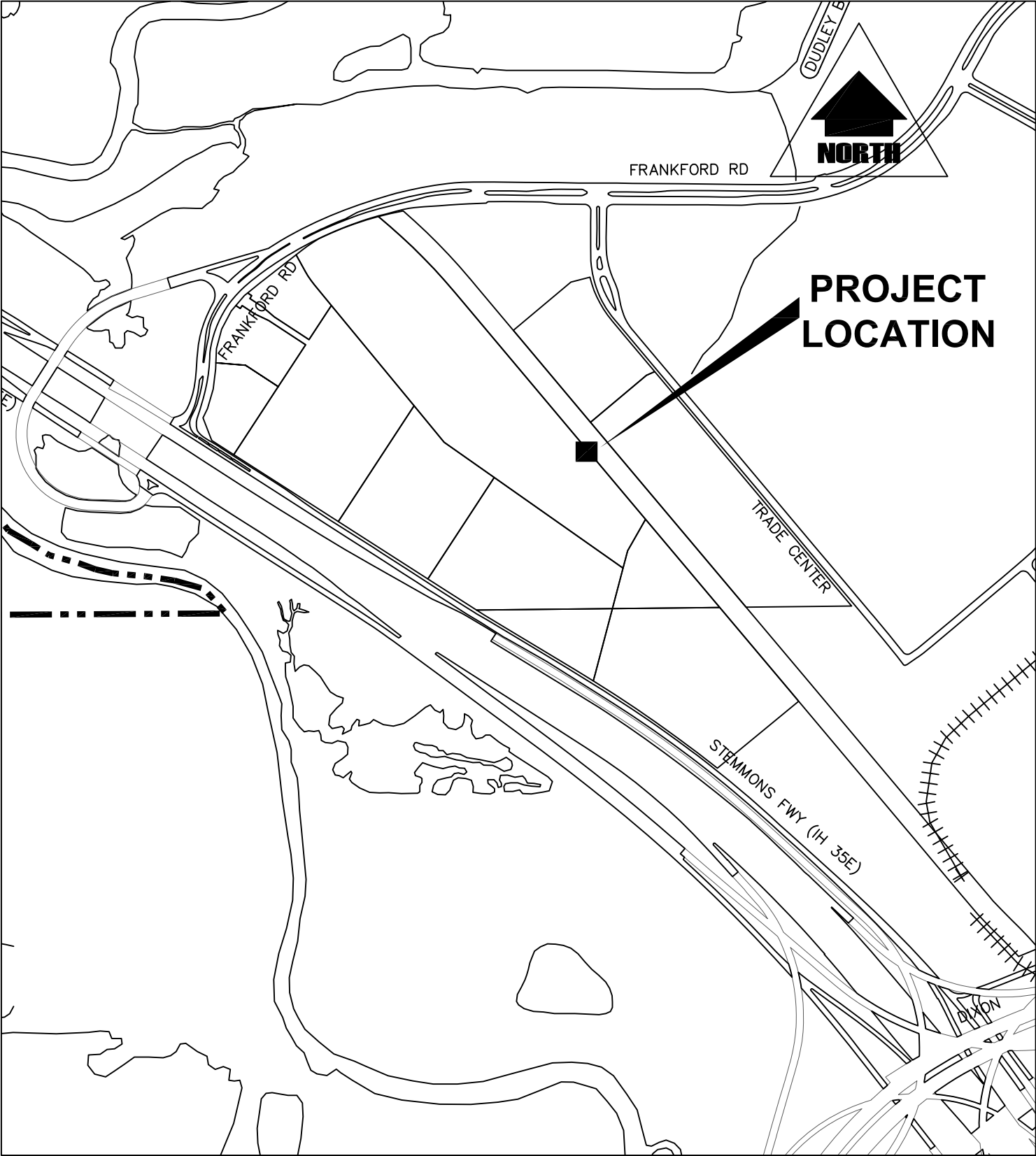
Sustaining quality of life - Improvements to the sanitary sewer lift station will ensure that the collection system will work properly for many years to come.

Sustaining day-to-day operations - The replacement of the old lift station should reduce the need for non-scheduled or emergency repairs and reduce power costs.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends authorizing the City Manager to enter into an engineering design services contract with Birkhoff, Hendricks & Carter, LLP for the preparation of engineering plans for the Frankford Lift Station in an amount not to exceed \$60,320.00.

EXHIBIT A



CARROLLTON
TEXAS

Where Connections Happen

FRANKFORD LIFT STATION

SCALE:NTS DATE:12/14

**ENGINEERING
DEPARTMENT**

THE STATE OF TEXAS §

COUNTY OF DALLAS §

Professional Services Contract
with Birkhoff, Hendricks & Carter, LLP

THIS CONTRACT is entered into on this 3rd day of March , 2015, by and between the **CITY OF CARROLLTON, TEXAS**, a municipal corporation located in Dallas County, Texas, (hereinafter referred to as “City”), acting by and through its City Manager or his designee, and Birkhoff, Hendricks & Carter, L.L.P. (“hereinafter referred to as “Consultant”) whose address is 11910 Greenville Ave., Suite 600, Dallas, TX 75243.

W I T N E S S E T H:

WHEREAS, City desires to obtain professional services from Consultant for the design of the Frankford Lift Station Rehabilitation located south of Frankford Road near the DART Tracks; and

WHEREAS, Consultant is an architectural, engineering, professional planning, urban design, or landscape architecture firm qualified to provide such services and is willing to undertake the performance of such services for City in exchange for fees hereinafter specified; NOW, THEREFORE,

THAT IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

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

II.

Scope of Services

Consultant shall perform such services as are necessary to prepare plans and specifications along with bidding, construction administration and additional services for Frankford Lift Station Rehabilitation specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment “A” hereto entitled “Scope of

Work” (hereafter referred to as the “Project”). Attachment “A” is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment “A” and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Consultant shall be paid for services described herein as follows: The sum of Forty-Five Thousand and No/100 Dollars (\$45,000.00) for design services (the design fee) and for bidding, construction administration and additional services, an amount not to exceed \$15,320.00 on the basis of salary cost times a multiplier of 2.35, expenses at invoice cost times 1.15 and field survey crew at \$165.00 per hour. The total contract shall not exceed \$60,320.00. This total payment for services includes Consultant’s ordinary expenses. Additional expenses, which are extraordinary in nature, shall be approved in advance by City in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the City pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses not approved in writing in advance by the City shall remain the sole responsibility of the Consultant.

Consultant will bill City on a percent complete basis in accordance with Attachment “B”; provided however that this Contract shall control in the event of any conflict between the language in Attachment “B” and the language in this Contract. If additional services, trips or expenses are requested, Consultant will not provide such additional services until authorized by City in writing to proceed. The scope of services shall be strictly limited. City shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless City shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month Consultant will submit to City an invoice supporting the percentage complete for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount and a running total balance for the Project to date.

Within thirty (30) days of receipt of each such monthly invoice City shall make monthly payments in the amount shown by Consultant’s approved monthly statements and other documentation submitted.

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

specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

City reserves the right to revise or expand the scope of services after due approval by City as City may deem necessary, but in such event City shall pay Consultant equitable compensation for such services. In any event, when Consultant is directed to revise or expand the scope of services under this Section of the Contract, Consultant shall provide City a written proposal for the entire costs involved in performing such additional services. Prior to Consultant undertaking any revised or expanded services as directed by City under this Contract, City must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by Consultant that any compensation not specified in Paragraph III herein above may require Carrollton City Council approval and is subject to the current budget year limitations.

V.

Term

This Contract shall begin on the date first written above, and shall terminate when City has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.

Contract Termination Provision

This Contract may be terminated at any time by City for any cause by providing Consultant thirty (30) days written notice of such termination. Upon receipt of such notice, Consultant shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

All materials and documents prepared or assembled by Consultant under this Contract shall become the sole property of City and shall be delivered to City without restriction on future use. Consultant may retain in its files copies of all drawings, specifications and all other pertinent information for the work. Consultant shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.
Insurance Requirements

- A. Before commencing work, Consultant shall, at its own expense, procure, pay for and maintain during the term of this Contract the following insurance written by companies approved by the state of Texas and acceptable to the City. Consultant shall furnish to the City of Carrollton Engineering Director certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be provided to the City.
1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
 2. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
 3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.
 4. Professional Liability Insurance to provide coverage against any claim which the consultant and all consultants engaged or employed by the consultant become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000 per claim, \$2,000,000 annual aggregate.
- NOTE:** If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than *thirty-six (36) months* following completion of the contract and acceptance by the City of Carrollton.
- B. With reference to the foregoing required insurance, the consultant shall endorse applicable insurance policies as follows:

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

IX.

Right to Inspect Records

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

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

X.

Successors and Assigns

City and Consultant each bind themselves and their successors, executors, administrators and assigns to the other party to this contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither City nor Consultant shall assign or transfer its interest herein without the prior written consent of the other.

XI.
Consultant's Liability

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

XII.
INDEMNIFICATION

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM CONSULTANT'S PERFORMANCE UNDER THIS CONTRACT OR WHICH ARE CAUSED BY THE INTENTIONAL WRONGFUL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONSULTANT, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONSULTANT OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONSULTANT IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS") SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 (A) AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

The City shall have the right to approve counsel to be retained by Consultant in fulfilling its obligation to defend and indemnify the City, however, provided that the City's approval shall not be unreasonably withheld. Consultant shall retain approved

counsel for the City within seven (7) business days after receiving written notice from the City that it is invoking its right to indemnification under this Contract. If Consultant does not retain counsel for the City within the required time, then the City shall have the right to retain counsel and the Consultant shall pay these attorneys' fees and expenses. The City retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so.

XIII. Independent Contractor

Consultant's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of City in the performance of this Contract. No term or provision of or act of Consultant or City under this Contract shall be construed as changing that status. Consultant will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Consultant.

XIV. Default

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

City's remedies for Consultant's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at City's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to City; or,
- (c) Monetary damages in an amount not to exceed the greater of:

- (1) The amount of any applicable insurance coverage Consultant is required to purchase and maintain under this Contract plus any deductible amount to be paid by Consultant in conjunction with said coverage regardless of whether Consultant has actually purchased and maintained said coverage; or,
- (2) The total dollar amount of this Contract.

In no event shall Consultant be liable to the City for special, incidental, additional, punitive, exemplary or consequential damages.

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XV. Changes

City may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between City and Consultant shall be incorporated by written modification to this Contract.

XVI. Conflict of Interest

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

XVII. Confidential Information

Consultant hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. Consultant shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of Carrollton, its affiliates and subsidiaries, and all oral and written information concerning City or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by Consultant or others, which contain or

otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of Consultant, or are required to be disclosed by a governmental authority.

XVIII.
Mailing Address

All notices and communications under this Contract to be mailed to City shall be sent to the address of City's agent as follows, unless and until Consultant is otherwise notified:

Thomas S. Geier, P.E.
City of Carrollton
Post Office Box 10535
Carrollton, Texas 75011.

Notices and communications to be mailed or delivered to Consultant shall be sent to the address of Consultant as follows, unless and until City is otherwise notified:

John Birkhoff, P.E.
Birkhoff, Hendricks & Carter, LLP
11910 Greenville Ave., Suite 600
Dallas, TX 75243

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XIX.
Applicable Law

The Contract is entered into subject to the Carrollton City Charter and ordinances of City, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. Consultant will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with Consultant's income. Situs of this Contract is agreed to be Dallas County, Texas, for all purposes, including performance and execution.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Force Majeure

Neither party shall be liable for delay or failure to perform hereunder, in whole or in part, by reasons of contingencies beyond the reasonable control of the party affected whether specifically enumerated herein or not, including but not limited to any acts of God, acts of nature, act of terror, fire, explosion, breakdown of plant, strike, lockout, labor dispute, accident or casualty, earthquake, flood, tornado, high or low water, washouts, river icing, adverse weather conditions, operation of law, order proclamation, regulation, demand or requisition by any governmental agency whether local, state, or federal (each a "Force Majeure Event), provided, however, that the party so affected shall promptly give written notice to the other party whenever such event or other act becomes reasonably foreseeable, and the party shall use its commercially reasonable efforts thereafter to overcome the effects of such event as promptly as possible.

XXIV.
Headings

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

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Carrollton, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

XXVI.
No Third Party Beneficiary

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

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

CITY OF CARROLLTON

By: _____
Marc Guy, Assistant City Manager

Date Signed: _____

ATTEST:

Krystle F. Nelinson, City Secretary

APPROVED AS TO FORM:

Meredith A. Ladd, City Attorney

BIRKHOFF, HENDRICKS & CARTER, LLP
(Consultant's Name)

By: _____

Name: John W. Birkhoff, P.E.

Title: Managing Partner

Date Signed: _____

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of, _____, 2015, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 2015.

Notary Public _____ County, Texas

My commission expires _____

ATTACHMENT A
SCOPE OF SERVICES

Undersigned shall prepare construction plans, specifications, details and opinions of cost for the following:

PREPARATION OF PLANS, SPECIFICATIONS AND OPINION OF PROBABLE CONSTRUCTION COST NECESSARY FOR UPGRADING THE FRANKFORD SANITARY SEWER LIFT STATION, AS DESCRIBED BELOW.

SCOPE OF WORK:

Consultant shall provide professional civil engineering consulting services required for the design, preparation of plans and specifications, along with services during the bidding and construction administration phases of the Frankford Lift Station Improvements.

These improvements include design for the replacement of the electrical system, replacement of two 590-gpm pumps and 10-HP motors, wet well appurtenances, addition of standby generator, site light, and new fence. To accommodate the standby generator and load bank, additional property will be required. The existing wet well and valve vault will remain. A wet well liner will be specified, along with a safety grate for the existing hatches. Bypass pumping will be required during construction.

We have reviewed the project requirements and our opinion of probable construction cost is in the range of \$500,000.00.

PART I. DESIGN PHASE

Prepare construction plans and specifications for the Frankford Lift Station. The design phase services will include:

- A. Preparation of Construction Plan-Profile Sheets prepared at a scale of not less than 1" = 20' along with cross sections of the proposed lift station.
- B. Design will include civil and electrical. An aboveground exterior mounted control panel will house the electrical switchgear and SCADA RTU.
- C. Design of standby generator to meet TCEQ Requirements for wet well size.
- D. Preparation of specifications for wet well liner and safety grates for hatches.
- E. Preparation of Standard and Special Details.
- F. Cover Sheet, Location Map and Sheet Index.
- G. Coordination with Utility Company.
- H. Design review meetings as required or directed by the Owner.
- I. Preparation of Engineers Opinion of Probable Construction Cost.

- J. Preparation of Specifications and Contract Documents.
- K. Printing of preliminary plans and specifications for review by the City and Utility Companies. Plans will be completed on 11" x 17" sheets. Three sets will be provided for City review at preliminary and final submittals.
- L. Address City comments and revise documents as required from review comments.

PART II. BIDDING PHASE

- A. Upon completion of the design phase, Undersigned shall deliver to City one set of original tracings of construction plans (22" x 34"), opinion of probable construction cost, special provisions, and one set of half-scale prints. City will provide printing of construction plans for bidding and construction.
- B. Assist the staff in advertising for bids by emailing Notice to Contractors experienced with this type of construction. City will distribute plan sets.
- C. Attend Pre-Bid Conference.
- D. Assist in preparation of Addenda.
- E. If requested, obtain past work history from low bidder and formulate opinion from information received and provide the City a recommendation for award of construction contract.

PART III. CONSTRUCTION PHASE

- A. Assist with pre-construction conference at City facilities including preparing an agenda.
- B. Review shop drawings and other submittal information which the Contractor submits. This review is for the benefit of the Owner and covers only general conformance with information given by the Contract Documents. The contractor is to review and stamp their approval on submittals prior to submitting to the Engineer. Review by the Engineer does not relieve the Contractor of any responsibilities, safety measures or the necessity to construct a complete and workable facility in accordance with the Contract Documents. Shop drawing review will be completed electronically, using PDF format.
- C. Provide responses to requests for information or clarification to City or Contractor.
- D. Assist in preparation of routine change orders for this project as they pertain to the original scope of services.
- E. Accompany the City during their final inspection of the project.
- F. The design engineer will visit the site at appropriate intervals as construction proceeds to observe progress and formulate opinion as to quality of work as it relates to contract documents. These visits

specifically exclude any responsibility by the Engineer for job safety or means and methods of construction.

- G. Prepare Record Drawings based on Contractor's mark-ups. Submit floppy disk or compact disk with design files in .TIFF format (300 dpi monochrome, tagged image file format). Submit 2-sets of black-line prints (22" x 34" sheets). All construction plan sheets will be prepared utilizing AutoCAD Release 15 or 16 on Windows. No specific computer aided drafting and design specifications will be utilized.
- 1) Undersigned makes no warranty as to the compatibility of these files beyond the specified release of the above stated software.
 - 2) Because data stored on electronic media can deteriorate undetected or be modified, City agrees that the Undersigned will not be held liable for completeness or correctness of electronic media after an acceptance period of sixty (60) days after delivery of electronic files.
 - 3) It is understood that the electronic files are instruments of service. Where there is a conflict between the hard copy drawings and the electronic files, the hard copy files will govern in all cases.
 - 4) Both parties acknowledge mutual non-exclusive ownership of the electronic files and each party may use, alter, modify or delete the files without consequence to the other party.

PART IV. ADDITIONAL SERVICES

- A. Field surveys for design of lift station.
- B. Reproduction cost for printing of review documents by City and Utility Companies. Printing of plots for record drawings.
- C. Preparation of field note description and exhibit for property acquisition.

PART V. EXCLUSIONS

Services specifically excluded from this scope include, but are not necessarily limited to the following:

- A. Providing an on-site representative.
- B. Preparing environmental impact statements and assessments.
- C. Fees for permits or advertising.
- D. Printing of bidding documents (completed by City).
- E. Certification that work is in accordance with plans and specifications.
- F. Environmental cleanup.
- G. Flood plain reclamation plans.
- H. Trench safety designs.
- I. Quality control and testing services during construction.
- J. Title searches.
- K. Services in connection with condemnation hearings.
- L. City plating process for the site.

- M. Phasing of Contractors work.
- N. On-site safety precautions, programs and responsibility.
- O. Revisions and/or change orders as a result of revisions after completion of original design (unless to correct error on plans).
- P. Replacement of existing wet well and existing valve vault.
- Q. Fiduciary responsibility to the Client.

PART VI. CITY'S RESPONSIBILITY

- A. The City will provide information regarding objectives and requirements for the Project.
- B. The City will designate a single representative to act in its behalf, with respect to the project, who shall examine documents submitted by the Undersigned and, to the extent allowed by law, shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Undersigned's services.
- C. All of the City's plat, easement and construction plan files will be made available for use. City will provide copies at no cost. If easement information is not available within the City, the Engineer will need to obtain that information from Dallas County.
- D. Access to lift station, manholes and clean-outs, access to all City right-of-way and easements. If manhole lids are bolted down the Engineer will contact the City's Utility Operation Department and schedule a time when they can meet with the Engineer and remove the manhole lid.
- E. If public meetings are necessary the City will take the steps required to notify the residents.
- F. City's on-site representative's construction reports on a weekly basis.
- G. Providing to Engineer record drawings of the constructed project.
- H. City's 200-scale topography map in the vicinity of the project. Both hard copies and electronic format versions. Electronic format shall be in .DXF or .DWG format on compact disc.
- I. Current standard construction details.
- J. City will print and distribute construction documents.

PART VII. COMPLETION SCHEDULE

Notice to Proceed	March 5, 2015
Submit Preliminary Plans to City	May 14, 2015
Receive Comments Back From City	May 28, 2015
Complete Final Plans	June 15, 2015
Advertise Project	July 2015
Open Bids	August 2015
Award Contract	September 2015
Notice to Proceed	September 2015
Construction	October 2015 - February 2016

END OF ATTACHMENT "A"

ATTACHMENT B

COMPENSATION

- 1) UNDERSIGNED will accomplish the services outlined in the tasks presented in Exhibit "A" of the Agreement. Payment for engineering services described under Part I shall be a lump sum amount of \$45,000.00.

Part II - Bidding, Part III – Construction, and Part IV – Additional Services will be on the basis of salary cost times a multiplier of 2.35 with expenses at invoice cost times 1.15. Survey Crew at \$165.00 per hour.

Additional Services:

Field Surveys for Design (8-hrs)	\$1,320.00
Bidding Services	\$2,000.00
Construction Administration Services	\$8,000.00
Reproduction	\$1,000.00
Field Note Description & Exhibit	<u>\$3,000.00</u>

Sub Total Not To Exceed: **\$15,320.00**

Total Not To Exceed: **\$60,320.00**

- 2) The UNDERSIGNED's Fee shall provide compensation for all printing of review documents for the CITY, computations and all other work required for the preparation of documents of this Project.
- 3) UNDERSIGNED will invoice the CITY for the value of partially completed services, according to the services accomplished each month on a percent complete basis for Phase I, in the overall project with Phases II, III and IV based on actual expenses, with the not too exceed amount as described above. Payments on account for basic services shall be made monthly within thirty (30) days of invoice. All invoices shall be submitted in a format provided by the City and shall be accompanied by a status report on all completed work.

All other services will be considered as supplementary services, performed at the request of the CITY and billed as defined below.

- 4) The undertaking of UNDERSIGNED to perform professional services under this Agreement extends only to those services specifically described herein. If, upon the request of the CITY, UNDERSIGNED agrees to perform additional services ("Supplementary Services") hereunder, the CITY shall pay UNDERSIGNED for the performance of such Supplementary Services an amount (in addition to all other amounts payable under this Agreement) equivalent to (i) the hours expended by personnel for additional services multiplied by the then current hourly rates, plus (ii) the reimbursable expenses ("Reimbursable Expenses") so incurred by UNDERSIGNED in providing such services, multiplied by a factor of 1.15. UNDERSIGNED agrees to submit a written opinion of probable costs for additional services. The CITY is only

liable to pay for said services after agreeing in writing to pay the cost submitted in the opinion.

END OF EXHIBIT “B”



City of Carrollton

Agenda Memo

File Number: 1852

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type:
Contracts/Agreements

Agenda Number: *17.

CC MEETING: March 3, 2015

DATE: February 24, 2015

TO: Leonard Martin, City Manager

FROM: Cesar J. Molina, Jr., P.E., Director of Engineering

Consider Authorizing The City Manager To Approve A Professional Services Contract With Birkhoff, Hendricks & Carter, LLP For Design Of The Marsh South Elevated Water Storage Tank Repaint Project In An Amount Not To Exceed \$39,000.00.

BACKGROUND:

Based on an assessment performed last year which prioritized three of the city's elevated water storage tanks for repainting or replacement, and began with the repainting of the Hutton tank last October, the Marsh South elevated tank is scheduled for repainting in the fall of this year. Like the Hutton tank, this is a composite tank, so only the inside and outside of the bowl portion of the tank will be painted. The outside tank coating will use the same color pattern and design as the Hutton tank, which is currently being repainted. The concrete stem will remain as is.

Consultant selection was performed using a request for qualifications (RFQ) method where engineering firms submitted a two-part statement of qualifications which was evaluated by a three person committee. The first part contained a project approach, understanding, schedule and similar-type-projects-completed section without knowing the firm's name. These were scored and ranked, and from there the top 5 were evaluated further using the qualifications of the firm and the proposed design team members. The top firms were selected for projects during the next two years.

FINANCIAL IMPLICATIONS:

Birkhoff, Hendricks & Carter, LLP has submitted a proposal to the City to perform the engineering design and construction phase services for the project in an amount not to exceed \$39,000.00. Funding is available in the Utility Consolidated Fund (Account Unit 855160-115030799).

IMPACT ON COMMUNITY SUSTAINABILITY:

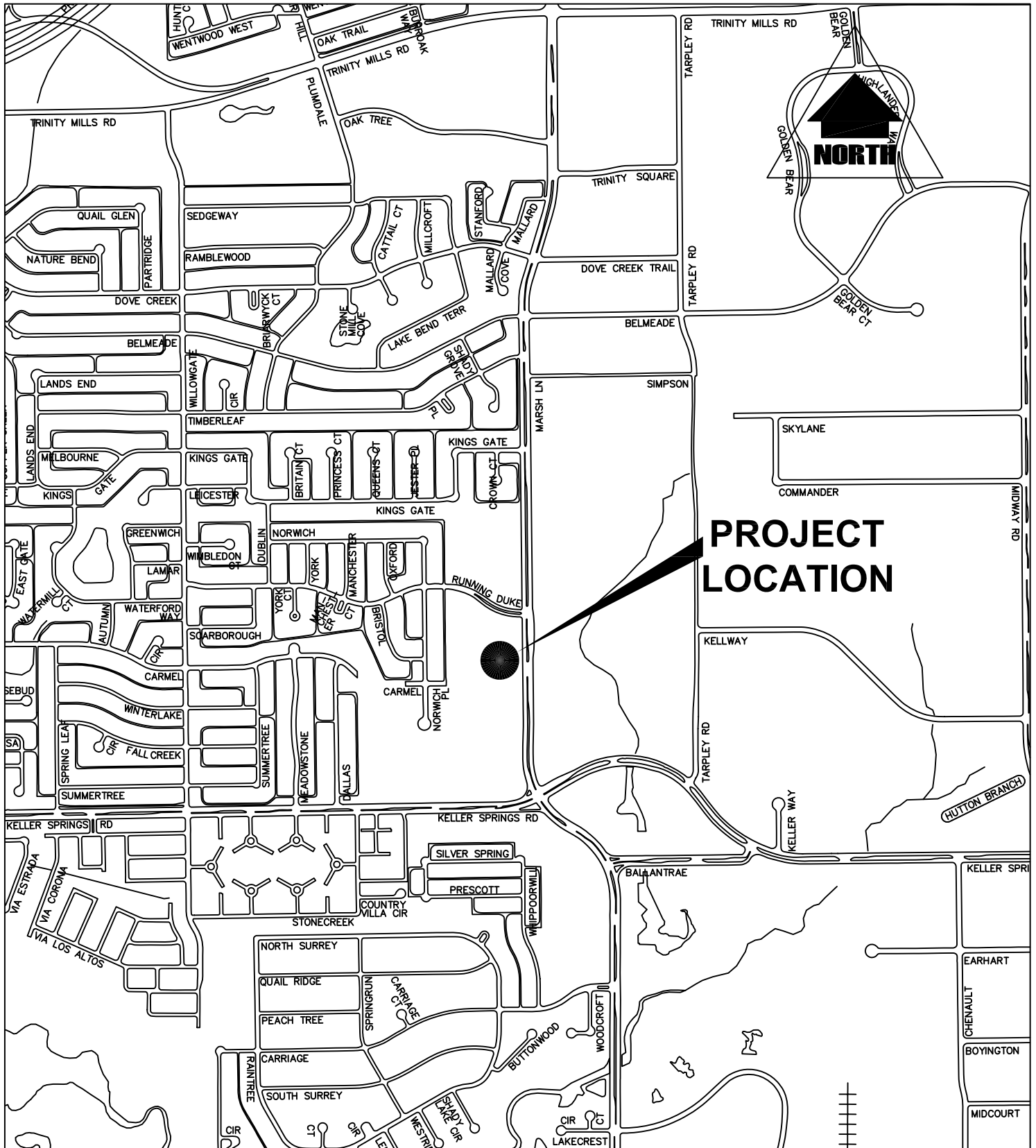
This project will contribute to community sustainability by:

Sustaining quality of life - Recoating the tank will ensure that safe water can be delivered to Carrollton residents.

Sustaining day-to-day operations - The recoating of the tank should reduce the need for non-scheduled or emergency repairs and should take care of coating needs for the next 20 years.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends authorizing the City Manager to enter into an engineering design services contract with Birkhoff, Hendricks & Carter for the preparation of engineering plans for the recoating of the Marsh South elevated storage tank in an amount not to exceed \$39,000.00.




CARROLLTON
TEXAS
Where Connections Happen

MARSH SOUTH ELEVATED STORAGE TANK REPAINTING

SCALE: NTS DATE: 01/15

**ENGINEERING
DEPARTMENT**

THE STATE OF TEXAS §

COUNTY OF DALLAS §

Professional Services Contract
with Birkhoff, Hendricks & Carter, LLP

THIS CONTRACT is entered into on this 3rd day of March, 2015, by and between the **CITY OF CARROLLTON, TEXAS**, a municipal corporation located in Dallas County, Texas, (hereinafter referred to as “City”), acting by and through its City Manager or his designee, and Birkhoff, Hendricks & Carter (“hereinafter referred to as “Consultant”) whose address is 11910 Greenville Ave., Suite 600, Dallas, TX 75243.

W I T N E S S E T H:

WHEREAS, City desires to obtain professional services from Consultant for the design of the Marsh South Elevated Storage Tank located on Marsh Lane near Keller Springs Road; and

WHEREAS, Consultant is an architectural, engineering, professional planning, urban design, or landscape architecture firm qualified to provide such services and is willing to undertake the performance of such services for City in exchange for fees hereinafter specified; NOW, THEREFORE,

THAT IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

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

II.

Scope of Services

Consultant shall perform such services as are necessary to prepare plans and specifications, along with bidding and construction administration, for Marsh South Elevated Tank Repaint specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment “A” hereto entitled “Scope of Work” (hereafter referred to as the “Project”). Attachment “A” is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment “A” and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Consultant shall be paid for services described herein as follows: The sum of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) for design services (the design fee) and for bidding and construction administration, an amount not to exceed \$14,000.00 on the basis of salary cost times a multiplier of 2.35, expenses at invoice cost times 1.15 and field survey crew at \$165 per hour. The total contract shall not exceed \$39,000.00. This total payment for services includes Consultant's ordinary expenses. Additional expenses, which are extraordinary in nature, shall be approved in advance by City in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the City pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses not approved in writing in advance by the City shall remain the sole responsibility of the Consultant.

Consultant will bill City on a percent complete basis in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, Consultant will not provide such additional services until authorized by City in writing to proceed. The scope of services shall be strictly limited. City shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless City shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month Consultant will submit to City an invoice supporting the percentage complete for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount and a running total balance for the Project to date.

Within thirty (30) days of receipt of each such monthly invoice City shall make monthly payments in the amount shown by Consultant's approved monthly statements and other documentation submitted.

Nothing contained in this Contract shall require City to pay for any work that is unsatisfactory as determined by City or which is not submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which City may have if Consultant is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

City reserves the right to revise or expand the scope of services after due approval by City as City may deem necessary, but in such event City shall pay Consultant equitable compensation for such services. In any event, when Consultant is directed to revise or expand the scope of services under this Section of the Contract, Consultant shall provide City a written proposal for the entire costs involved in performing such additional services. Prior to Consultant undertaking any revised or expanded services as directed by City under

this Contract, City must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by Consultant that any compensation not specified in Paragraph III herein above may require Carrollton City Council approval and is subject to the current budget year limitations.

V.
Term

This Contract shall begin on the date first written above, and shall terminate when City has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.
Contract Termination Provision

This Contract may be terminated at any time by City for any cause by providing Consultant thirty (30) days written notice of such termination. Upon receipt of such notice, Consultant shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.
Ownership of Documents

All materials and documents prepared or assembled by Consultant under this Contract shall become the sole property of City and shall be delivered to City without restriction on future use. Consultant may retain in its files copies of all drawings, specifications and all other pertinent information for the work. Consultant shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.
Insurance Requirements

- A. Before commencing work, Consultant shall, at its own expense, procure, pay for and maintain during the term of this Contract the following insurance written by companies approved by the state of Texas and acceptable to the City. Consultant shall furnish to the City of Carrollton Engineering Director certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be provided to the City.
1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate.

Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

2. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.
4. Professional Liability Insurance to provide coverage against any claim which the consultant and all consultants engaged or employed by the consultant become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000 per claim, \$2,000,000 annual aggregate.

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

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

IX.

Right to Inspect Records

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

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

X.

Successors and Assigns

City and Consultant each bind themselves and their successors, executors, administrators and assigns to the other party to this contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither City nor Consultant shall assign or transfer its interest herein without the prior written consent of the other.

XI.

Consultant's Liability

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

XII.

Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM CONSULTANT'S PERFORMANCE UNDER THIS CONTRACT OR WHICH ARE CAUSED BY THE INTENTIONAL WRONGFUL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONSULTANT, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONSULTANT OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONSULTANT IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS") SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 (A) AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

The City shall have the right to approve counsel to be retained by Consultant in fulfilling its obligation to defend and indemnify the City, however, provided that the City's approval shall not be unreasonably withheld. Consultant shall retain approved counsel for the City within seven (7) business days after receiving written notice from the City that it is invoking its right to indemnification under this Contract. If Consultant does not retain counsel for the City within the required time, then the City shall have the right to retain counsel and the Consultant shall pay these attorneys' fees and expenses. The City retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so.

XIII.

Independent Contractor

Consultant's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of City in the performance of this Contract. No term or provision of or act of Consultant or City under this Contract shall be construed as changing that status. Consultant will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Consultant.

XIV.

Default

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

City's remedies for Consultant's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at City's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to City; or,
- (c) Monetary damages in an amount not to exceed the greater of:
 - (1) The amount of any applicable insurance coverage Consultant is required to purchase and maintain under this Contract plus any deductible amount to be paid by Consultant in conjunction with said coverage regardless of whether Consultant has actually purchased and maintained said coverage; or,
 - (2) The total dollar amount of this Contract.

In no event shall Consultant be liable to the City for special, incidental, additional, punitive, exemplary or consequential damages.

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XV. Changes

City may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between City and Consultant shall be incorporated by written modification to this Contract.

XVI. Conflict of Interest

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

XVII. Confidential Information

Consultant hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. Consultant shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of Carrollton, its affiliates and subsidiaries, and all oral and written information concerning City or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by

Consultant or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of Consultant, or are required to be disclosed by a governmental authority.

XVIII.
Mailing Address

All notices and communications under this Contract to be mailed to City shall be sent to the address of City's agent as follows, unless and until Consultant is otherwise notified:

Thomas S. Geier, P.E.
City of Carrollton
Post Office Box 10535
Carrollton, Texas 75011.

Notices and communications to be mailed or delivered to Consultant shall be sent to the address of Consultant as follows, unless and until City is otherwise notified:

John Birkhoff, P.E.
Birkhoff, Hendricks & Carter, LLP
11910 Greenville Ave., Suite 600
Dallas, TX 75243

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XIX.
Applicable Law

The Contract is entered into subject to the Carrollton City Charter and ordinances of City, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. Consultant will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with Consultant's income. Situs of this Contract is agreed to be Dallas County, Texas, for all purposes, including performance and execution.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative

of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Force Majeure

Neither party shall be liable for delay or failure to perform hereunder, in whole or in part, by reasons of contingencies beyond the reasonable control of the party affected whether specifically enumerated herein or not, including but not limited to any acts of God, acts of nature, act of terror, fire, explosion, breakdown of plant, strike, lockout, labor dispute, accident or casualty, earthquake, flood, tornado, high or low water, washouts, river icing, adverse weather conditions, operation of law, order proclamation, regulation, demand or requisition by any governmental agency whether local, state, or federal (each a "Force Majeure Event"), provided, however, that the party so affected shall promptly give written notice to the other party whenever such event or other act becomes reasonably foreseeable, and the party shall use its commercially reasonable efforts thereafter to overcome the effects of such event as promptly as possible.

XXIV.
Headings

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

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Carrollton, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

XXVI.
No Third Party Beneficiary

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

operation of law, any third person or entity from obligations owing by them to either City or Consultant.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

CITY OF CARROLLTON

By: _____
Marc Guy, Assistant City Manager

Date Signed: _____

ATTEST:

Krystle F. Nelinson, City Secretary

APPROVED AS TO FORM:

Meredith Ladd, City Attorney

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
(Consultant's Name)

By: _____

Name: John W. Birkhoff, P.E.

Title: Managing Partner

Date Signed: _____

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of, _____, 2015, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 2015.

Notary Public _____ County, Texas
My commission expires _____

ATTACHMENT A
SCOPE OF SERVICES

Undersigned shall provide engineering services for the preparation of plans and specifications for the repaint of the interior and exterior of the Marsh South Elevated Storage Tank.

SCOPE OF SERVICE

Consultant shall provide professional civil engineering consulting services required for the preparation of plans and specifications, along with bidding and construction administration services for the interior and exterior repaint of the Marsh South Elevated Storage Tank, to include the following:

PART I: PRELIMINARY DESIGN

- A. Complete topographic surveys at the site to identify current conditions, locate existing fence.
- B. Prepare preliminary plan sheet for Marsh South Elevated Tank.
- C. Prepare specification for re-coating of the interior and exterior of the tank. Specification will include requirement for exterior containment system.
- D. Prepare location map of the site.
- E. Include graphics and dimensions matching the Hutton Elevated Tank. Graphics and Logo. Colors to be selected by the City.
- F. Include in design a three-level sample line.
- G. Include miscellaneous tank enhancement as outlined in April 2014 evaluation report.
- H. Specify the cleaning and painting of mechanical piping at base of column.
- I. Specify in documents replacement of fall protection system.
- J. Specify replacement of obstruction light with LED fixture.
- K. Specify removal of cathodic protection system.
- L. Include photographs of the site in plan set.
- M. Prepare preliminary Special Conditions, which will be outside City provided Special Conditions. Additional Special Conditions will include special Technical Specifications.
- N. List in Special Conditions submittal data required at time of bid.
- O. Submit four sets of preliminary plans (11" x 17" maximum sheet size), Special Conditions to the City for review.
- P. Meet with the City of Carrollton to discuss preliminary plans and Special Conditions.
- Q. Assist staff in having communications systems removed, de-energized or relocated during coating of tank.
- R. Assist City in selecting testing laboratory for blast and paint inspections.

PART II: FINAL DESIGN

- A. Revise and finalize preliminary plan sheet and Special Conditions, incorporating City comments.
- B. Formulate opinion of probable construction cost based on final plans.
- C. Prepare final bid documents including bid proposal forms, construction plans, specifications and contract documents. Contract documents will be provided by City of Carrollton.
- D. Prepare layout plan for inspection documentation.
- E. Submit one set of Final Plans (11" x 17" maximum sheet size), Special Conditions and Contract Documents to the City for their use in distributing bidding documents to contractors, suppliers and publishers.

PART III: BIDDING PHASE

- A. Assist the City of Carrollton staff in advertising for bids. This will include providing City with Notice to Contractors for their use in publicly advertising project. Birkhoff, Hendricks & Carter L.L.P. will e-mail and/or fax notices to Publishers, and to contractors experienced in tank painting.
- B. Assist City of Carrollton during opening of proposals and provide bidding tally sheets.
- C. Provide bid tabulation to City and contractors who submit bids.
- D. Check references provided for bid packages received.
- E. Review submittal material and check if requested information was submitted at time of bid.
- F. Follow up with each bidder that did not submit full package and request missing data.

PART IV: CONSTRUCTION PHASE

- A. Attend City's preconstruction conference and coordination meetings with contractor, quality control personnel, and City representatives to discuss strategy, problem areas, progress, and any required coordination. Prior to or immediately after coordination meeting make site visit to project location.
- B. Review shop drawings and other submittal information which the Contractor submits. This review is for the benefit of the Owner and covers only general conformance with information given by the Contract Documents. The contractor is to review and stamp their approval on submittals prior to submitting to the Engineer. Review of shop drawing submissions is solely for their conformance with the design intent and conformance with information given in the construction documents. Birkhoff, Hendricks & Carter L.L.P. shall not be responsible for any aspects of a shop drawing submission that affect or are affected by the means, methods, techniques, sequences and operation of construction, safety precautions and programs incidental thereto, all of which are the Contractors responsibility. Electronic copy of shop drawings in which no exceptions, or make corrections noted are taken by Birkhoff, Hendricks & Carter L.L.P. will be provided to the City. All shop drawings will be completed electronically in PDF format.

- C. Provide written responses to requests for information or clarification.
- D. Accompany the City during their final inspection of the project. Climb tank at this time.
- E. Visit the site at appropriate intervals as construction proceeds to observe progress and formulate opinion as to quality of work as it relates to contract documents.
- F. Review the City's on-site representative's daily reports and independent laboratory's test reports to formulate opinion of progress and attempt to identify potential problems.
- G. Prepare record drawings utilizing City and Contractor construction record information.
- H. If required by the City, visit tank at 9-Month Anniversary to determine condition of the works.

PART V: EXCLUSIONS

Services specifically excluded from this contract scope include, but are not necessarily limited to the following:

- A. Providing an on-site representative.
- B. Environmental impact statements and assessments.
- C. Fees for permits or advertising.
- D. Printing of bidding documents (completed by City).
- E. Certification that work is in accordance with plans and specifications.
- F. Environmental cleanup.
- G. Quality control and testing services during construction.
- H. Phasing of Contractors work.
- I. On-site safety precautions, programs and responsibility.
- J. Revisions and/or changes after completion of original design, unless to correct errors in the plans.
- K. Title searches, boundary surveys, or property surveys.
- L. Preparation of bidding documents.
- M. Structural analysis.
- N. Fiduciary responsibility to the Client.

PART VI: CITY'S RESPONSIBILITY

- A. The City will designate a single representative to act in its behalf, with respect to the project, who shall examine documents submitted by the Undersigned and, to the extent allowed by law, shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Undersigned's services.
- B. Access to elevated storage tank.
- C. Graphics for current logo.

PART VII: COMPLETION SCHEDULE ESTIMATE

Notice to Proceed from City	March 5, 2015
Complete Site Visit	March 26, 2015
Complete Preliminary Plans & Technical Specifications	April 30, 2015
Receive Comments from City	May 14, 2015
Complete Final Plans and Technical Specifications ..	June 18, 2015
Advertise Project	July 2015
Receive Bids	August 2015
Award Contract	September 2015
Notice to Proceed	October 15, 2015
Construction	October 2015 - April 2016

END OF ATTACHMENT "A"

ATTACHMENT B
COMPENSATION

UNDERSIGNED will accomplish the services outlined in the tank presented in the Agreement. Payment for engineering services described under Parts I and II is a lump sum of \$25,000.00. Payment for engineering services described under Parts III and IV shall be on the basis of salary cost times 2.40 with expenses at invoice cost times 1.10, survey crew at \$165.00 per hour.

<i>SUMMARY OF FEE</i>	
Preparation of Bidding Documents	\$25,000.00
Bidding	\$ 4,000.00
Construction	<u>\$10,000.00</u>
Total Amount:	\$39,0000.00

Opinion of Probable Construction Cost: \$750,000.00 to \$850,000.00.

Total Fee Not To Exceed: \$39,000.00, unless authorized by the City.

UNDERSIGNED will invoice the CITY for the value of completed services. Payments on account shall be made monthly within thirty (30) days of invoice. All invoices shall be submitted in a format provided by the City.

END OF ATTACHMENT "B"



City of Carrollton

Agenda Memo

File Number: 1880

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type:
Contracts/Agreements

Agenda Number: *18.

CC MEETING: March 3, 2015

DATE: February 24, 2015

TO: Leonard Martin, City Manager

FROM: Cesar J. Molina, Jr., P.E., Director of Engineering

Consider Authorizing The City Manager To Approve A Contract With Jim Bowman Construction Company For The Perry Road Sidewalk Improvements Project In An Amount Not To Exceed \$314,553.00.

BACKGROUND:

This project was authorized as part of the 2013 Bond Program. It will provide for the construction of new sidewalks along Perry Road from Walnut Street to Sherwood Lane where none currently exist; replacement of substandard sections of existing sidewalks; and construction of a new pedestrian bridge over Hutton Branch.

Environmental impacts from the project should be minimal. One tree will be removed and no wildlife will be affected by the construction.

The duration of construction is six months to allow fabrication of the bridge. Construction should not adversely affect traffic. Project signs will be placed on each end of the project while it is under construction. The project has been placed on the monthly Construction Update and is included in the City's web site.

FINANCIAL IMPLICATIONS:

Four (4) bids were received on February 19, 2015. Bids ranged from a low of \$314,553.00 submitted by Jim Bowman Construction Co., LP to a high of \$418,870.00. Bowman has completed several projects in Carrollton, most recently the Two Worlds Phase 2 and Public Works' 2014 Annual Street Panel Replacement Projects. They appear capable of completing this project in the allocated time of 180 days. The construction budget originally set up for this project was \$325,000.00. Funding is available in Account Unit 854460 (Streets Consolidated) in the amount of \$314,553.00.

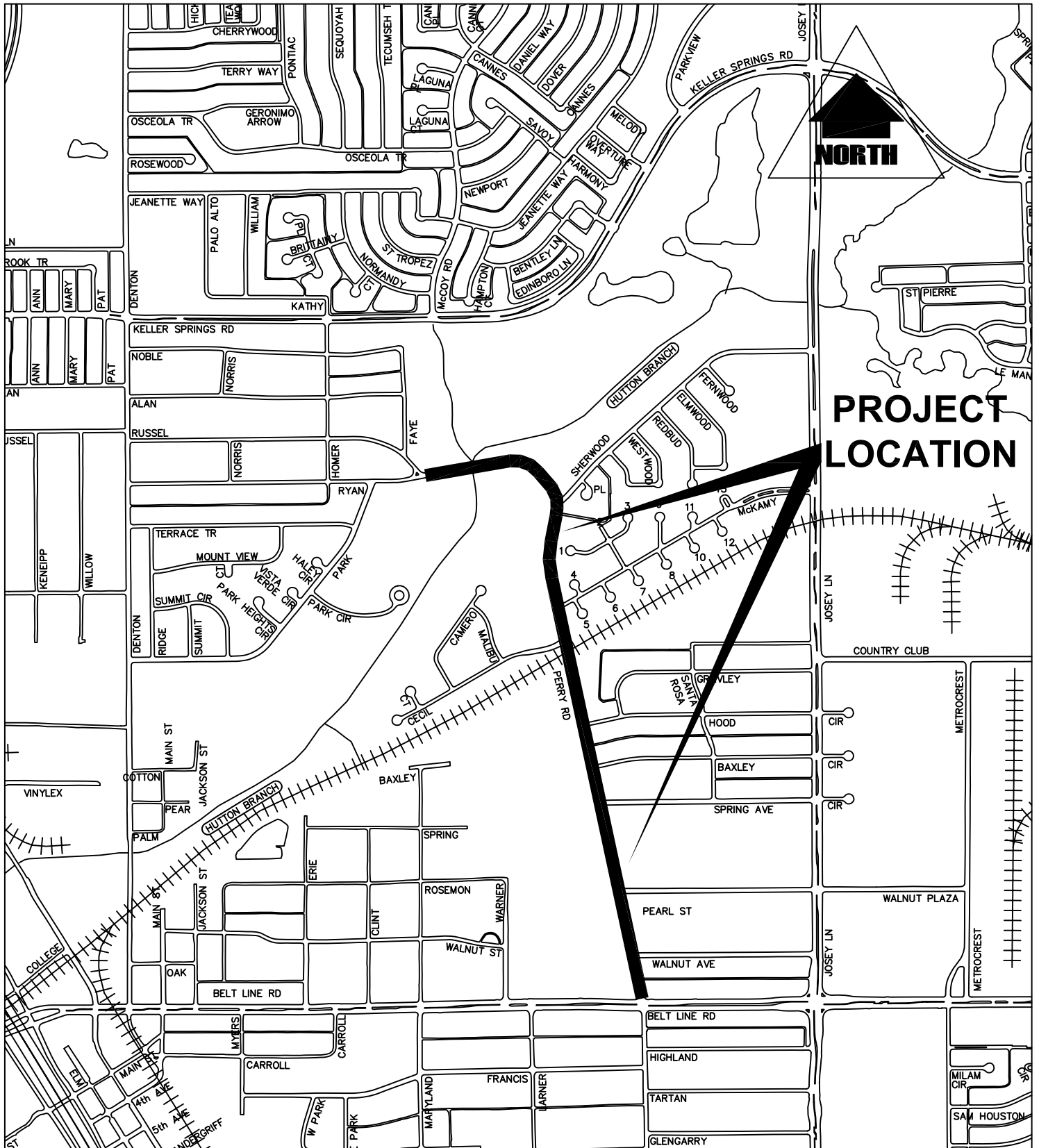
IMPACT ON COMMUNITY SUSTAINABILITY:

This project will contribute to community sustainability by:

Sustaining quality of life - The new sidewalks will greatly improve the safety of pedestrians in the area. The new pedestrian bridge will route pedestrians off of the existing road bridge, which does not have pedestrian facilities.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends award of the construction contract for the Perry Road Sidewalk Improvements Project to Jim Bowman Construction Company in the amount of \$314,553.00.



Where Connections Happen

PERRY ROAD SIDEWALK IMPROVEMENTS

SCALE:NTS DATE: 02/15

ENGINEERING
DEPARTMENT

BIDDERS LIST

PROJECT: Perry Road Sidewalk Improvements DATE: February 19, 2015

DAYS/COMPLETE: 180 ESTIMATED COST: \$325,000.00

CONTRACTOR	BID AMOUNT
Jim Bowman Construction	\$314,553.00
3D Paving and Contracting	\$333,730.00
North Rock Construction LLC	\$336,986.74
Jeske Construction	\$418,870.00



City of Carrollton

Agenda Memo

File Number: 1875

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type:
Contracts/Agreements

Agenda Number: *19.

CC MEETING: March 3, 2015

DATE: February 23, 2015

TO: Leonard Martin, City Manager

FROM: Cesar J. Molina, Jr., P.E., Director of Engineering

Consider Authorizing The City Manager To Approve A Contract With Bridgefarmer & Associates To Complete A Rail Crossing Inventory And Notice Of Intent Study Along The Burlington Northern-Santa Fe (BNSF) Freight Rail Line In An Amount Not To Exceed \$47,626.00.

BACKGROUND:

During the December 9, 2014 meeting, the City Council TOD Sub-Committee concurred with the need for a consultant study to help determine the rail equipment, scope, and cost of a potential quiet zone project in the area north and west of Downtown Carrollton. From this study, a larger quiet zone design and construction project may emerge along the BNSF rail line.

Based on the Engineering Department's policies and procedures, Bridgefarmer and Associates has been identified as the most qualified provider because of their demonstrated competence and qualifications on the previous quiet zone projects.

FINANCIAL IMPLICATIONS:

The total cost of the engineering contract is \$47,626.00. Funding is available in account unit 854660 (Traffic Consolidated).

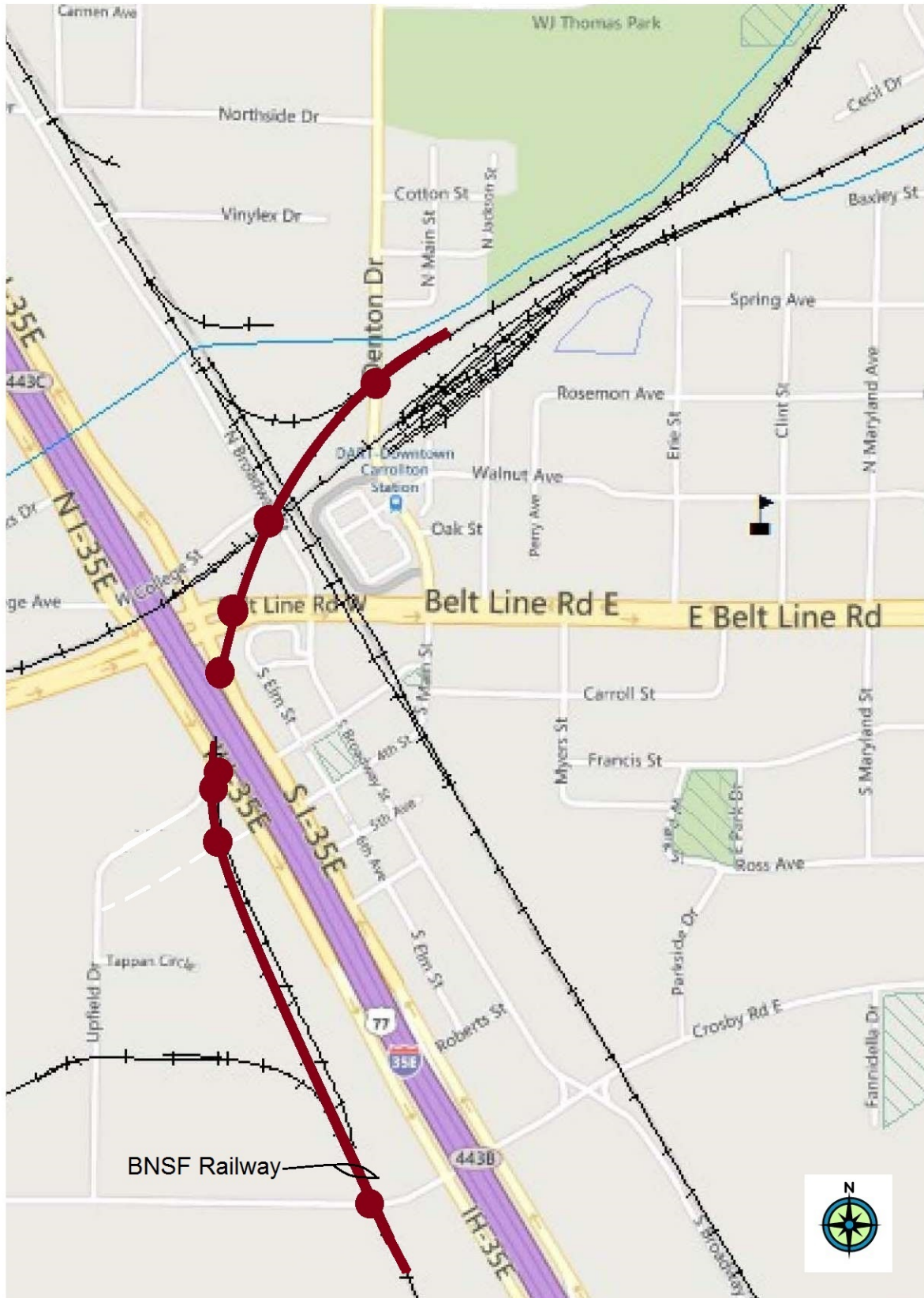
IMPACT ON COMMUNITY SUSTAINABILITY:

The project may contribute to community sustainability by reducing overall noise in the Downtown Carrollton area.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends authorizing the City Manager to execute an engineering contract with Bridgefarmer and Associates in the amount of \$47,626.00.

Attachment A
Rail Inventory Study Area
Quiet Zone, Phase #3





City of Carrollton

Agenda Memo

File Number: 1866

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type:
Contracts/Agreements

Agenda Number: *20.

CC MEETING: March 3, 2015

DATE: February 11, 2015

TO: Leonard Martin, City Manager

FROM: Lon Fairless, Information Technology Director

Consider Authorizing The City Manager To Amend An Inter-Local Agreement With The City Of Farmers Branch For Maintenance Expenditures For The Public Safety Radio System Administration In An Amount Not To Exceed \$235,000.00.

BACKGROUND:

In 2013, the four cities of Addison, Carrollton, Coppell and Farmers Branch entered into an Interlocal Agreement, ILA, for the shared purchase, installation and ongoing support and maintenance for a new digital Public Safety radio system. This ILA replaced a previous ILA between the three cities of Addison, Carrollton and Farmers Branch for sharing an analog Public Safety radio system that has reached its useful life.

The 2013 ILA provides that Farmers Branch would act on the behalf of the four cities for the purchase of the new radio system including installation and ongoing support and maintenance. A joint city Request for Proposal process was used and subsequently Farmers Branch entered into a contract with Harris Corporation for a new radio system. The Carrollton portion of the upfront nonrecurring cost is \$6,700,000.00. System maintenance with an extended warranty was included in the original cost for five years. The 2013 ILA also provides that each of the four cities have the right to administer, install and maintain their unshared own user equipment.

For Carrollton, staff proposes two components for ongoing services described as follows.

- a. Shared System Wide Administrative Services: would be based on Amendment 2 of Exhibit D for System Maintenance of the agreement between Farmers Branch and Harris. The Carrollton cost for the partial FY 2015 is approximately \$54,000.00 and the full FY 2016 is \$135,000.00.
- b. Unshared Carrollton owned equipment support and maintenance: would be based on an agreement directly between Carrollton and Harris, the cost for the partial FY 2015 is approximately \$40,000.00 or the full FY 2016 is \$100,000.00.

FINANCIAL IMPLICATIONS:

The ongoing costs for the radio services will be provided by the Information Technology Service operation budget account 151001.

STAFF RECOMMENDATION/ACTION DESIRED:

City Council to consider authorizing the City Manager to take the necessary steps to provide shared Public Safety radio system administration, and unshared radio user equipment maintenance and support for an amount not to exceed \$235,000.00 for the first full year by the Harris Corporation.



City of Carrollton

Agenda Memo

File Number: 1854

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type:
Contracts/Agreements

Agenda Number: *21.

CC MEETING: March 3, 2015

DATE: February 24, 2015

TO: Leonard Martin, City Manager

FROM: John G. Murphy, Fire Chief

Consider Authorizing The City Manager To **Approve An Inter-Local Agreement For A Joint Fire Training Center For The Cities Of Carrollton, Coppell, And Farmers Branch.**

BACKGROUND:

This agenda item is to enter into an interlocal agreement with the cities of Coppell and Farmers Branch to construct and operate a joint fire training center. The estimated construction cost of the training center is \$2,407,050.00, with Carrollton's portion being \$1,191,490.00, or 49.5% of the total cost. Carrollton Fire Rescue (CFR) secured an initial \$500,000 in the November 2013 bond referendum and has \$691,490 allocated in its FY 2015 budget to cover the design and initial construction cost of the training center.

The interlocal agreement will outline each city's financial and operational responsibilities for the project. Items in the interlocal agreement include, but are not limited to, the following:

- 1) Initial term of the agreement is twenty (20) years with appropriate renewal terms and early termination terms and processes identified.
- 2) In the event of termination by Farmers Branch, all funds held under the agreement shall be transferred to the remaining cities to be used in carrying out the obligations set forth in the agreement. Further, the remaining parties shall have a continuing easement on the property in the event Farmers Branch is no longer a party to the agreement.
- 3) Ownership title to the facility, not including property, and shared capital costs for initial design, construction and equipping are allocated as follows:
 - A. Carrollton: 49.5% undivided interest.
 - B. Coppell: 26.8% undivided interest.
 - C. Farmers Branch: 23.7% undivided interest.
- 4) Carrollton and Coppell are not required to pay their respective shares of the shared capital

costs for the initial design, construction and equipping of the facility until Farmers Branch conveys to Carrollton and Coppell a non-exclusive perpetual easement authorizing the construction, reconstruction, maintenance, repair, replacement, remodeling, use and operation of the facility and, to the extent necessary, direct access to Farmers Branch's adjacent property for the purpose of providing ingress and egress to the facility.

5) The Facility Executive Board will be made up of the fire chiefs from each of the three cities. The fire chiefs may each appoint an alternate who has the right to vote when the fire chief is absent. The approval of any matter considered by the Facility Executive Board shall require the affirmative vote of three members of the Facility Executive Board.

6) A Facility Operations Committee will be established to oversee the implementation of the fire fighter training programs provided at the training facility.

7) The Facility Executive Board shall submit an annual budget no later than 180 days prior to the beginning of each fiscal year setting forth the anticipated shared capital cost, shared operational cost, and non-shared operational cost to the city manager of each city for review, approval, and inclusion of the amount of each city's respective share of the Annual Facility Budget into the cities' respective annual general municipal budgets.

8) Farmers Branch is the responsible party for construction of the facility, purchasing facility equipment and providing certain administrative services, including the purchase of insurance coverage for the facility.

9) The Coppell fire chief, or designee, is the responsible party for preparing the master schedule relating to the use of the facility.

10) The Carrollton fire chief, or designee, is the responsible party for coordinating and inspecting the repair and maintenance of the facility.

11) The agreement establishes the priority for the use of the revenues from third party users of the facility.

A. Consumables used by the third party.

B. After deducting the amount required by (A) above, fifty percent (50%) of the net amount shall be placed in a Shared Operational Cost reserve fund.

C. The remaining fifty percent (50%) of the net amount shall be placed in a Shared Capital Cost reserve fund.

FINANCIAL IMPLICATIONS:

Carrollton's proportionate share for the design and initial construction of the joint fire training facility is \$1,191,490.00. Available funding includes \$500,000 from 2013 bond funds and \$691,490 from CFR's FY15 annual budget.

IMPACT ON COMMUNITY SUSTAINABILITY:

The construction and use of the joint fire training facility will provide enhanced live-fire training opportunities for firefighters from the three cities in a safe and controlled environment. The experiences gained in live-fire training will result in personnel arriving on the scene with improved confidence and abilities to take quick actions to bring the situation under control.

Other benefits of the joint training facility include: the ability for all three cities to train more frequently together; no longer will firefighters have to travel several miles to obtain live fire training; and it will keep CFR's resources closer to home for immediate response if required.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends the City Council authorize the City Manager to enter into a joint fire training center interlocal cooperation agreement among the cities of Carrollton, Coppel and Farmers Branch to construct and operate a joint fire training center.

STATE OF TEXAS § Joint Fire Training Center Interlocal Cooperation
§ Agreement Among the Cities of
COUNTY OF DALLAS § Carrollton, Coppel and Farmers Branch

This **Joint Fire Training Center Interlocal Cooperation Agreement Among the Cities of Carrollton, Coppel and Farmers Branch** ("Agreement") is entered into as of the Effective Date by and among the **CITY OF CARROLLTON, TEXAS** ("Carrollton"), the **CITY OF COPPELL, TEXAS** ("Coppel") and the **CITY OF FARMERS BRANCH, TEXAS**, ("Farmers Branch"), all of whom are Texas home rule municipalities operating under the authority of their respective governing bodies (Carrollton, Coppel, and Farmers Branch are hereinafter sometimes referred to collectively as "the Cities" or the "Parties" or individually as a "City" or a "Party").

RECITALS

WHEREAS, the Cities are political subdivisions within the State of Texas engaged in the provision of governmental services for the benefit of its citizens; and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "Act") provides authority for local governments of the State of Texas to enter into interlocal agreements with each other for the purpose of performing governmental functions and services as set forth in the Act; and

WHEREAS, because of their location within the DFW Metroplex and their proximity to each other, the Cities are regularly called upon to provide mutual aid assistance to each other on fire fighting calls for service; and

WHEREAS, none of the Cities presently owns a fire fighting training facility for use by their respective fire departments; and

WHEREAS, being required to use fire fighting training facilities owned by others requires travel time that results in lost in-service hours, requires the Cities' fire departments to schedule training at times subject to the schedules of others which may not be the most convenient for the Cities, and inhibits the ability of the Cities to conduct joint training to facilitate their ability to provide mutual aid assistance;

WHEREAS, the Cities desire to enter this Agreement for the purpose of establishing the terms by which the Cities will jointly design, construct, maintain, operate, manage, and use a fire training facility on property owned by Farmers Branch.

NOW, THEREFORE, for and in consideration of the mutual benefits and obligations set forth in this Agreement, the Cities agree as follows:

I. DEFINITIONS

Unless the context clearly indicates a different meaning, the words and phrases set forth in this Article I shall have the following meanings when used in this Agreement:

“Acceptance Date” means the date construction of the Facility is complete to the extent that the Cities have approved the final pay request to the contractor selected to construct the Facility and have authorized payment of the final payment and retainage.

“Business Day” means any day other than a Saturday, Sunday, or official city holiday in which Farmers Branch’s city hall offices are closed for business.

“Effective Date” means the date this Agreement has been approved by the governing bodies of all of the Cities and signed by the authorized representatives of each City.

“Event of Bankruptcy or Insolvency” means the dissolution or termination of a City’s existence as an on-going business, insolvency, appointment of receiver for any part of City’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against City and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Facility” means, subject to agreement of the Cities on the final design, a fire training facility located on the Facility Property consisting of (1) a five story training building with masonry façade; (2) a Texas Commission on Fire Protection NFPA 1002-compliant driving course; (3) a vehicle stabilization and extrication area; (4) an outdoor meeting area/classroom; (5) multiple live fire simulators; (6) ventilation simulators; (7) ceiling and wall breaching simulators; (8) standpipe and sprinkler system simulators; (9) multiple vehicle rollover simulators, and (10) such other improvements and equipment as the Cities may agree to include in the Facility as part of the final design and equipping of the Facility or as may be modified during the Term of this Agreement.

“Facility Property” means a 1.53± acre portion of the property owned by Farmers Branch generally located at 13333 Hutton Drive, Farmers Branch, Texas, and being a portion of that real property conveyed to Farmers Branch pursuant to that certain Special Warranty Deed dated August 29, 2001, and recorded at Volume 2001174, Page 2511, Deed Records, Dallas County, Texas, and being more particularly depicted in Exhibit “A,” attached hereto and incorporated herein by reference.

“Fire Training Facility Funds” means one or more designated restricted funds established on the books of account of the City designated in this Agreement to manage the receipt of revenues and payment of expenses relating to the construction, repair, maintenance, and operation of the Facility, to hold the funds to be used for payment of Shared Operational Costs, to hold funds in reserve to be applied to future Shared Capital, or to hold funds for such other purposes that the Cities may from time to time agree.

“Fiscal Year” means the Cities’ official budget year beginning at 12:00:00 a.m. Central Time on October 1 of each calendar year and ending at 11:59:59 p.m. Central Time on September 30 of the immediately following calendar year.

“Non-Shared Operational Costs” means the costs for (1) consumable supplies and materials and (2) water, natural gas, and electricity used by a City during a training exercise at the Facility.

“Paying City” means the City which the Parties determine shall be contractually obligated for paying a Shared Capital Cost to a vendor or contractor pursuant to a contract entered for the benefit of the Parties relating to the construction, operation, repair, and/or maintenance of the Facility.

“Shared Capital Costs” means the costs relating to construction, reconstruction, remodeling, renovation, expansion and equipping of the Facility, including, but not limited to, engineering, architectural, and surveying costs, costs for demolition of existing improvements, costs for relocation and/or extension of existing utilities or construction of new utilities, costs relating to any work on adjacent property owned by Farmers Branch relating to providing access to, operation of, and parking for the Facility, costs relating to the purchase and installation of new and/or replacement equipment in the Facility or at any location on the Facility Property.

“Shared Operational Costs” means costs relating to the use, operation, management, repair, and maintenance of the Facility including, but not limited to, the costs for (i) wages and benefits of one or more employees of one of the Cities whose job duties include in whole or in part managing the operation of the Facility (provided if only a portion of the employee(s) time at work is spent managing the operation of the Facility, then only a portion of the cost of said employee’s wages and benefits based on the percentage of the employee’s work hours spent on managing the Facility shall constitute a Shared Operational Cost); (ii) repair and maintenance of the Facility and any equipment located within the Facility or on the Facility Property and available for use by any of the Cities; (iii) electricity, water, and sanitary sewer services, if any, used in operating the Facility; (iv) property and casualty insurance insuring against damage or destruction of improvements constituting a portion of the Facility; and (v) such other costs other than Shared Capital Costs identified in the Annual Facility Budget.

“Structural Firefighter” means a Texas Commission on Fire Protection Structural Fire Suppression certified employee assigned to a City’s fire operations division.

“Term” means, collectively, the Initial Term as defined in Section 2.01, together with each Renewal Term, as defined in Section 2.02.

II. TERM

2.01 Initial Term. This Agreement shall commence on the Effective Date and end at 11:59:59 p.m. Central Time on the last day of the Fiscal Year following the twentieth (20th) anniversary of the Acceptance Date (“the Initial Term”), unless extended or terminated earlier as provided in this Agreement.

2.02 Renewal Term. After the end of the Initial Term, this Agreement shall be extended automatically through each subsequent Fiscal Year (each being a “Renewal Term”) unless terminated as provided in this Agreement.

2.03 Early Termination During Initial Term.

A. Notwithstanding anything to the contrary herein, a City may terminate without cause its participation as a Party to this Agreement (said City called hereafter the “Terminating Party”) prior to the end of the Term subject to the following:

- (1) The termination date must fall on the last day of a Fiscal Year;
- (2) The Terminating Party must deliver notice to the other Parties not later than two (2) years prior to the date of termination;
- (3) The Terminating Party shall not be entitled to reimbursement from the other Parties for payments made pursuant to this Agreement prior to the date of termination; and
- (4) On or before the Terminating Party’s termination date, the terminating Party shall pay to the other Parties any Non-Shared Operational Costs incurred or accrued prior to the date of the termination of the Terminating Party’s participation in this Agreement.

B. Except as set forth in this Section 2.03, the Terminating Party shall have no obligation to pay any amounts which come due under this Agreement following the effective date of said City’s termination of its participation in this Agreement.

C. In the event of termination by Farmers Branch, all funds held under this Agreement or administrative fees paid in advance to Farmers Branch, shall be transferred to the remaining Cities to be used in carrying out the obligations set forth in this Agreement.

2.04 Effect of Early Termination. Upon termination of the Terminating Party as a Party to this Agreement:

A. The Terminating City forfeits, without right for reimbursement, all right, title, interest and ownership of the Facility and all property which the Terminating City contributed, conveyed, assigned or transferred to the other Cities for the operation of the Facility;

B. The Terminating City agrees and covenants to execute, and shall execute, without additional consideration, any licenses, easements, assignments, documents or agreements as may be necessary to sell, transfer, assign and convey the Terminating City’s right, title, interest and ownership of the Facility and all property which the Terminating City contributed, conveyed, assigned or transferred to or for the operation of the Facility;

C. The Terminating Party, except Farmers Branch, shall be required to pay the same rates and charges for use of the Facility charged to entities who are not parties to this Agreement;

D. In the event of early termination by Farmers Branch, it shall have the right to use of the Facility, upon proper reservation similar to other entities not parties to this Agreement, to use the Facility after payment of rates and charges which are fifty percent (50%) of the then-current applicable rates and charges, in consideration of the Facility's location on property owned by Farmers Branch; and

E. The Terminating Party shall not be entitled to any offset against its charges for use of the Facility from revenues generated by others who are not parties to this Agreement.

The obligations and covenants of a Terminating City herein shall survive such Terminating City's termination under this Agreement pursuant to this Section 2.04. The non-terminating Cities may continue the operation of the Facility, or to cease operation of the Facility, terminate this Agreement and liquidate the Facility as provided herein.

III. DESIGN AND CONSTRUCTION OF FACILITY

3.01 Design of Facility; Selection of Contractors. In accordance with applicable law, the Cities shall jointly (i) select one or more professionals to design and prepare the plans and specifications for the construction of the Facility; (ii) approve the design and specifications for the Facility, and (iii) select a contractor to construct the Facility. Farmers Branch shall for itself and the other Cities solicit bids and/or proposals, prepare and execute the necessary contractual agreements, and otherwise take such additional actions necessary to obtain the design and complete the construction of the Facility. Carrollton and Coppell understand, acknowledge, and agree that Farmers Branch will not be obligated to sign any contracts for the design and construction of the Facility until the City Manager of each Party signs a representation stating in substance the following:

(1) Representatives of the City have had a fair and equal opportunity to review the proposals or bids, as the case may be, received by Farmers Branch in response to any request for proposal ("RFP") or request for bid ("RFB");

(2) Representatives of the City agree that, following review of the proposals or bids received in response to the RFP/RFB, the selected contractor or professional provides the best and most advantageous proposal to the Cities in response to the RFP or RFB;

(3) If applicable, representatives of the City have participated, or been provided an opportunity to participate, in negotiating the best and final offer from the selected professional and/or contractor and the terms and conditions of the negotiated contract;

(4) To the best of their knowledge and belief, the Cities have complied with all applicable provisions of state law relating to the procurement of proposals and/or bids

for the design and construction of the Facility and the award of contracts for the design and construction of the Facility and related agreements;

(5) In the case of Carrollton and Coppell, acknowledges that Farmers Branch would not have signed the subject agreement but for the agreement of the Cities to this Agreement including but not limited to the Cities' agreement to pay their portions of the Shared Capital Costs; and

(6) Current funds are available to pay the City's respective share of the cost of the subject contract or purchase.

3.02 Advance Payment to Paying City. The Cities agree that prior to the Paying City becoming contractually obligated to pay a Shared Capital Cost, the Cities will pay their respective share of the Shared Capital Cost to the Paying City. The Paying City agrees to place such funds into a restricted project account and that such funds shall only be used for the restricted purpose. For purposes of Shared Capital Costs related to the initial design and construction of the Facility, the Cities agree Farmers Branch will be the Paying City. The Cities agree to use their best efforts to make payments in a timely manner so that the project which is the subject of the contract is not unreasonably delayed.

3.03 Ownership of Facility.

A. The Cities agree that title to the Facility, not including the Facility Property, shall be as follows:

- (1) Carrollton: 49.5% undivided interest.
- (2) Coppell: 26.8% undivided interest.
- (3) Farmers Branch: 23.7% undivided interest.

B. Except for the conveyance of the Easement, as set forth in Paragraph 4.04 below, to Carrollton and Coppell, nothing herein shall be construed as (i) granting Carrollton or Coppell any interest in the Facility Property merely because the Facility is located on or attached to the Facility Property or (ii) granting a City an ownership interest in personal property paid entirely for and owned by another City merely because said personal property constitutes a component of the Facility or the cost for operation, maintenance, or repair of the personal property constitutes a Shared Operational Cost.

3.04 Division of Shared Capital Costs. The Cities agree that the Shared Capital Costs for the initial design, construction, and equipping of the Facility shall be allocated as follows:

- A. Carrollton: 49.5% undivided interest.
- B. Coppell: 26.8% undivided interest.

- C. Farmers Branch: 23.7% undivided interest.

Shared Capital Costs other than those relating to the initial design, construction, and equipping of the Facility shall be in accordance with the allocation for Shared Operational Costs set forth in Section 4.02, below.

IV. FACILITY MAINTENANCE AND OPERATION

4.01 Governance Boards. The following boards shall be established for the purpose of administering and operating the Facility:

A. Facility Executive Board. There shall be established a Facility Executive Board whose permanent members shall be the Fire Chief of each City; provided, however, each Fire Chief may appoint another officer from the City's fire department who may sit as an alternate member who shall have the right to vote on matters considered by the Facility Executive Board when the Fire Chief is absent from a meeting of the board. The Facility Executive Board shall be authorized to:

(1) Adopt rules governing the meetings of the Facility Executive Board subject to the following:

(a) A quorum of the Facility Executive Board shall be all three (3) members (which may be a combination of permanent and/or alternate members) for the purpose of holding meetings and the transaction of business, including voting on any matters considered by the Facility Executive Board; and

(b) The approval of any matter considered by the Facility Executive Board shall require the affirmative vote of three (3) members (permanent and/or alternate) of the Facility Executive Board.

(2) Adopt procedures relating to the operation, maintenance, and use of the Facility;

(3) Recommend to the Cities' respective city managers and governing bodies approval of contracts and related amendments and change orders, if any, related to the design, construction, reconstruction, repair, remodeling, equipping, and operation of the Facility;

(4) Prepare and recommend an annual operations and maintenance and capital improvement/replacement budget relating to the operation, maintenance, equipment, supplying and repair of the Facility ("the Facility Budget");

(5) Prepare and recommend for approval by the Cities of a rate schedule for use of the Facility by third parties; and

(6) Perform such other tasks and duties as the Cities' may from time to time unanimously agree shall be performed by the Facility Executive Board.

B. Facility Operations Committee. There shall be established a Facility Operations Committee whose permanent members shall be an officer within the Fire Department of each City appointed by each Fire Chief to serve on the committee and whose job responsibilities should, but may not necessarily include, oversight and implementation of firefighter training for the Fire Department by whom the officer is employed. The Facility Operations Committee shall be authorized to:

(1) Adopt rules governing the meetings of the Facility Operations Committee subject to the following:

(a) A quorum of the Facility Operations Committee shall be all three (3) members; and

(b) The approval of any matter considered by the Facility Operations Committee shall require the affirmative vote of all three (3) members of the Facility Operations Committee.

(2) Make recommendations to the Facility Executive Board regarding the adoption and/or amendment of the operation, maintenance, and use policies relating to operation, maintenance, and use of the Facility;

(3) Develop and make recommendations to the Facility Executive Board regarding the purchase of equipment, materials, hardware, software and services relating to the use, operation, maintenance, and/or repair of the Facility;

(4) Oversee implementation of the Facility operation, maintenance, and use policies adopted by the Facility Executive Board;

(5) Prepare the master training schedule setting forth the time and dates on which the Facility will be used by the Cities;

(6) Approve the scheduling of use of the Facility by parties other than the Cities;

(7) Prepare for consideration of the Facility Executive Committee standard operating procedures and policies relating to use and operation of the Facility in conformance with NFPA 1403, as amended, or such other nationally recognized operational safety standards as may be adopted from time to time by the Facility Operations Committee; and

(8) Perform such other tasks as may from time to time be assigned by the Facility Executive Board.

4.02 Shared Operational Costs. For the period beginning on the Acceptance Date and ending on the last day of the second full Fiscal Year during the Term, the Cities agree to pay the Shared Operational Costs in accordance with the same allocation set forth in Section 3.04, above, established for the costs of the Shared Capital Costs. Beginning with the third full Fiscal Year during the Term and for each Fiscal Year thereafter, each City agrees to pay its share of the Shared Operational Costs based on a ratio determined as follows:

- (1) The number of Structural Firefighter positions contained in the City's approved annual budget for the Fiscal Year in which the Shared Operational Costs are to be paid; divided by
- (2) The total number of Structural Firefighter positions contained in the approved annual budget for all of the Cities for the Fiscal Year in which the Shared Operational Costs are to be paid.

4.03 Non-Shared Operational Costs. The Cities agree to pay in a timely manner their respective Non-Shared Operational Costs directly to the vendors with whom the Cities contract to provide services, equipment, supplies or facilities related to operation, repair, and/or maintenance of the Facility.

4.04 Easement Granting Right to Construct Facility on Facility Property. Notwithstanding anything herein to the contrary, Carrollton and Coppell shall not be required to deliver their respective shares of the Shared Capital Costs for the initial design, construction, and equipping of the Facility until Farmers Branch has conveyed to Carrollton and Coppell, respectively, a non-exclusive perpetual easement authorizing the construction, reconstruction, maintenance, repair, replacement, remodeling, use, and operation of the Facility on the Facility Property and, to the extent necessary, direct access across Farmer Branch's adjacent property for purpose of providing ingress and egress to the Facility Property.

4.05 Annual Budget.

A. No later than one hundred eighty (180) days prior to the beginning of each Fiscal Year, the Facility Executive Board shall prepare, or cause to be prepared, a budget setting forth the anticipated Shared Capital Costs, Shared Operational Costs, and Non-Shared Operational Costs (the "Annual Facility Budget") for said Fiscal Year. The Annual Facility Budget must be recommended for approval by a majority vote of the entire Facility Executive Board. After consideration by the Facility Executive Board, the Annual Facility Budget shall be submitted to the City Manager of each City for review, approval and inclusion of the amount of each City's respective share of the Annual Facility Budget into the Cities' respective annual general municipal budget.

B. The Annual Facility Budget shall clearly indicate the amounts, sources and purposes of revenues to be contributed by each City as its share of the Annual Facility Budget. The Annual Facility Budget shall not reflect revenues anticipated from any source other than the Cities for the Fiscal Year to which the Annual Facility Budget applies; however, it may reflect

credits against the Cities' shares of Shared Capital Costs and/or Shared Operational Costs to be paid in the Fiscal Year based on revenues received from third parties in the prior Fiscal Year.

C. If the Facility Executive Board fails to approve and recommend the Annual Facility Budget for a particular Fiscal Year, then the Annual Facility Budget for the then current Fiscal Year shall be deemed to be the Annual Facility Budget recommended for the next Fiscal Year.

D. Failure of a City to include in the City's annual budget funds to pay its share of Shared Operational Funds for any Fiscal Year shall constitute a notice of termination of that City's participation in this Agreement; in which case said City's right to use the Facility shall be immediately suspended until said City appropriates funds to pay its share of the Shared Operational Costs and, in fact, pays such funds as provided in Section 4.14, below. A City which fails for two consecutive Fiscal Years to include in its annual budget the funds necessary to pay its share of Shared Operational Costs shall be deemed to be a Terminating Party pursuant to Article II of this Agreement.

4.06 Provision of Administrative Services; Administrative Fee.

A. As of the Effective Date, Farmers Branch shall provide certain administrative services with respect to operation of the Facility including, but not limited to:

(1) The receipt, deposit, and investment of funds received from the Cities and other sources relating to the Facility including, but not limited to, funds to pay Shared Capital Costs and Shared Operational Costs;

(2) Payment by check or wire transfer of contractors, suppliers, and other vendors for expenses incurred for Shared Capital Costs and Shared Operational Costs from funds available in the Fire Training Facility Funds;

(3) Legal services relating to the preparation and/or review of agreements, policies, procedures, and other matters relating to the Facility through the Farmers Branch city attorney; and

(4) Purchasing and contracting services relating to operation, maintenance, and repair of the Facility.

B. The Annual Facility Budget shall set forth a not-to-exceed amount to be paid to Farmers Branch for the applicable Fiscal Year as reimbursement for the out-of-pocket costs incurred by Farmers Branch for providing the administrative services described in this Section 4.06 plus a reasonable overhead charge ("the Annual Administrative Fee"). The amount set forth in the Annual Facility Budget for the Annual Administrative Fee shall be the maximum amount paid to Farmers Branch for providing the described administrative services. In the event Farmers Branch defaults or terminates participation in this Agreement, Farmers Branch shall have no further responsibilities under Section 4.06 A and shall no longer be entitled to the Annual

Administrative Fee. The remaining Cities shall determine how to appropriately apportion Farmers Branch's previous responsibilities and rights under this Section 4.06.

C. The Cities may from time to time during the Term provide for a different City to provide the administrative services described herein, which change can be made without the necessity of amending this Agreement provided the change is acknowledged in writing signed by the City Managers of the Cities. In the event of such a change, the provisions in Section 4.06.B., above, relating to the establishment and payment of the Annual Administrative Fee shall apply to the City providing the services.

4.07 Scheduling Use of Facilities. After the Acceptance Date, the Coppell Fire Chief or designee, shall be primarily responsible for preparing the master schedule relating to the use of the Facility ("the Master Schedule"). In preparing the Master Schedule, the following factors shall be taken into consideration in determining who can use the Facility or any part thereof at any particular time:

A. Use by one or more of the Cities shall take precedence over use by another entity;

B. The amount of time the Cities may reserve the Facility for use during a Fiscal Year shall to the extent reasonably possible be allocated on a percentage basis in the same manner as the allocation of Shared Operational Costs is determined pursuant to Section 4.02 for that Fiscal Year; and

C. Scheduling shall be in accordance with policies and procedures approved by the Facility Executive Board.

The Master Schedule shall be reviewed on a regular basis by the Facility Operations Committee, which shall have the authority to amend the Master Schedule. The Cities may agree to reassign the duties of preparing and maintaining the Master Schedule to a different City without the necessity of amending this Agreement provided such reassignment is memorialized in writing and signed by the members of the Facility Executive Committee. Notwithstanding Paragraph B, above, if the actual amount of time the Facility is used by the Cities during a Fiscal Year differs from the allocation of time to which the Cities are entitled during that Fiscal Year because one or more of the Cities elected to use the Facility when the Facility was not scheduled for use by any of the other Cities, there shall be no adjustment of the Cities' shares of the Annual Facility Budget.

4.08 Maintenance of the Facility. Upon the Acceptance Date, the Carrollton Fire Chief, or designee, shall be responsible for coordinating and inspecting the repair and maintenance of the Facility on behalf of the Cities. Carrollton shall not be required to directly spend any funds with respect to the performance of any repairs or maintenance, which expenditures shall be paid from the Fire Training Facility Funds pursuant to agreements entered into between Farmers Branch and the appropriate contractor or vendor on behalf of the Cities.

4.09 Right to Access and Use Facility. Provided a City has complied with the provisions of this Agreement including, but not limited to, payment of the City's share of Shared Capital Costs and Shared Operational Costs, each City shall have the right to access and use the Facility in accordance with the policies and procedures established by the Facility Executive Board. At no time shall the Facility Executive Board be authorized to adopt any rule or procedure which excludes a City from accessing or using the Facility as long as the City is not in default (after notice of such default has been received by the City and the City has been provided a reasonable opportunity to cure the default) of this Agreement.

4.10 Revenues from Third Party Use. The Cities agree that revenues received from charges and fees assessed to third parties for the use of the Facility shall be applied in the following priority:

A. Payment for any consumables used by the third party during its use of the Facility;

B. After deducting the amount required by Paragraph A, fifty percent (50%) of the net amount shall be placed in a Shared Operational Costs reserve fund the purpose of which is to hold the funds until the next subsequent Fiscal Year, at which time those funds may be identified as revenues and applied to the payment of the Shared Operational Costs; and

C. The remaining fifty percent (50%) of the net amount shall be placed in a Shared Capital Cost reserve fund and held until appropriated for payment of a future Shared Capital Cost.

4.11 Property and Casualty Insurance.

A. Farmers Branch agrees to purchase property fire and casualty insurance to cover damage or destruction to the Facility resulting from windstorm, tornados, fire, theft, or other casualty in an amount which provides for the replacement value of the Facility, including its structures and equipment.

B. The amount of the premium to be paid for the insurance coverage purchased pursuant to Section 4.11.A. shall be a line item in the Annual Facility Budget. Farmers Branch shall be entitled to reimbursement to the extent of the funds allocated to the Annual Facility Budget for the amount paid by Farmers Branch for the foregoing fire and casualty insurance.

C. In the event of a casualty loss to any structure constructed as part of the Facility or equipment installed as part of the Facility, any proceeds paid from an insurance claim shall be first applied to the repair or replacement of the portion of the structure and/or equipment in the Facility which was damaged or destroyed. In the event the insurance claim proceeds received exceed the amount necessary to make the required repairs or replacement of improvements or equipment, such excess proceeds shall be placed in the Shared Capital Costs reserve fund for use on a subsequent Shared Capital Costs expenditure.

D. In the event that the damage or loss to the Facility is so extensive that the Cities elect to not reconstruct the Facility, insurance claim proceeds received by Farmers Branch in relation to the loss shall first be used to demolish the remaining improvements and restore the Facility Property to substantially the condition prior to the Effective Date, then to pay any accrued but not yet paid Shared Operational Costs, then distributed to the Cities based on the then current allocation for Shared Capital Costs.

4.12 Use of Existing Farmers Branch Office and Other Facilities.

A. Pursuant to this Agreement, Farmers Branch agrees to provide to the other Cities the non-exclusive right to use office space within Farmers Branch's Fire Station No. 3 for use by the training officers of the other Cities while the other Cities are conducting training at the Facility. The determination of which space shall be used shall be at the sole discretion of Farmers Branch. While Farmers Branch will use reasonable efforts to provide an unoccupied space, Carrollton and Coppell understand and agree that the office space selected by Farmers Branch for use by the other Cities during training may also be occupied by Farmers Branch personnel.

B. Farmers Branch may, at its sole option, make such office space available to third parties using the Facility.

C. Farmers Branch agrees to make available to the Cities the following:

(1) Use of the training room and audio visual equipment located in Farmers Branch's Fire Station No. 3, when available during the days in which the other Cities are using the Facility;

(2) Self-Contained Breathing Apparatus ("SCBA") compressor to recharge SCBA tanks; and

(3) Access to restrooms, coffee, and other public areas.

The Annual Facility Budget shall include funds provide the amount to be paid to Farmers Branch to reimburse Farmers Branch for the reasonable costs of consumables used by the other Cities while using the space within Fire Station No. 3.

4.13 Utilities. Electricity to provide electrical power for the Facility and its equipment shall be separately metered. Farmers Branch shall be responsible for the timely payment of the electrical bill as part of the administrative services to be provided. The Cities understand and acknowledge that water consumed as part of the operation of the Facility will not initially be metered; however, the Annual Facility Budget shall include funds to be used to reimburse Farmers Branch for the estimated cost incurred by Farmers Branch for the consumption and use of such water.

4.14 Payment of Budgeted Funds. Carrollton and Coppell shall pay to Farmers Branch the amount of their respective shares of the funds identified in the Annual Facility

Budget for each Fiscal Year on or before October 15th of each Fiscal Year during the Term. Such funds shall be credited to the appropriate Fire Training Facility Fund as indicated in the approved Facility Budget. Farmers Branch shall, upon the effective date of its Annual Budget, allocate its share of funds identified in the Facility Budget and credit such funds to the appropriate Fire Training Facility Fund as indicated in the approved Facility Budget.

V. DEFAULT

In the event any City shall fail in the performance of any of the terms and conditions of this Agreement; then such City shall be in default of this Agreement, if such failure is not cured within thirty (30) days after written notice of such failure from any one or more non-defaulting Cities. The rights and ownership interests of such defaulting City under this Agreement shall be terminated without further notice provided that such defaulting City shall have such additional time to cure as may be required in the event of "Force Majeure." As liquidated damages in the event of such default, the ownership interest of such defaulting City in the Facility shall be forfeited to the non-defaulting Cities according to their pro-rata ownership thereof, and the rights of the defaulting City under this Agreement shall be terminated. The Parties acknowledge that actual damages in the event of default termination would be speculative and difficult to determine.

VI. MISCELLANEOUS

6.01 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, by hand-delivery or facsimile transmission and addressed to the respective City at the following address:

If intended for City of Carrollton:

Leonard Martin, City Manager
City of Carrollton
1945 E. Jackson Road
Carrollton, Texas 75006

With copy(ies) to:

Meredith Ladd, City Attorney
City of Carrollton
1945 E. Jackson Road
Carrollton, Texas 75006

If intended for City of Coppell:

City of Coppell
Attn: City Manager
255 E. Parkway Boulevard
Coppell, Texas 75019

With copy(ies) to:

Robert E. Hager
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

If intended for City of Farmers Branch:

With copy(ies) to:

City of Farmers Branch
Attn: City Manager
13000 William Dodson Parkway
Farmers Branch, Texas 75234

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

6.02 Governing Law. The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the Cities shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The Cities agree to submit to the personal and subject matter jurisdiction of said court.

6.03 Party Responsibility. To the extent allowed by law, and without waiving any governmental immunity available to the Cities under Texas law, or any other defenses the Cities are able to assert under Texas law, each City agrees to be responsible for its own negligent or otherwise tortious acts or omissions in the course of performance of this Agreement. The covenants, obligations and liabilities of the Cities shall be several and not joint or collective. Each of the Cities shall be individually responsible for its own covenants, obligations and liabilities herein. It is not the intention of the Cities to create, nor shall this Agreement be construed as creating a partnership, association, joint venture or trust, as imposing a trust or partnership covenant, obligation or liability on or with regard to any of the Cities.

6.04 Immunity. It is expressly understood and agreed that, in the performance of this Agreement, none of the Cities waive, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to them against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Cities do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in any persons or entities who are not parties to this Agreement. The Cities expressly acknowledge and agree that the construction, operation, and use of the Facility constitute a governmental function pursuant to the Texas Tort Claims Act, as amended.

6.05 Entire Agreement. This Agreement represents the entire agreement among the Cities with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

6.06 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

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

6.08 Amendment. This Agreement may be amended by the mutual written agreement of all Cities.

6.09 Place of Performance. Performance and all matters related thereto shall be in Dallas County, Texas.

6.10 Authority to Enter Agreement. Each City has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each City has been properly authorized and empowered to sign this Agreement. The persons signing this Agreement hereby represent that they have authorization to sign on behalf of their respective City.

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

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

6.13 Assignment. No City may assign, transfer, or otherwise convey this Agreement without the prior written consent of the other Cities.

6.14 Consents. Unless expressly stated otherwise, whenever the consent or the approval of a City is required herein, such City shall not unreasonably withhold, delay or deny such consent or approval.

6.15 Good Faith Negotiation; Dispute Mediation. Whenever a dispute or disagreement arises under the provisions of this Agreement, the Cities agree to enter into good faith negotiations to resolve such disputes. If the matter continues to remain unresolved, the Cities shall refer the matter to outside mediation, the costs of which shall be shared equally, prior to engaging in litigation (unless delaying the filing of a lawsuit might result in the lawsuit being barred, including but not limited to a bar by a statute of limitations). The provisions of this Section 6.15 shall survive termination.

6.17 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the Cities, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.18 Source of Payment. Each City paying for the performance of governmental functions or services pursuant to this Agreement must make those payments from current revenues available to the paying City or from funds otherwise lawfully available to the City for use in the payment of the City's obligations pursuant to this Agreement.

6.19 Force Majeure. No City shall be liable to any or all of the other Cities for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the City's respective control or because of applicable law, including, but not limited to, war, nuclear disaster, strikes, boycotts, labor disputes, embargoes,

acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, terrorism, or any other circumstance for which a party is not legally responsible or which is not reasonably within its power to control. The affected City's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. To the extent possible, the City shall endeavor to remove or overcome the inability claimed with all reasonable dispatch.

6.20 Liquidation of Center. Upon the termination of this Agreement, all equipment and property associated with the Facility (excluding the Facility Property and building) shall, to the extent allowed by law, be sold for the fair market cash value in a private sale, or pursuant to notice and competitive bidding or by auction and the sale proceeds distributed to the then remaining Cities according to their pro rata ownership thereof.

6.21 Additional Participating Parties. Additional cities or other governmental entities may become parties under the terms of this Agreement by an appropriate amendment to this Agreement approved by the governing body of each of the Cities.

(Signatures on Following Pages)

City of Carrollton Signature Page

SIGNED AND AGREED this _____ day of February, 2015.

CITY OF CARROLLTON

By: _____
Leonard Martin, City Manager

ATTEST:

Krystle F. Nelinson, City Secretary

APPROVED AS TO FORM:

Meredith A. Ladd, City Attorney

City of Coppell Signature Page

SIGNED AND AGREED this _____ day of February, 2015.

CITY OF COPPELL

By: _____
Clay Phillips, City Manager

ATTEST:

Christel Pettinos, City Secretary

APPROVED AS TO FORM:

City Attorney

City of Farmers Branch Signature Page

SIGNED AND AGREED this _____ day of February, 2015.

CITY OF FARMERS BRANCH

By: _____
Gary D. Greer, City Manager

ATTEST:

Angela Kelly, City Secretary

APPROVED AS TO FORM:

Peter G. Smith, City Attorney

Exhibit A
Depiction of Facility Property



City of Carrollton

Agenda Memo

File Number: 1873

Agenda Date: 3/3/2015

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: *22.

CC MEETING: March 3, 2015

DATE: February 18, 2015

TO: Leonard Martin, City Manager

FROM: Vince Priolo, Purchasing Manager

Consider A **Resolution Authorizing The City Manager To Enter Into An Inter-Local Agreement With The Collin County Government Forum (CCGF) For Sharing Of Bid Awards.**

BACKGROUND:

The Interlocal Agreement approval request is a renewal of the agreement approved by City Council on May 6, 1997.

The Agreement allows the City to voluntarily purchase from bids and contracts prepared by Forum members, which includes all governments located in Collin County. All Forum contracts meet State competitive bid laws. Forum participants will work together to construct annual price agreements as required, and to jointly bid where possible to maximize cost savings. This agreement is strictly voluntary on the part of our city and approval of this Agreement will allow our bid awards to also be used by the other members.

FINANCIAL IMPLICATIONS:

Participation in the Interlocal Agreement with the Collin County Government Forum will have no cost to Carrollton, and will be beneficial to the citizens of the city of Carrollton in the future. No expenses or obligations will be required or incurred by Carrollton. Each government in the Forum will place their own purchase orders and pay for their own products/services. An example of this is a contract for Hon office furniture in which the CCGF is a higher discount than the contract the state of Texas has with this company.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends that the City Council approve the attached Resolution authorizing the City Manager or his designee to sign the Collin County Government Forum Interlocal Agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS APPROVING AN INTERLOCAL AGREEMENT WITH THE COLLIN COUNTY GOVERNMENT FORUM FOR PURPOSES OF SHARING BID AWARDS; AUTHORIZING THE CITY MANAGER TO TAKE ALL STEPS REASONABLE AND NECESSARY TO COMPLY WITH THE INTENT OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1

The City of Carrollton, Texas ("City") may participate in an interlocal agreement with the Collin County Government Forum.

SECTION 2

The City Manager is authorized to act for the City in all matters relating to the purchasing program with the Collin County Government Forum under the direction of the Council.

SECTION 3

The purpose of the Interlocal Agreement is to mutually share bid awards between all Collin County Forum members, and in no way obligates any city to any financial ramifications of the other city.

SECTION 4

The Interlocal Agreement with the Collin County Government Forum is passed and approved.

SECTION 5

This Resolution shall be effective immediately upon its passage.

DULY PASSED AND APPROVED by the City Council of the City of Carrollton, Texas this this 3rd day of March, 2015.

THE CITY OF CARROLLTON, TEXAS

Matthew Marchant, Mayor

ATTEST:

APPROVED AS TO CONTENT:

Krystle Nelinson, City Secretary

Vince Priolo, Purchasing Manager



City of Carrollton

Agenda Memo

File Number: 1872

Agenda Date: 3/3/2015

Version: 1

Status: Public Hearing/Consent
Agenda

In Control: City Council

File Type: Public Hearing

Agenda Number: *23.

CC MEETING: March 3, 2015

DATE: February 16, 2015

TO: Leonard Martin, City Manager

FROM: Michael McCauley, Senior Planner

Hold A Public Hearing And Consider An Ordinance To Amend The Zoning On An Approximately 1.8-Acre Tract Located At 1500 Crescent Drive, Suite 400, Presently Zoned For (FWY) Freeway District Uses To Establish A Special Use Permit For An Indoor Used Car Dealer With Special Conditions; And Amending The Official Zoning Map Accordingly. Case No. 02-15SUP3 Car Experts Group. Case Coordinator: Michael McCauley

BACKGROUND:

The building was constructed in 1985.

The last two occupants were HVAC supply companies.

Initially, the project name was 1st Car Choice. During the Planning and Zoning Commission meeting, the applicant informed the Commission that the project name is now Car Experts Group.

STAFF RECOMMENDATION/ACTION DESIRED:

On February 5, 2015, the Planning and Zoning Commission recommended **APPROVAL** with stipulations. The attached ordinance reflects the action taken by the Commission. Because the vote of the Commission was unanimous and no public opposition has been received, this item is being placed on the Public Hearing - Consent Agenda portion of the agenda.

RESULT SHEET

Date: 03/04/15

Case No./Name: 02-15SUP3 Car Experts Group

A. STIPULATIONS AND RECOMMENDATIONS:

Staff recommends **APPROVAL** with the following stipulations:

1. No outdoor display of used vehicles for sale shall be permitted.
2. Shrubs, of a size and variety approved by the City Arborist, shall be added to the rear of the building where shrubs are currently missing.
3. A row of foundation shrubs, of a size and variety approved by the City Arborist, shall be added to the building facade where the building can be seen from the street.

B. P&Z RECOMMENDATION from P&Z meeting: 02/05/15

Result: **APPROVED** with stipulations /Vote: 6-0 (Daniel-Nix & Romo absent; one seat vacant)

C. CC PUBLIC HEARING and ORDINANCE ACTION from CC meeting: 03/03/15

Result: /Vote:

SPECIAL USE PERMIT

GENERAL PROJECT INFORMATION

SITE ZONING: (FWY) Freeway District

	<u>SURROUNDING ZONING</u>	<u>SURROUNDING LAND USES</u>
NORTH	(FWY) Freeway District	Office Commercial/Warehouse
SOUTH	(FWY) Freeway District	Office Commercial/Warehouse
EAST	(FWY) Freeway District with SUP-382	Hobby shop with outdoor remote- controlled toy vehicle race tract
WEST	(FWY) Freeway District	Undeveloped
REQUEST:	Approval of a Special Use Permit for an Indoor Used Car Dealer	
PROPOSED USE:	Indoor used car dealership	
ACRES/LOTS:	1.8 Acres/1 Lot	
LOCATION:	1500 Crescent Drive, Suite 400	
HISTORY:	The site was platted in 1983. The building was constructed in 1985.	
COMPREHENSIVE PLAN:	Transit Mixed Use/Urban Uses	
THOROUGHFARE PLAN:	Crescent and Century Drives are local thoroughfares	
OWNERS:	693-697 Metropark Partnership	
REPRESENTED BY:	Carlos Stewart	

STAFF ANALYSIS

PROPOSAL

This is a request to establish a Special Use Permit for an Indoor Used Car Dealer.

ORDINANCE REQUIREMENTS

The (FWY) Freeway District allows an indoor used car dealer with a Special Use Permit.

PROPERTY:

- The property is in the Capital Center business park which was developed and intended as a light industrial/heavy commercial business park.
- The parking lot for the facility is shared with other buildings on the same parcel. The total number of parking spaces required by the zoning ordinance is 55; the site provides 65 parking spaces.
- In July 2014, a Special Use Permit was approved for J. K. Cycles, a motorcycle, ATV and personal watercraft dealer, at 1500 Crescent Drive, Suite 300 – the building immediately east of the subject property.

EXISTING BUILDING:

- The building was constructed in 1985.
- The last two occupants were HVAC supply companies.

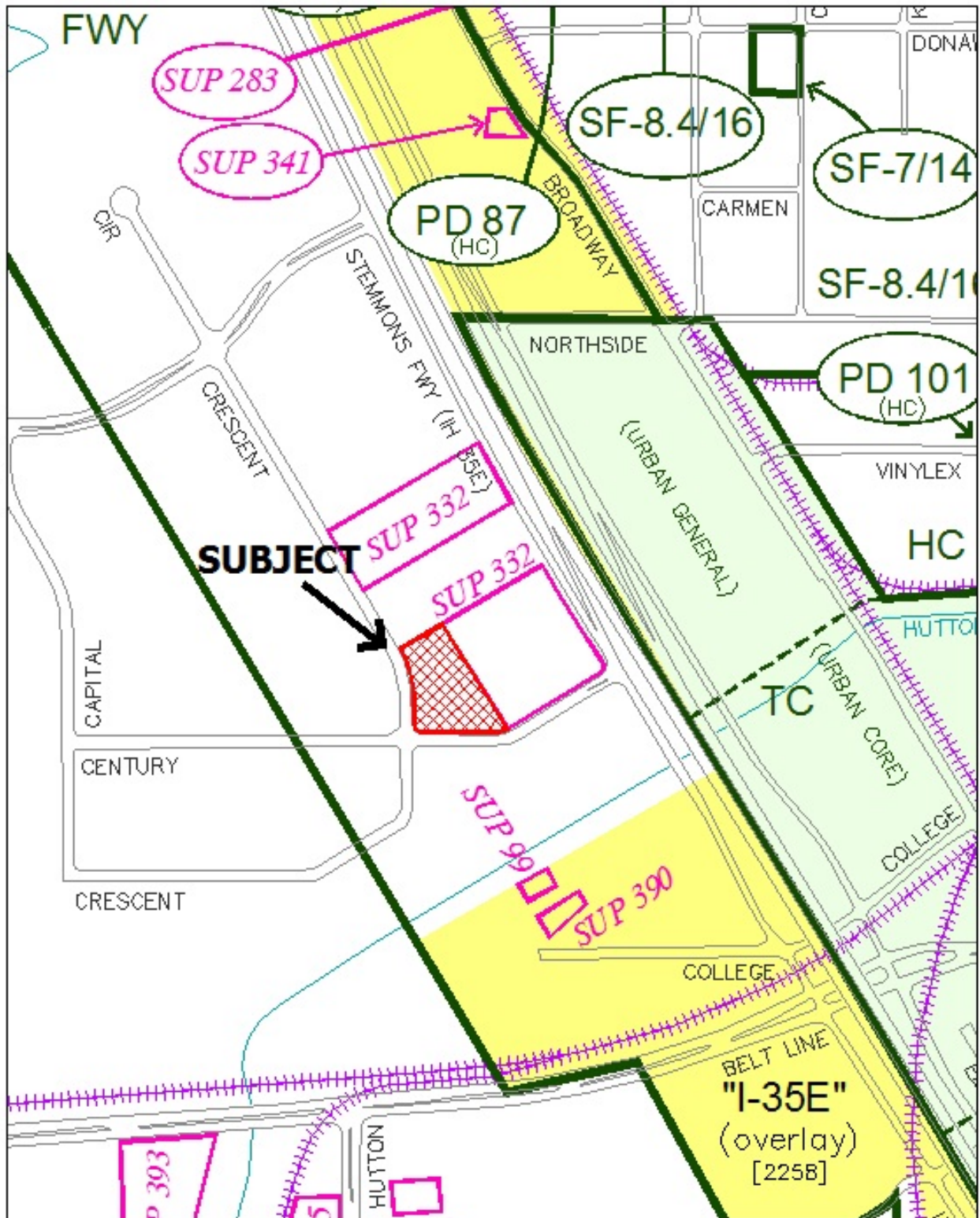
PROPOSED LANDSCAPING:

- The adaptive reuse of the property will result in improved landscaping to bring the property closer to compliance with the City landscape ordinance.

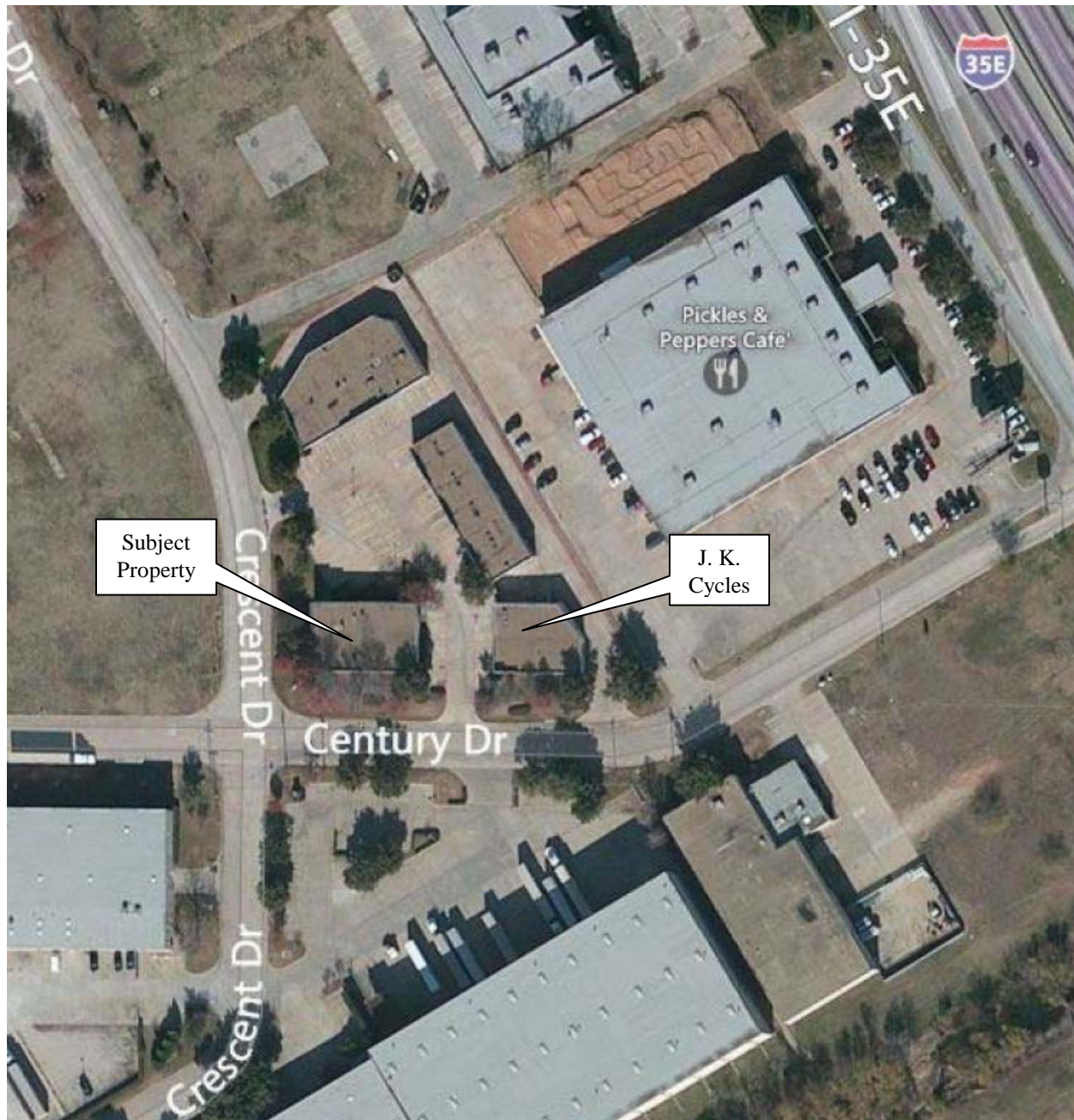
CONCLUSION:

The use appears appropriate for this site.

SITE LOCATION AND ZONING MAP



AERIAL PHOTO



1500 Crescent Drive, Suite 400



**Excerpt from Draft Minutes
Planning and Zoning Commission
Meeting of February 5, 2015**

Public Hearing To Consider, Discuss And Act On An Ordinance To **Amend The Zoning** On An Approximately 1.8-Acre Tract Located At 1500 Crescent Drive, Presently Zoned For (FWY) Freeway District Uses To Establish A Special Use Permit For An Indoor Used Car Dealer With Special Conditions; And Amending The Official Zoning Map Accordingly. **Case No. 02-15SUP3 1st Car Choice**. Case Coordinator: Michael McCauley.

Vice Chair Averett noted a correction that the case was by Car Experts Group.

McCauley presented the case noting the site was at the northeast corner of Crescent and Century Drives. He advised that the applicant agreed to all of staff's stipulations prohibiting outdoor display of used vehicles as well as improving the landscaping. Staff recommended approval with stipulations.

Stan Hampton, 1020 W. Main Street, Carrollton, representing the applicant, stated they were asking for nothing more than a sales office. There would be no outside work performed and no repairs. The vehicles would be detailed by a sub-contractor at a different location. He stated that the owner does not want outside display and needs about five parking spaces for customers. He stated the site would not be visible by traffic on I-35 and noted the property was zoned Light Industrial. He stated that the applicant agreed with all staff stipulations including filling in and upgrading the landscaping and would adhere to the sign regulations. He stated the applicant was requesting a display and sales situation and noted the company specializes in Volkswagen vehicles.

Vice Chair Averett opened the public hearing and invited speakers to the podium; there were no speakers.

** Chadwick moved to close the public hearing and approve Case No. 02-15SUP3 1st Car Expert Group with stipulations; second by Nesbit and the motion was approved with a unanimous 6-0 vote.*

ORDINANCE NO. _____
Case No. 02-15SUP3 Car Experts Group

PLANNING DEPARTMENT
City of Carrollton
Date: 03/03/15

SPECIAL USE PERMIT NO. 422

ORDINANCE NUMBER _____

ORDINANCE NO. _____ OF THE CITY OF CARROLLTON AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY ESTABLISHING SPECIAL USE PERMIT NUMBER 422 FOR A USED CAR DEALER UPON PROPERTY LOCATED AT 1500 CRESCENT DRIVE, SUITE 400; AMENDING THE OFFICIAL ZONING MAP; AND PROVIDING FOR A PENALTY OF \$2,000 PER DAY, SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE ON AND AFTER ITS ADOPTION AND PUBLICATION.

WHEREAS, at a public hearing held on the Fifth day of February, 2015, the Planning & Zoning Commission considered and made recommendation on a request regarding a Special Use Permit (Case No. 02-15SUP3); and

WHEREAS, this change of zoning is in accordance with the adopted Comprehensive Plan of the City of Carrollton, as amended; and

WHEREAS, the City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following amendment to the zoning laws would provide for and would be in the best interest of the health, safety, morals and general welfare:

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

Section 1.

Special Use Permit Number 422 is hereby established for a certain approximately 1.8-acre tract of land located at 1500 Crescent Drive, Suite 400 (the "Property"), also known as Lot 3, Block 2, Capital Center Phase 2, and more specifically depicted on Exhibit A, attached hereto and incorporated herein by reference for all purposes allowed by law, providing for the following use:

Used Car Dealer (Indoors Only)

Section 2.

The development shall be in accordance with the following special conditions, restrictions and regulations:

1. No outdoor display of used vehicles for sale shall be permitted.

2. Shrubs, of a size and variety approved by the City Arborist, shall be added to the rear of the building where shrubs are currently missing.
3. A row of foundation shrubs, of a size and variety approved by the City Arborist, shall be added to the building facade where the building can be seen from the street.

Section 3.

The Comprehensive Zoning Ordinance and the Official Zoning Map are hereby amended to reflect the action taken herein.

Section 4.
Penalty Clause

Any person, firm or corporation violating a provision of this ordinance, upon conviction, is guilty of an offense punishable as provided in Section 10.99 of the Carrollton City Code.

Section 5.
Repealer Clause

This ordinance shall be cumulative of all provisions of ordinances of the City of Carrollton, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 6.
Severability Clause

The provisions of this ordinance are severable in accordance with Section 10.07 of the Carrollton City Code.

Section 7.
Savings Clause

Ordinance Number 1470, otherwise known as the Comprehensive Zoning Ordinance and the Official Zoning Map, as amended, shall remain in full force and effect.

Section 8.

This ordinance shall become and be effective on and after its adoption and publication.

ORDINANCE NO. _____
Case No. 02-15SUP3 Car Experts Group

PASSED AND APPROVED this the Third day of March, 2015.

CITY OF CARROLLTON

By: _____
Matthew Marchant, Mayor

ATTEST:

Krystle F. Nelinson
City Secretary

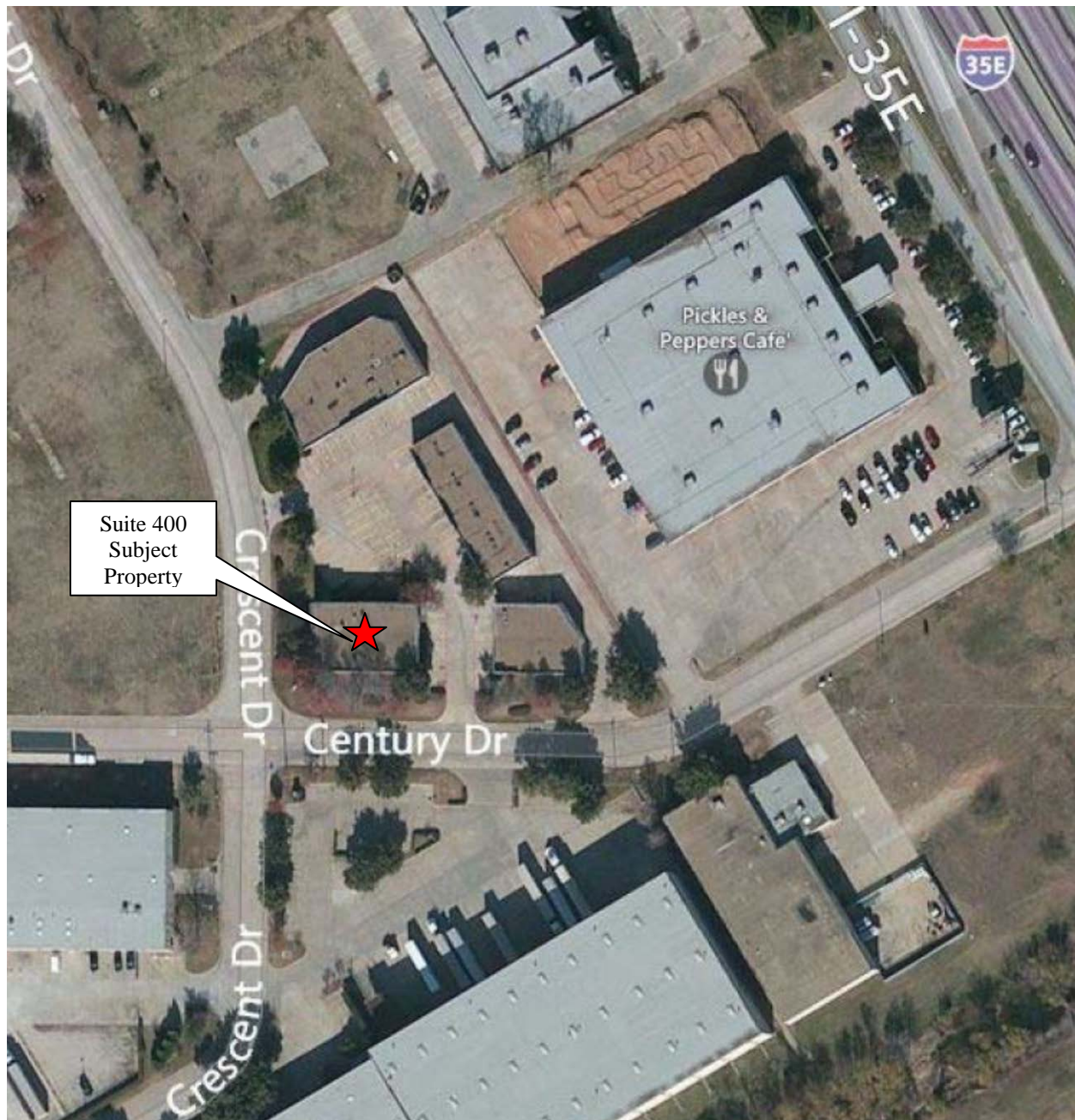
APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Susan Keller
Assistant City Attorney

Michael McCauley
Senior Planner

EXHIBIT A





City of Carrollton

Agenda Memo

File Number: 1870

Agenda Date: 3/3/2015

Version: 1

Status: Public
Hearing/Individual
Consideration

In Control: City Council

File Type: Public Hearing

Agenda Number: 24.

CC MEETING: March 3, 2015

DATE: February 16, 2015

TO: Leonard Martin, City Manager

FROM: Christopher Barton, Chief Planner

Hold A Public Hearing And Consider An Ordinance To Establish A Special Use Permit To Allow A Used Car Dealership With Special Conditions On An Approximately 6.1-Acre Tract Located At 3216 Kellway Drive, Amending Accordingly The Official Zoning Map. Case No. 02-15SUP2 Earth Motor Cars/Frank Cortese. Case Coordinator: Christopher Barton

BACKGROUND:

This is a request to establish a special use permit for a used car dealership with outdoor display.

This case was previously considered by the Planning & Zoning Commission on February 5, 2015, and was recommended for approval. Staff subsequently discovered an omission in the case caption (omitting the address of the “hard corner” parcel) that needs to be corrected before the case is considered by the City Council. Other than correcting the case caption, this case report is presented to the City Council exactly as it was presented to the Commission. The staff recommendations remain the same.

STAFF RECOMMENDATION/ACTION DESIRED:

Staff recommends that the City Council table this case in order for the Planning & Zoning Commission to consider this case on March 5 with the correct case caption.

RESULTS SHEET

Date: 02/06/15

Case No./Name: 02-15SUP2 Earth Motor Cars

A. STIPULATIONS AND RECOMMENDATIONS:

Staff recommends **APPROVAL** with the following stipulations:

1. All cars shall be property parked in individual marked spaces.
2. Any incorporation and development of the “hard” corner of Kellway Drive and Midway Road shall be in substantial conformance with the Conceptual Site & Landscape Plan attached as Exhibit ____.

B. P&Z RECOMMENDATION from P&Z meeting: 02/05/15

Result: **APPROVED**/Vote: 5 – 1 (McAninch opposed, Daniel-Nix & Romo absent, one seat vacant).

C. CC PUBLIC HEARING and ORDINANCE ACTION from CC meeting: 03/03/15

Result: /Vote:

SPECIAL USE PERMIT

Case Coordinator: Christopher Barton

GENERAL PROJECT INFORMATION

SITE ZONING: (LI) Light Industrial District

	<u>SURROUNDING ZONING</u>	<u>SURROUNDING LAND USES</u>
NORTH	(LI) Light Industrial District	Warehouse uses
SOUTH	(LI) Light Industrial District	Warehouse uses
EAST	Addison (across Midway Rd.)	Warehouse/Industrial uses
WEST	(LI) Light Industrial District	Warehouse uses

REQUEST: Special Use Permit to allow a used car dealer with outdoor display

PROPOSED USE: Used car sales

ACRES/LOTS: Approximately 6.1 Acres/2 Lots (to be replatted into one)

LOCATION: 3216 Kellway Drive

HISTORY: The current zoning on the property was established in December 1973.

The property was originally platted into a lot of legal record in 1978, as part of Beltwood North Venture Addition. Various portions of this addition have been replatted over the years, most recently in July 2013. The applicant is currently in the process of incorporating the currently vacant tract directly to the east.

The existing building was constructed in 2014.

COMPREHENSIVE PLAN: Industrial Uses

TRANSPORTATION PLAN: Midway Road is designated as a (A6D) Six-Lane Divided Arterial and Kellway Drive is designated as a (C2U) Two-Lane Undivided Collector.

OWNER: Earth Commercial Properties, LLC

REPRESENTED BY: Frank Cortese/Earth Motorcars

STAFF ANALYSIS

PROPOSAL

This is a request to establish a new Special Use Permit for a Used Car Dealer with outdoor display.

ORDINANCE REQUIREMENTS

The (LI) Light Industrial District currently allows **outdoor** used car display only with a Special Use Permit. Used car dealerships with indoor display only are allowed “by right.”

ELEMENTS TO CONSIDER, EXISTING BUILDING:

- Currently the site holds a Certificate of Occupancy for a used car dealership with indoor display only, which is allowed by the Comprehensive Zoning Ordinance by right.
- The current business sells late-model, high-quality used cars.
- There is no history of code enforcement problems at this location.
- This is a completely new building, completed in 2014. It was designed as a facility for Earth Motor Cars.

ELEMENTS TO CONSIDER, PROPOSED NEW LOT:

- The applicant proposes to incorporate the currently-vacant property between the existing Earth Motor Cars facility and Midway Road into his property (via a replat) and develop it as additional outdoor parking.
- As part of the development of the site, significant drainage issues will be accommodated. A large drainage channel adjacent to Kellway Drive will be constructed to intercept flood waters and convey them to an existing channel on the east side of the Earth Motor Cars property, thence south to an unnamed tributary of Hutton Branch. Because the corner parcel is in the flood hazard area, it is being required by FEMA to design to the “100-year” flood event. This means that the property must be designed to handle a flood event of 1,300 cubic feet per second.
- The property to be developed as additional parking is relatively small (about 150 feet by 290 feet). As such, it is not appropriate for a warehouse/distribution building. It might be suitable for a general retail, office or auto maintenance facility. Given the drainage issues, however, the cost of development seems to be preventing such other development.

EXISTING LANDSCAPING:

- The landscaping on the existing Earth Motor Cars building site meets the current requirements of the zoning ordinance.

PROPOSED LANDSCAPING:

- The proposed landscape buffer along Midway Road is a minimum of 20 feet (near the south end of the property), and gradually increases in depth moving north to Kellway Drive. At the north end of the property, the buffer is approximately 40 feet in width. The “base” zoning requirement is an average of 15 feet in width, but no narrower than 3 feet at any point.
- Within the landscape buffer, the applicant is proposing the following plant elements:
 - 6 shade trees (“base” requirement is 6)
 - 10 ornamental trees (“base” requirement is 12)
 - A parking lot screening hedgerow consisting of alternating groups of Eleagnus and Dwarf Wax Myrtle (meeting the “base” requirement of 34 shrubs per 100 linear feet)
- Within the parking area, the applicant is proposing an increase in the number of interior landscape islands (those located in the middle of a row, not at either end) above what would be required by the “base” zoning as follows:
 - Three along Midway and Kellway, where only one would be required
 - One along the west property line, where none would be required
 - Two in the internal parking row, where none would be required
 - In each of the non-required interior landscape islands additional shade and ornamental trees are provided

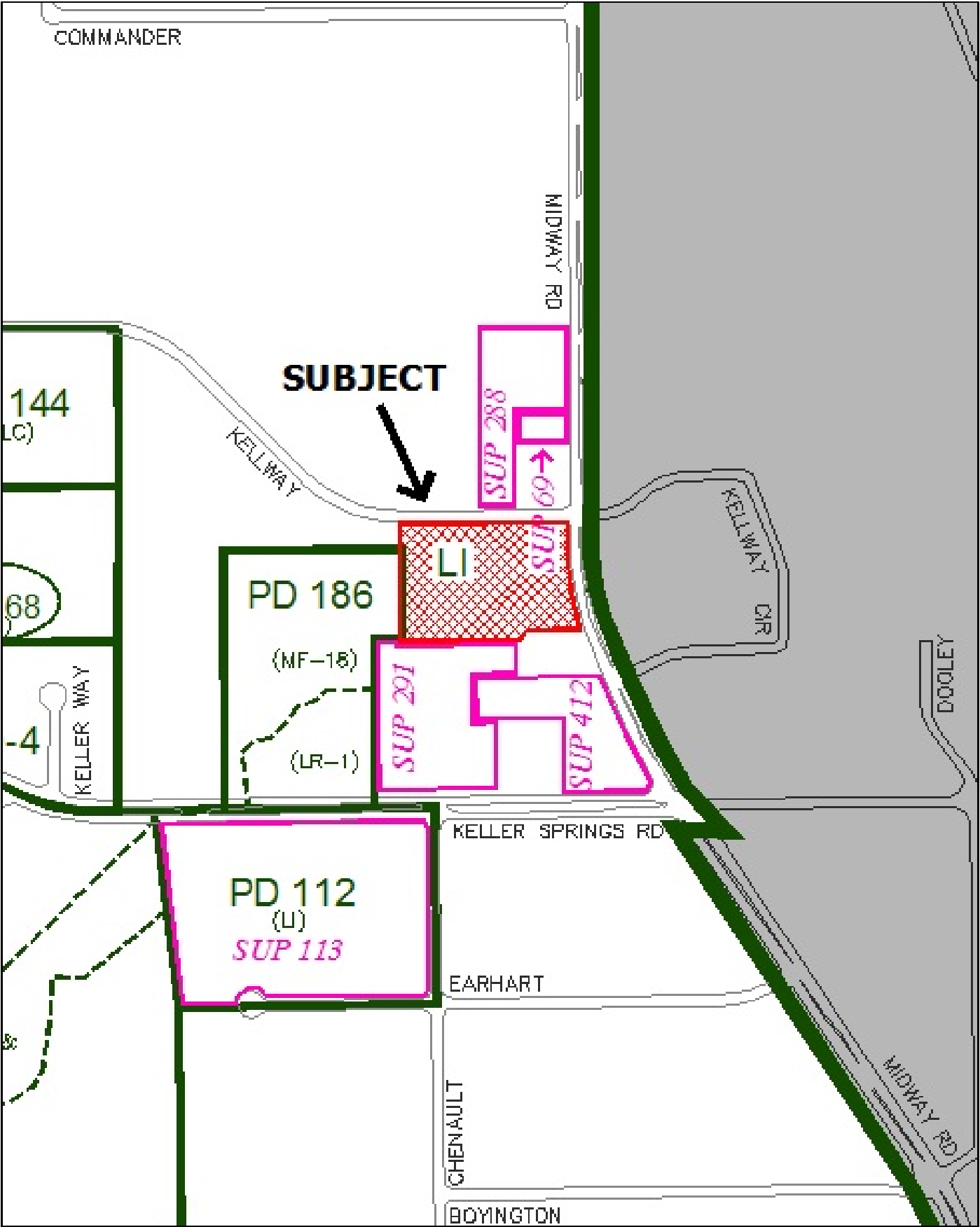
The result of this is a superior landscaping package for the site as a whole.

- Any use allowed “by right” in this zoning district could place a parking lot adjacent to Midway Road. A 15-foot landscape buffer would be required, with the “base” landscaping requirements.
- Because the corner parcel is in such a severely flood-prone area, staff is hesitant to recommend landscaping substantially in excess of the “base” requirements, due to the likelihood that they will be washed away by a flood event.

CONCLUSION:

The use appears appropriate.

SITE LOCATION AND ZONING MAP



SUPPLEMENTARY INFORMATION
Photos of existing Earth Motor Cars facility



SUPPLEMENTARY INFORMATION

Aerial Photo

(Note: Photo shows building “pad” but was taken before building was completed)



SUPPLEMENTARY INFORMATION

Applicants Concept & Artist Renderings Package
(following pages)



3216 Kellway Drive
Carrollton, Texas





Request for a Special Use Permit

Earth Motorcars is part of the Earth Companies which is comprised of Earth Motorcars, Earth Collision Centers, and Earth Commercial Properties.

We offer the outstanding Customer Service of a Premium Dealership for the finest Pre-Owned Vehicles including meticulously restored Classic Cars. Mr. Frank Cortese and Mr. Brad Hansing are co-owners of this Carrollton based business.

Earth Companies owns two commercial properties in the City of Carrollton :

- 3216 Kellway, 68,300 SF Single story Auto Dealership
- 2245 Kellway, 33,000 SF Three story Office

In August 2014 we opened our new building at 3216 Kellway. This project required over two years of planning and construction to reclaim the land from a flood plain. This effort demonstrates our resolve to be a continuing part of the Carrollton business community.

The response of our customers and the general public has been amazing. Already, our continuing growth is requiring more space for vehicle display and inventory. The most effective way to do this is by being able to display vehicles outside.

Therefore, we are requesting an SUP that will permit us to do that in this LI zone. We are not only requesting that outside display be allowed for our existing facility, but we are also proposing to reclaim additional land from the flood plain for use as parking for vehicle display and inventory.

We acknowledge that open air car sales businesses historically have a poor reputation because of overcrowded lots with vehicles encroaching on the street right-of-way, questionable decorations, and tawdry signage. With no real investment in their location, they quickly move on to the next suburb.

To counter that, we offer:

- Our building and site have been designed from the beginning to be for vehicle sales. Starting with a clean slate we had a chance to get it right, as our new facility shows.
- Parking designed to the same criteria as an office occupancy.
- Vehicles set back from the right-of-way allowing for quality landscaping and areas of *increased* landscape buffers along Midway Road.
- The world class design of our new facility demonstrates our commitment to architectural aesthetics. In the process we reclaimed otherwise unusable land from a flood plain.
- Our business has made a substantial investment in Carrollton. We have been here for eight years and we will be here in the future.

We sincerely believe that we contribute to the vibrant economy of this city. With your approval of our request we will continue to do so.

Thank you



EXISTING SITE PHOTOS





3

EXTERIOR LOOKING SOUTHWEST



4

MOTORCARS ENTRANCE



INVENTORY



SHOWROOM



EXISTING SITE PLAN



BUILDING AREAS

B OFFICE @ 1/300 SF 13,889 SF/ 47 PERSONS
S1 WAREHOUSE @1/2500 SF 54,411 SF/ 24 PERSONS

EXISTING PARKING

REQUIRED OFFICE 13,889 SF @ 1/250 56 SPACES
REQUIRED WAREHOUSE 54,411 SF @1/2500 22 SPACES
TOTAL REQUIRED 78 SPACES

TOTAL SPACES PROVIDED 123 SPACES

NEW PARKING

PROPOSED VEHICLE DISPLAY 62 SPACES





AERIAL VIEW COMPLETED PROJECT





STREET VIEW COMPLETED PROJECT



THANK YOU



**Excerpt from Draft Minutes
Planning & Zoning Commission
Meeting of February 2, 2015**

Hold A Public Hearing And Consider An Ordinance To **Establish A Special Use Permit** To Allow A Used Car Dealership With Special Conditions On An Approximately 6.1-Acre Tract Located At 3216 Kellway Drive, Amending Accordingly The Official Zoning Map. **Case No. 02-15SUP2 Earth Motor Cars**/Frank Cortese. Case Coordinator: Christopher Barton.

Barton presented the case noting the site was located at the southwest corner of Midway Road and Kellway Drive. The applicant proposed a somewhat enhanced landscape package along Midway Road and significantly greater landscaping enhancement interior to the parking lot. Staff recommended approval.

Allan Hill, 3911 Clear Cove Lane, Dallas, Architect representing the applicant, stated they were aware that the building was for indoor car sales only at the time of purchase but the business had been more successful than expected. He stated it was necessary to have additional space and outdoor display of vehicles would allow for the space needed. He addressed the investment in the property to address storm water issues and noted that without flood mitigation, the small corner lot would be unusable. Further he addressed the proposal of increased landscaping material to mitigate the view of vehicles from Midway Road. Lastly, he advised that he was aware of the parking stipulation and was in agreement with it.

Frank Cortese, co-owner, 5853 Chamberlyne Drive, Frisco, talked about their business and the desire to exceed City requirements. He emphasized that they do not put signs in the windows or graphics on the vehicles and stated that they do not have a repair shop.

Vice Chair Averett opened the public hearing and invited speakers to the podium; there were no speakers.

** Kiser moved to close the public hearing for Case No. 02-15SUP2 Earth Motor Cars and approve the application as stipulated; second by Chadwick and the motion was approved with a 5-1 vote, McAninch opposed.*