



REGULAR WORK SESSION & MEETING OF THE CITY COUNCIL

March 28, 2017

ADDISON TOWN HALL

5300 BELT LINE RD., DALLAS, TX 75254

5:00 PM DINNER & EXECUTIVE SESSION

6:00 PM WORK SESSION

7:30 PM REGULAR MEETING

Executive Session

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1. Closed (executive) session of the Addison City Council pursuant to:

Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, pertaining to:

- **Western LLC Letter of Intent/ Sky B&B**
- **Town Newsletter Email List**

Section 551.072, Tex. Gov. Code, to deliberate the purchase, exchange, lease, or value of real property, pertaining to

- **15003 Inwood Road**

Reconvene from Executive Session

2. **RECONVENE INTO REGULAR SESSION:** In accordance with Texas Government Code, Chapter 551, the City Council will reconvene into Regular Session to consider action, if any, on matter discussed in Executive Session.

WORK SESSION

3. Present **An Update On The Midway Road Reconstruction Project.**
4. Present And Discuss An **Update Regarding The Les Lacs Lake Poly Liner Concrete Edge Restrainer And Drainage Flume Repair Project.**
5. Discuss **Logistics For The Town Meeting On April 3, 2017.**

REGULAR MEETING

Pledge of Allegiance

Announcements and Acknowledgements regarding Town and Council Events and Activities

Discussion of Events/Meetings

6. Public Comment.
The City Council invites citizens to address the City Council on any topic not on this agenda. Please fill out a **City Council Appearance Card** and submit it to a city staff member prior to Public Participation. Speakers are allowed **up to three (3) minutes per speaker** with **fifteen (15) total minutes** on items of interest or concern and not on items that are on the current agenda. In accordance with the Texas Open Meetings Act, the City Council cannot take action on items not listed on the agenda. The Council may choose to place the item on a future agenda.
7. Presentation Of A **Donation From The Addison Legacy Foundation To The Town Of Addison For Spruill Dog Park.**

Consent Agenda:

All items listed under the Consent Agenda are considered routine by the City Council and will be enacted by one motion with no individual consideration. If individual consideration of an item is requested, it will be pulled from the Consent Agenda and discussed separately.

8. Consider **Approval Of The March 14, 2017 Regular Meeting Minutes.**
 9. Consider Action To **Allow The Mayor To Speak Before The Texas State Legislature Regarding Potential Legislation Related To Property Tax Revenue Caps.**
 10. Consider Authorizing The City Manager To **Approve A Final Payment To Groves Electrical Services, Inc., For The Construction Of The Les Lacs Pond Water Well Pump Rebuild Project** In An Amount Not To Exceed \$23,351.97.
 11. Consider Action To **Authorize The City Manager To Approve Change Order No.1 To Teague, Nall, and Perkins For The Midway Road Reconstruction Closed-Circuit Television Investigation And Analysis Of The Sanitary Sewer And Storm Water Lines** In An Amount Not To Exceed \$111,542.03.
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Regular Items

12. Present And Discuss The **Town of Addison Police Department's 2016 Racial Profiling Report.**
13. Present And Discuss **Addison Police Department 2016 Annual Report.**
14. Present, Discuss And Consider Action On A **Resolution To Approve A Professional Services Agreement With Stantec Consulting Services Inc., For Design, Bid, And Construction Phase Services Associated With The Potable Water Capital Improvements Program And Authorize The City Manager To Execute The Agreement** In An Amount Not to Exceed \$127,806.

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15. Present, Discuss, And Consider Action On **The Site Selection For A Relocated Playground.**

 16. Present, Discuss, And Consider Action On A **Resolution Approving Amendment No. 1 To The Agreement For Grant Funding With Addison Arbor Foundation And Authorizing The City Manager To Enter Into An Agreement** In An Amount Not To Exceed \$47,500.

 17. Present And Discuss An **Update On The Public, Educational, And Governmental (PEG) Channel.**

 18. Present, Discuss, And Consider Action On **TCEQ Certification, Additional Environmental Investigation, And Environmental Documents Obtained By The Town Of Addison Relating To 5015 Spectrum Drive.**

 19. Present, Discuss, And Consider Action On **Strategic Planning And Environmental Testing For Town-Owned Properties Located Along The Cotton Belt Corridor In The General Vicinity Of The Intersection Of Quorum Drive And Arapaho Road, Including The +/- 5.6 Acre Site Located At 5035 Arapaho Road.**

 20. Discussion And Possible Action Regarding A Review Of **The Current Transparency Policy And Practice.**

 21. Discuss And Consider Action Regarding A Review Of **Current Council Ethics Guidelines And The Need For Process And Sanctions.**
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NOTE: The City Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (purchase, exchange, lease or value of real property); §551.074 (personnel or to hear complaints against personnel); §551.076 (deployment, or specific occasions for implementation of security personnel or devices); and §551.087 (economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

Adjourn Meeting

Posted:

Laura Bell, 03/24/2017, no later than 5:00 pm

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH DISABILITIES.
PLEASE CALL (972) 450-7017 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

AI-2150

1.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Manager

AGENDA CAPTION:

Closed (executive) session of the Addison City Council pursuant to:

Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, pertaining to:

- **Western LLC Letter of Intent/ Sky B&B**
- **Town Newsletter Email List**

Section 551.072, Tex. Gov. Code, to deliberate the purchase, exchange, lease , or value of real property, pertaining to

- **15003 Inwood Road**

BACKGROUND:

N/A

RECOMMENDATION:

N/A

AI-2151

2.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Manager

AGENDA CAPTION:

RECONVENE INTO REGULAR SESSION: In accordance with Texas Government Code, Chapter 551, the City Council will reconvene into Regular Session to consider action, if any, on matter discussed in Executive Session.

BACKGROUND:

N/A

RECOMMENDATION:

N/A

AI-2132

3.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: Infrastructure- Development Services

AGENDA CAPTION:

Present **An Update On The Midway Road Reconstruction Project.**

BACKGROUND:

On October 11, 2016, staff presented an update to Council regarding the Midway Road Reconstruction Project. During that presentation, staff recommended to Council several design refinement options: a comprehensive geotechnical analysis of the road surface and base and a complete closed-circuit, televised (CCTV) inspection of the sanitary sewer and storm water lines. The geotechnical analysis has been completed and staff is ready to recommend a CCTV proposal to Council. Staff will provide an update to Council on both the geotechnical report and CCTV process. The design work is currently at 30% complete. A Council action item will follow during the regular agenda for consideration to approve the CCTV inspection.

RECOMMENDATION:

Information only, no action required.

Work Session and Regular Meeting**Meeting Date:** 03/28/2017**Department:** Parks & Recreation

AGENDA CAPTION:

Present And Discuss An **Update Regarding The Les Lacs Lake Poly Liner Concrete Edge Restrainer And Drainage Flume Repair Project.**

BACKGROUND:

On August 23, 2016, staff provided a Council update related to the four (4) separate Les Lacs Pond projects. These projects were identified as:

- Les Lacs Pond Water Well Pump Rebuild
- Les Lacs Pond Water Well Transfer Piping System Improvements
- Les Lacs Pond Water Quality Monitoring and Well Pump Operation Program
- Les Lacs Lake Poly Liner Concrete Edge Restrainer and Drainage Flume Repair

The first two projects are now complete, and the third is scheduled to begin in the summer months. This item is to update Council on the Les Lacs Lake Poly Liner Concrete Edge Restrainer and Drainage Flume Repair.

This project was initiated within the Parks Department and was to be funded using the department's operation and maintenance budget. The goal of the project was to repair the damaged portions of the lake edge that were failing (approximately 270 Linear Feet) and a damaged drainage flume at Lakeview Court.

The project was advertised on BidSync on August 3, 2015. The bids closed on September 1, 2015 and only one (1) bid was received from Capital Restoration in the amount of \$69,819. This bid exceeded the estimated project cost of \$30,000 and was scheduled for a re-bid.

The project re-bid was advertised on BidSync on October 20, 2015 with an increased project estimate of \$75,000. The bid closed on November 10, 2015 and no bids were received.

The bid specifications were revised to allow a contractor the ability to use an inflatable dike system in lieu of de-watering the entire lake. Following the changes to the specifications, the project re-bid was advertised on BidSync on November 11, 2015. The bids closed on December 1, 2015 and only one (1) bid was received from Capital Restoration in the amount of \$116,810. This bid amount included the use of a portable

dike system to eliminate the need to de-water the lake.

Upon receiving the bid, Town Staff began coordinating the project with Capital Restoration. The contractor proposed the use of aqua-barrier cofferdams which required the installation of steel pipes through the pond liner. Staff rejected this method since it would require puncturing the existing pond liner. The contractor then proposed the use of the Portadam system. The Portadam sales manager determined their system was not applicable based on the potential for the system to puncture the liner but recommended the Town consider using a sandbag cofferdam system. Upon researching the sandbag cofferdam system, Capital Restoration determined that the weight of the supersack sandbags could create additional cracks in the lake edge and potentially damage the pond liner. Based on the lack of available options for installing a portable dike system, the contractor withdrew the bid. The withdrawal of the bid was accepted by Town Staff on March 24, 2016.

With no other bidders, Staff proceeded to draft a Request For Qualifications (RFQ) for Engineering Services for the Les Lacs Pond Edge to look at other possible solutions. The RFQ was advertised on BidSync on May 6, 2016 and closed on May 31, 2016. The Town received and reviewed two (2) RFQ submittals.

The Town is working with the selected firm, identified through the RFQ, to develop a proposal that will provide schematic level design solutions, preliminary construction and maintenance budgets, and facilitate stakeholder involvement for Les Lacs Park pond. The three development strategies to be studied include:

- **Option A:** Remove and replace the pond liner. Remove the existing concrete pond edge and replace with a similar aesthetic solution
- **Option B:** Remove and replace the pond liner. Remove the existing concrete pond edge and provide alternative edge options including, but not limited to, natural pond edge, stone edge, and concrete edge. This design option should also consider additional landscape and aesthetic renovations for the park.
- **Option C:** Evaluate a holistic change to the park, and provide a design option for a more aesthetic and/or functional purpose.

RECOMMENDATION:

Information only, no action required.

AI-2138

5.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: Council

AGENDA CAPTION:

Discuss **Logistics For The Town Meeting On April 3, 2017.**

BACKGROUND:

Town Meetings are held twice a year in the spring and fall at the Addison Conference Centre. This year, the spring meeting will be held on April 3, 2017 at 7:00 pm at the Addison Conference Centre. The format of this meeting gives the Councilmembers an opportunity to update the public on their liaison assignments, status of Town projects, and other Town-related topics. The purpose of this item is to discuss meeting logistics and for Council to give direction to staff on the schedule of events for the evening and the order of the Councilmembers' presentations.

RECOMMENDATION:

Staff requests direction from Council.

AI-2153

7.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: Council

AGENDA CAPTION:

Presentation Of A **Donation From The Addison Legacy Foundation To The Town Of Addison For Spruill Dog Park.**

BACKGROUND:

In March 2016, Town Staff presented to Council the concept plan and cost estimate that was endorsed by the Dog Park Committee for the conversion of Spruill Park located at 4936 Marcus Avenue into a dog park. During the discussion, Council gave direction to staff to wait until the next budget cycle to contemplate using public funds for the dog park conversion with a goal to raise funds privately. To help achieve this goal, Post Properties generously donated \$40,000 to the Addison Legacy Foundation for the conversion of part of Spruill Park into a dog park. The Addison Legacy Foundation is now presenting this \$40,000 donation to the Town.

RECOMMENDATION:

Information only, no action required.

AI-2145

8.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Secretary

AGENDA CAPTION:

Consider **Approval Of The March 14, 2017 Regular Meeting Minutes.**

BACKGROUND:

The City Secretary has prepared the minutes for approval.

RECOMMENDATION:

Administration recommends approval.

Attachments

DRAFT Minutes

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

March 14, 2017

Addison Town Hall, 5300 Belt Line Rd., Dallas, TX 75254

5:00 PM Executive Session

6:00 PM Work Session

7:30 PM Regular Meeting

Present: Mayor Meier; Mayor Pro Tempore Arfsten; Deputy Mayor Pro Tempore Hughes; Councilmember Angell; Councilmember Duffy; Councilmember Walden; Councilmember Wilcox

Executive Session

1. Closed (executive) session of the Addison City Council pursuant to:

Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, pertaining to:

- **Legal advice on appropriate responses to inquiries about the ponds or lakes at Vitruvian Park located within the vicinity and east of the intersection of Vitruvian Way and Ponte Ave., and Farmers Branch Creek.**
- **Town of Addison v. Landmark Structures I, L.P. and Urban Green Energy Cause No. DC-15-0761 44th Judicial Court, Dallas, County**

Section 551.074, Tex. Gov. Code, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, pertaining to:

- **Planning & Zoning Appointment**
 - **Consider Approval Of A Resolution Appointing A Member To The Planning & Zoning Commission To Fill**

An Unexpired Term.

Council convened into Executive Session at 5:00 pm.

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2. **RECONVENE INTO REGULAR SESSION:** In accordance with Texas Government Code, Chapter 551, the City Council will reconvene into Regular Session to consider action, if any, on matters discussed in Executive Session.

Council recessed from Executive Session at 6:22 pm.

Councilmember Duffy moved to approve a Resolution appointing Linda Groce to fill an unexpired term on the Planning & Zoning Commission. Councilmember Walden seconded the motion.

Councilmember Wilcox stated he did not feel Ms. Groce was properly qualified for the position because of a lack of real estate experience.

Deputy Mayor Pro Tempore Hughes stated he served with Ms. Groce in the past and believed she was qualified for the position and fully supported the nomination.

Mayor Pro Tempore Arfsten stated that he believed that not all members of the Planning & Zoning Commission had real estate experience that Councilmember Wilcox considered appropriate.

Councilmember Wilcox stated he wanted the record to show that Ms. Groce contributed to Councilmembers Angell, Walden and Duffy election campaign. Councilmember Wilcox stated the City Attorney stated that practice is not prohibited in any ethical conduct policies but he (Councilmember Wilcox) could not support the nomination knowing that information.

Mayor Pro Tempore Arfsten asked Councilmember Wilcox if any citizen who contributes to Council campaigns is not allowed to serve on the Planning & Zoning Commission.

Councilmember Wilcox stated that when the chance for quid pro quo exists, he believes it was not a good idea or policy. Councilmember Wilcox stated Council is held to a higher standard and he believed it was not appropriate to be involved in votes where money has been exchanged from one party to another. Councilmember Wilcox stated he would not be able to support the nomination.

Mayor Meier stated he believed Councilmember Duffy removed a

qualified person from the Commission with his appointment of Tom Braun in October. Mayor Meier stated Mr. Braun attended one meeting and then resigned to run for Council. Mayor Meier stated he interviewed Ms. Groce and asked her questions regarding her experience and knowledge Town policies. Mayor Meier read from his interview questions and the answers from Ms. Groce.

Deputy Mayor Pro Tempore Hughes stated in his experience, Ms. Groce was always prepared and professional. He stated he felt that the information shared by the Mayor should have been done in Executive Session and not in the public arena.

The motion to appoint Ms. Groce was voted on 5-2 with Mayor Meier and Councilmember Wilcox against.

WORK SESSION

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3. Reception For **2017 Addison Citizens Academy Graduates.**
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REGULAR MEETING

Pledge of Allegiance

Announcements and Acknowledgements regarding Town and Council Events and Activities

Discussion of Events/Meetings

-
4. Present **Certificates To The 2017 Citizens Academy Graduates.**
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Public Comment.

The City Council invites citizens to address the City Council on any topic not on this agenda. Please fill out a **City Council Appearance Card** and submit it to a city staff member prior to Public Participation. Speakers are allowed **up to three (3) minutes per speaker** with **fifteen (15) total minutes** on items of interest or concern and not on items that are on the current agenda. In accordance with the Texas Open Meetings Act, the City Council cannot take action on items not listed on the agenda. The Council may choose to place the item on a future agenda.

There were no speakers.

Consent Agenda:

All items listed under the Consent Agenda are considered routine by the City Council and will be enacted by one motion with no individual consideration. If individual consideration of an item is requested, it will be pulled from the Consent Agenda and discussed separately.

Deputy Mayor Pro Tempore Hughes pulled Item #11 for separate consideration. Councilmember Wilcox pulled Items #12 & #13 for separate consideration.

Mayor Pro Tempore Arfsten moved to approve Items #6-#10. Deputy Mayor Pro Tempore Hughes seconded the motion. The vote was cast 7-0 in favor of the motion.

Item # 11 (Water Master Plan)- Deputy Mayor Pro Tempore Hughes requested more background information related to the Water Projects Master Plan. Assistant Director of Infrastructure Jason Shroyer stated while the plan is titled the "Addison Water Master Plan" this document is not a master plan in teh technical sense. It is more appropriately called a Water Infrastructure Assessment, Evaluation and Capital Improvements Program.

City Manager Wes Pierson stated after further review, action on this item is not needed. The item would serve as information for the Council. Staff will bring pending projects for Council approval in the coming months.

Item # 12 (Traffic Signal Components)- Councilmember Wilcox requested information regarding technology integration within the system for more smart city capabilities within the traffic system. Mr. Shroyer stated this item was for replacement of existing equipment that has met its' end of life within the operation. The monitoring system replacement will need to come to Council for consideration within the next 2-3 years and the new technology could be addressed with that purchase.

Councilmember Wilcox moved to approve Item # 12 as submitted. Mayor Pro Tempore Arfsten seconded the motion. The vote was cast 7-0 in favor of the motion.

Item #13 (Vitruvian sign)- Councilmember Wilcox asked for background information on this item. Assistant Director of Development Services Charles Goff stated In 2011, the Town adopted a special signage district for Vitruvian Park. Over the subsequent years, the Town has amended this signage district as

new phases of the development have come online. Vitruvian West is the next phase and is currently under construction. At build-out, Vitruvian West will include approximately 1,025 multi-family apartment units and a 20,000 square foot amenity and leasing center. As part of the amenity and leasing center, UDR is requesting a pylon sign that would be an architectural extension of the building and was included on the approved development plans for the building. This would be the main signage element for this phase of the broader Vitruvian Park neighborhood, creating a focal point at the amenity and leasing center.

Mr. Goff stated the sign would not interfere with the sidewalk width. The sign is specific to the location and approved only for that location. The sign is 42 feet tall from base with backlit panels which can change color within the sign ordinance guidelines.

Deputy Mayor Pro Tempore Hughes moved to approve Item # 13 as submitted. Councilmember Angell seconded the motion. The vote was cast 7-0 in favor of the motion.

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6. Consider Approval Of The **February 20, 2017 Special Worksession Minutes And The February 28, 2017 Regular Meeting Minutes.**

 7. Consider Action On A **Resolution To Approve A Performance Contract Between The Town Of Addison And Vanilla Ice For The Personal Services Of Musicians And To Authorize The City Manager To Execute The Contract In An Amount Not To Exceed \$35,000.**

 8. Consider Action On A **Resolution To Approve A Performance Contract Between The Town Of Addison And Granger Smith For The Personal Services Of Musicians And To Authorize The City Manager To Execute The Contract In An Amount Not To Exceed \$45,000.**

 9. Consider Action On A **Resolution To Approve A Performance Contract Between The Town Of Addison And Gary Allan For The Personal Services Of Musicians And To Authorize The City Manager To Execute The Contract In An Amount Not To Exceed \$160,000.**
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10. Consider Action On A **Resolution To Support House Bill 1427 Which Amends Section 41.005 Of The Texas Utilities Code To Clarify That A Municipality May Regulate The Operations Of An Electric Cooperative Through The City's Zoning Ordinance Which Is A Permissible Public Health, Safety, Or Welfare Regulation.**

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11. Consider Action On A **Resolution To Approve The 2016 Addison Water Master Plan.**

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12. Consider Action On The **Purchase Of Traffic Signal Controllers, Traffic Signal Lights, And Traffic Signal Backup Batteries, And Associated Components; Renewal Of Traffic Signal Software; And An Agreement For The Maintenance And Testing Of The Back-Up Battery System In An Amount Not To Exceed \$79,655.**

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13. Consider Action On An **Ordinance Amending Chapter 62, Signs, Of The Code Of Ordinances By Amending Article VI, Special Districts, Section 62-289 (g), Vitruvian Park, To Allow For A Pylon Sign As Part Of The Vitruvian West Multi-Family Development At 3737 Vitruvian Way.**

Regular Items

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14. Present, Discuss And Consider Action On An **Ordinance Appointing Thaddeus A. Iwuji As Alternate Municipal Judge Of The Addison Municipal Court Of Record No. 1 And Approving A Compensation Agreement To Perform Services As Alternate Municipal Judge And Administer Oath Of Office.**

Councilmember Angell moved to approve Item # 14 as submitted. Mayor Pro Tempore Arfsten seconded the motion. The vote was cast 7-0 in favor of the motion.

Mayor Meier then administered the Oath of Office to Judge Iwuji.

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15. Present, Discuss And Consider Action On Acceptance Of The **Fiscal Year 2016 Comprehensive Annual Financial Report (CAFR).**

Chief Financial Officer Olivia Riley introduced Kevin Kemp from BKD, LLP, the audit firm who conducted the Fiscal Year 2016 audit for the Town of Addison. Mr. Kemp stated the goal of the independent audit is to provide reasonable assurance that the financial statements of the Town are free of material misstatement. In addition to providing an overview of the Town of Addison CAFR for fiscal year 2016, Mr. Kemp presented the audit report and opinion on the Town's financial statements. Mr. Kemp stated BKD has issued an unmodified opinion, which means that financial statements are presented, in all material respects, in accordance with applicable financial reporting framework. An unmodified opinion is a clean opinion.

Deputy Mayor Pro Tempore Hughes stated bottom line was that the "clean, unmodified opinion" is the best. Mr. Kemp stated from an audit standpoint there isn't anything better.

Mayor Meier thanked the consultant and staff for the hard work. Mayor Meier also thanked City Manager Pierson for keeping the internal control in place and holding staff to those standards.

(Council moved on to Item #16. Mr. Pierson brought Item #15 back to Council's attention for an approval motion after discussing Item #16.)

Deputy Mayor Pro Tempore Hughes moved to accept the CAFR as submitted. Councilmember Wilcox seconded the motion. The vote was cast 7-0 in favor of the motion.

16. Present And Discuss The **Finance Department Quarterly Financial Report Of The Town For The Quarter Ended December 31, 2016.**

Chief Financial Officer Olivia Riley presented the item to Council. Ms. Riley gave the following highlights for the report to Council. Overall General Fund revenues are up more than 7.0% compared to the prior year, Sales tax collections are up approximately 9.3% compared to the prior year and expenditures for the various departments are in line with projections. General Fund transfers are higher due to budgeted transfers to the Infrastructure and Economic Development funds. Hotel Occupancy Tax revenues are about 2% lower than last year, however expenditures remain in line with projections. Utility Fund revenues are down slightly by 1.7% compared to the prior year, while expenses are higher than last year due to increase in scheduled transfers to Infrastructure and Addison Groves Funds. Storm Water revenues are up slightly by 3.7%

compared to the prior year, while expenses are higher due to start of construction projects.

Deputy Mayor Pro Tempore Hughes asked if staffing levels were sufficient.

City Manager Wes Pierson stated staffing was always a moving target. Mr. Pierson stated the numbers in the report have not changed significantly.

Councilmember Wilcox asked about the status of hiring in the Police and Fire Departments. Mr. Pierson stated both departments are closer to being fully staffed.

Mayor Meier stated he would like to bring the Council's attention to the hotel tax collection breakdown on page 15 of the report. Mayor Meier stated all the hotels look to be in line with the exception of Budget Suites. Mayor Meier stated the disparity between the rooms at the extended stay hotel and the amount of tax collected is evident on every report every quarter. He stated he would hope that issue would be rectified soon to show the Town collecting the proper amount of hotel tax for that location.

Council thanked staff for the hard work on the quarterly report.

17. Receive An **Update From Staff On Environmental Documents Obtained By The Town Of Addison Relating To 5015 Spectrum Drive.**

Assistant Director of Development Services Charles Goff presented the information to Council. Mr Goff went over the history of the properties, listed throughout the documents as Tract 1 (Former Ashland Chemical Plant), Tract 2 (5015 Spectrum Drive) and Tract 3 (Town of Addison Right of Way). The Ashland Chemical plant was located on what is today the southwest corner of Quorum Drive and Edwin Lewis Drive. Currently a Springhill Suites hotel is located on the west half of Tract 1 and the eastern half is currently vacant.

Mr. Goff gave the history of the TCEQ paperwork received.

In 1998, TCEQ gave a final certificate of completion through the Voluntary Clean Up Program (VCP) for the property. In 2017 Town staff at the request of Deputy Mayor Pro Tempore Hughes requested and received the Phase II Environmental Site Assessment and the Affected Property Assessment Report from TCEQ that was used to make the land use determination under the

VCP.

In 1998 a remedial action report completed by Woodward-Clyde showed the Ashland property (tract 1), 5015 Spectrum Drive (tract 2) and the Town of Addison right of way (tract 3) entered into the VCP. This clean up included the removal of 1300 cubic yards of soil on tract 1. Potential contamination of the groundwater migrated from tract 1 was identified on tracts 2 & 3. A certificate of completion was given in 2001 with the prohibition of residential use and prohibition on exposure to and use of groundwater without pre-approval from the state.

In 2014, W&M Environmental Group completed a Limited Phase II Environmental Site Assessment for tract 2 (5015 Spectrum Drive). This assessment included 10 shallow drilled borings, 3 groundwater monitoring wells, yield testing and collecting of soil and groundwater samples. The assessment showed the presence of contaminants of concern including RCRA 8 metals, total petroleum hydrocarbons and volatile organic compounds but concluded that the levels were below the protective concentration levels and residential assessment levels. This means that the presence of these contaminants of concern were so low that they did not pose a risk to public health or safety. TCEQ issued a certificate of completion based on the results of the assessment and determined the tract was acceptable for residential land use.

Mr. Goff completed his presentation and offered to answer questions.

Deputy Mayor Pro Tempore Hughes asked if the Voluntary Clean Up Program was considered a benchmark program. Mr. Pierson stated it was a model program for the United States.

Mayor Meier asked if the property at 5015 Spectrum had undergone a Phase II testing in 1994. Mr. Pierson stated no.

Mayor Meier asked questions regarding the testing on 5015 Spectrum Drive since 2014. Mr. Pierson stated staff was not aware of testing done after 2014. Mayor Meier asked if remediation had been completed at 5015 Spectrum Drive. Mr. Pierson stated it was not done as it was not required by TCEQ. Mayor Meier asked if a Phase I or Phase II Environmental Site Assessment had been conducted by AMLI. Mr. Pierson stated staff did not know. The assessment done in 2014 was done by the property owner. Mayor Meier asked if testing has been completed since 2014 on the tract 3 or the Town of Addison right of way. Mr. Pierson stated not to the

staff's knowledge.

Mayor Meier then had a presentation of the timeline for the 5015 Spectrum property in relation to AMLI rezoning.

Deputy Mayor Pro Tempore Hughes asked a question regarding the prohibition of residential in the first certificate of completion. Mr. Pierson stated the VCP protects third parties from environmental liability from the State of Texas. The VCP gives the applicant the ability to chose what level of use to pursue. The highest level of use is residential. In 2014, the property owner sought and was granted certification from TCEQ that the property was acceptable for residential use.

Deputy Mayor Pro Tempore Hughes asked if it was a fair conclusion that the second assessment was done at the direction of the former owner. Mr. Pierson stated the consultant was hired by the land owner who turned the assessment findings over to the TCEQ who would then make the determination on the approval for residential.

Councilmember Walden asked Mr. Pierson if TCEQ would do the testing. Mr. Pierson stated that not that he knew of. He stated the TCEQ would review the assessments conducted by the VCP applicant's consultant.

Mayor Meier stated he wanted to make a motion. Mayor Pro Tempore Arfsten stated the item was not posted for action. City Attorney Brenda McDonald stated the Council could direct staff but no formal motion could be made due to the posting language.

Mayor Meier stated he would recommend the following:

" Seek a legal and environmental expert review of all documentation and information to assure us that the sites named in the reports are safe for current intended use. The review should include but not be limited to:

1. A review of all documents now in possession or reasonable attainable related to the recently rezone residential site at 5015 Spectrum Drive to determine if any new testing is needed related to:

- A. previous testing that has been performed outside a date range of reliability.
- B. to determine if any vapor intrusion has occurred and if so to what extent.
- C. to determine safety to neighbors during the course of any construction on site with respect to groundwater contamination or airborne risk analysis.

2. Review and determination as to need of necessity of any

environmental testing or analysis or application to TCEQ to provide clearance for future development at the site currently owned by Addison in the area.

3. Determine if the former Ashland Chemical site identified as tract 1 in the Phase II report from W&M Environmental Group dated February 19, 2014 has been sufficiently remediated to ensure no other properties in the area are affected by leaching of chemicals or groundwater dispersal from previous Ashland Chemical site."

Councilmember Duffy stated he didn't see the need for the recommendation. Councilmember Duffy stated the Town has all the approvals needed from TCEQ.

Mr. Pierson stated the assessment of the Town property will come soon as it will be necessary with the upcoming Cotton Belt projects.

Mayor Meier stated he would like to see an item on the March 28 meeting to consider action on the recommendation.

Mayor Meier presented a video he wanted to show of responses from the AMLI representatives from the February 14, 2017 meeting. Mayor Pro Tempore Arfsten stated he felt showing the video was inappropriate because the public could view the video from that meeting on their own time.

Council recessed the meeting for a break at 9:10 pm.

Council reconvened into the meeting at 9:18 pm.

Mayor Meier asked for the video to be played. Mayor Pro Tempore Arfsten again stated his disagreement in showing the video. Councilmembers Walden and Duffy agreed.

Councilmember Duffy moved to not allow the video to be played. Mayor Pro Tempore Arfsten seconded the motion. The vote was cast 4-3 in favor of the motion. Mayor Meier, Deputy Mayor Pro Tempore Hughes and Councilmember Wilcox against the motion.

Council discussed the need to bring an action item back on the March 28 meeting for the recommendation provided by Mayor Meier. The City Attorney will craft an item for discussion and action for the March 28 meeting agenda.

Councilmember Duffy stated he would like to table Items #18 & 19 until further information can be provided by the Mayor for the items. Councilmember Duffy stated he felt more information should be given to the Council so all members can be fully ready for discussion of the items.

Councilmember Duffy moved to table Items # 18 & 19 until additional background information can be provided for each item. Mayor Pro Tempore Arfsten seconded the motion. The vote was cast 6-1 in favor of the motion. Mayor Meier voted against.

-
19. Discussion And Possible Action Regarding A Review Of **Current Council Ethics Guidelines And The Need For Process And Sanctions.**

Item #19 was tabled and direction given as stated above in Item #18.

Adjourn Meeting

NOTE: The City Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (purchase, exchange, lease or value of real property); §551.074 (personnel or to hear complaints against personnel); §551.076 (deployment, or specific occasions for implementation of security personnel or devices); and §551.087 (economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

Mayor-Todd Meier

Attest:

City Secretary-Laura Bell

AI-2152

9.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Manager

AGENDA CAPTION:

Consider Action To **Allow The Mayor To Speak Before The Texas State Legislature Regarding Potential Legislation Related To Property Tax Revenue Caps.**

BACKGROUND:

Texas State legislators are currently discussing a number of bills that would impose lower property tax revenue caps on local governments. These bills erode the ability for local elected officials to decide the best way to finance the services that local governments provide to local residents.

Senate Bill 2 and House Bill 15 have been filed and are moving through the legislative process. It is important for State Legislators to hear from local elected officials on the harmful impact to local governments that such legislation would have.

This item would allow the Mayor to represent the Council's views before Texas legislators as needed.

RECOMMENDATION:

Administration recommends approval.

Work Session and Regular Meeting**Meeting Date:** 03/28/2017**Department:** Infrastructure- Development Services**AGENDA CAPTION:**

Consider Authorizing The City Manager To **Approve A Final Payment To Groves Electrical Services, Inc., For The Construction Of The Les Lacs Pond Water Well Pump Rebuild Project** In An Amount Not To Exceed \$23,351.97.

BACKGROUND:

On August 23, 2016, staff provided a Council update related to the four (4) separate Les Lacs Pond projects. These projects were identified as:

- Les Lacs Pond Water Well Pump Rebuild
- Les Lacs Pond Water Well Transfer Piping System Improvements
- Les Lacs Pond Water Quality Monitoring and Well Pump Operation Program
- Les Lacs Lake Poly Liner Concrete Edge Restrainer and Drainage Flume Repair

This final payment relates to the first project.

The existing pump was installed in 1982 and minimal rehabilitation work was performed in 1992 and 2000. Preliminary testing showed that the pump was not pumping at its designed gallons-per-minute rate. Installation of a new pump will provide a more sustainable flow of fresh water into the pond.

Groves Electrical Services, Inc. was selected, by bid to perform this project. The project included, replacement of the existing well pump, motor, and all associated piping, relocation of the existing well electrical cabinet, and construction of a new masonry wall and gate.

The project included two change orders. The first change order was needed to adjust the location of the new masonry wall to avoid several underground electrical components and conduits. The second change order added a time clock to the well for control and extended the existing irrigation system to accommodate landscaping near the newly adjusted masonry wall. The total project budget for all projects is below:

Les Lacs Pond Projects		
Overall Budget		
<u>Project Name</u>	<u>Budget</u>	<u>Actual Cost</u>
Les Lacs Transfer Piping	\$263,450.00	\$190,325.00
Les Lacs Well Rebuilding	\$379,940.00	\$310,100.70
Les Lacs Water Quality Management Program	\$154,932.00	\$93,000.00
Total	\$798,322.00	\$593,425.70

The project is now complete and we recommend final payment to Groves Electrical Services, Inc. in the amount of \$23,351.97. This project was budgeted for in the Stormwater Capital Projects Fund.

RECOMMENDATION:

Administration recommends approval.

Attachments

Final Pay Application



February 27, 2017

AVO 29751\WA14

Mr. Jason Shroyer PE
Assistant Director –Infrastructure & Engineering Services
The Town of Addison
16801 Westgrove Drive
Addison, TX 75001

Re: **Les Lacs Pond Water Well
Rebuilding Project
Bid Number 16-43
Town of Addison
Infrastructure & Development Services
Pay Application 3 –Final**

Dear Mr. Shroyer:

Enclosed is Pay Application 3 – Final for Groves Electrical Service, Inc. for work in the amount due of \$23,351.97. The work reflected in this pay application is the final payment inclusive of retainage and has been completed. Therefore it is our recommendation that payment be made to Groves Electrical Service, Inc.

If you have any questions, please feel free to call me at (214) 761-1637.

Sincerely,

HALFF ASSOCIATES, INC.

A handwritten signature in blue ink, appearing to read "Tim Lackey", is written over the printed name.

Tim Lackey, PE, RPLS
Vice President

Attachment: Pay Application 3 Final

PAYMENT APPLICATION

TO: Town of Addison
 3925 Beltway
 Addison, Texas 75001
 Attn: Jason Shroyer

FROM: Groves Electrical Service, Inc.
 2410 Squire Place Suite A
 Farmers Branch, TX 75234
 Electrical Remodel

FOR: Electrical Remodel

PROJECT NAME AND LOCATION: 1673
 LES LACS Pond Water Well Rebuilding
 3925 Beltway
 Addison, Texas 75001

ARCHITECT: HALFF Associates, Inc.
 12225 Greenville Avenue Suite 200
 Dallas, Texas 75243

APPLICATION # 3 Final Distribution to: OWNER ARCHITECT CONTRACTOR
PERIOD THRU: 01/31/2017 16-43
PROJECT #s: 16-43
DATE OF CONTRACT: 10/05/2016
PAYMENT TERMS: Net 30 Days
PAYMENT DUE: 02/17/2017

CONTRACTOR'S SUMMARY OF WORK

Application is made for payment as shown below. Continuation Page is attached.

1. CONTRACT AMOUNT	\$224,597.00		
2. SUM OF ALL CHANGE ORDERS	\$8,922.70		
3. CURRENT CONTRACT AMOUNT (Line 1 +/- 2)	\$233,519.70		
4. TOTAL COMPLETED AND STORED (Column G on Continuation Page)	\$233,519.70		
5. RETAINAGE:			
a. 0.00% of Completed Work (Columns D + E on Continuation Page)	\$0.00		
b. 0.00% of Material Stored (Column F on Continuation Page)	\$0.00		
Total Retainage (Line 5a + 5b or Column I on Continuation Page)	\$0.00		
6. TOTAL COMPLETED AND STORED LESS RETAINAGE (Line 4 minus Line 5 Total)	\$233,519.70		
7. LESS PREVIOUS PAYMENT APPLICATIONS	\$210,167.73		
8. PAYMENT DUE	\$23,351.97		
9. BALANCE TO COMPLETION (Line 3 minus Line 6)	\$0.00		

SUMMARY OF CHANGE ORDERS	ADDITIONS	DEDUCTIONS
Total changes approved in previous months	\$8,922.70	\$0.00
Total approved this month	\$0.00	\$0.00
TOTALS	\$8,922.70	\$0.00
NET CHANGES	\$8,922.70	

Contractor's signature below is his assurance to Owner, concerning the payment herein applied for, that: (1) the Work has been performed as required in the Contract Documents, (2) all sums previously paid to Contractor under the Contract have been used to pay Contractor's costs for labor, materials and other obligations under the Contract for Work previously paid for, and (3) Contractor is legally entitled to this payment.

CONTRACTOR: Groves Electrical Service, Inc.
 By: Maria Groves Date: 2/17/2017
 Maria Groves

State of: Texas
 County of: Dallas

Subscribed and sworn to before me this 21st day of February, 2017
 Notary Public: Helean Hawkins
 My Commission Expires: 08-02-17

LEON MARY HAWKINS
 Commission Expires
 08-02-2017

ARCHITECT'S CERTIFICATION

Architect's signature below is his assurance to Owner, concerning the payment herein applied for, that: (1) Architect has inspected the Work represented by this Application, (2) such Work has been completed to the extent indicated in this Application, and the quality of workmanship and materials conforms with the Contract Documents, (3) this Application for Payment accurately states the amount of Work completed and payment due therefor, and (4) Architect knows of no reason why payment should not be made.

CERTIFIED AMOUNT: \$23,351.97
 (If the certified amount is different from the payment due, you should attach an explanation. Initial all the figures that are changed to match the certified amount.)

ARCHITECT: ENGINEER
 By: [Signature] Date: 2/27/17

Neither this Application nor payment applied for herein is assignable or negotiable. Payment shall be made only to Contractor, and is without prejudice to any rights of Owner or Contractor under the Contract Documents or otherwise.

CONTINUATION PAGE

PROJECT: 1673 APPLICATION #: 3 Final
 LES LACS Pond Water Well Rebuilding DATE OF APPLICATION: 01/18/2017
 Payment Application containing Contractor's signature is attached. PERIOD THRU: 01/31/2017
 PROJECT #s: 16-43

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
001	Mobilization, Bonds & Insurance	\$11,229.00	\$11,229.00	\$0.00	\$0.00	\$0.00	\$11,229.00	\$0.00	
002	Pulling & Transportation of pump, motor and cable to & from shop	\$6,106.00	\$6,106.00	\$0.00	\$0.00	\$0.00	\$6,106.00	\$0.00	
003	Television Inspection of Well Casing and Screens	\$3,393.00	\$3,393.00	\$0.00	\$0.00	\$0.00	\$3,393.00	\$0.00	
004	Traffic Control during Construction	\$5,762.00	\$5,762.00	\$0.00	\$0.00	\$0.00	\$5,762.00	\$0.00	
005	F&M SW3P, Inlet Protection, Site Protection and Erosion Control	\$12,070.00	\$12,070.00	\$0.00	\$0.00	\$0.00	\$12,070.00	\$0.00	
006	F&I Project Signs	\$2,307.00	\$2,307.00	\$0.00	\$0.00	\$0.00	\$2,307.00	\$0.00	
007	Remove existing Electrical Equipment	\$1,798.00	\$1,798.00	\$0.00	\$0.00	\$0.00	\$1,798.00	\$0.00	
008	Remove & Dispose of Existing Brick Screening Walls	\$2,058.00	\$2,058.00	\$0.00	\$0.00	\$0.00	\$2,058.00	\$0.00	
009	Remove trees and grubbing	\$16,125.00	\$16,125.00	\$0.00	\$0.00	\$0.00	\$16,125.00	\$0.00	
010	Sawing, Removal & Recycling of existing Sidewalks	\$570.00	\$570.00	\$0.00	\$0.00	\$0.00	\$570.00	\$0.00	
011	Sawing, Removal & Recycling of existing concrete pad	\$850.00	\$850.00	\$0.00	\$0.00	\$0.00	\$850.00	\$0.00	
101	F&I Submersible 21 states 80 gpm Well Pump	\$21,484.00	\$21,484.00	\$0.00	\$0.00	\$0.00	\$21,484.00	\$0.00	
102	F&I 1/4" Stainless Steel Airline	\$3,801.00	\$3,801.00	\$0.00	\$0.00	\$0.00	\$3,801.00	\$0.00	
103	F&I Motor conductor Cable and other incidentals per Manufacturer's	\$6,615.00	\$6,615.00	\$0.00	\$0.00	\$0.00	\$6,615.00	\$0.00	
104	F&I 3" X 20" Threaded & Coupled Stainless Steel Column Pipe	\$38,925.00	\$38,925.00	\$0.00	\$0.00	\$0.00	\$38,925.00	\$0.00	
105	F&I 3" In-Line Stainless Steel Check Valve with Plugs	\$2,610.00	\$2,610.00	\$0.00	\$0.00	\$0.00	\$2,610.00	\$0.00	
SUB-TOTALS		\$135,703.00	\$135,703.00	\$0.00	\$0.00	\$0.00	\$135,703.00	\$0.00	\$0.00

CONTINUATION PAGE

PROJECT: 1673 APPLICATION #: 3 Final
 LES LACS Pond Water Well Rebuilding DATE OF APPLICATION: 01/18/2017
 PERIOD THRU: 01/31/2017
 PROJECT #s: 16-43

Payment Application containing Contractor's signature is attached.

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	% COMP (G / C)					
106	F&I Magnetic Flowmeter	\$2,205.00	\$2,205.00	\$0.00	\$0.00	\$0.00	\$2,205.00	\$0.00	
107	F&I Air Release Valve	\$1,426.00	\$1,426.00	\$0.00	\$0.00	\$0.00	\$1,426.00	\$0.00	
108	Reset Pump & Motor, Return Back to Service	\$6,106.00	\$6,106.00	\$0.00	\$0.00	\$0.00	\$6,106.00	\$0.00	
109	Test Pump, Provide Written Completion Report	\$814.00	\$814.00	\$0.00	\$0.00	\$0.00	\$814.00	\$0.00	
110	F&I 3" PVC Schedule 80 Pipe	\$1,269.00	\$1,269.00	\$0.00	\$0.00	\$0.00	\$1,269.00	\$0.00	
111	Construct 4" Thick, 3,000 PSI Reinforce Concrete Sidewalk	\$680.00	\$680.00	\$0.00	\$0.00	\$0.00	\$680.00	\$0.00	
112	Construct 4" Thick 3,000 PSI Reinforce Concrete Pad	\$1,020.00	\$1,020.00	\$0.00	\$0.00	\$0.00	\$1,020.00	\$0.00	
113	Construct Brick Screening Walls	\$6,358.00	\$6,358.00	\$0.00	\$0.00	\$0.00	\$6,358.00	\$0.00	
114	F&I 3" Long X 6' Tall Wrought Iron Swing Gate	\$724.00	\$724.00	\$0.00	\$0.00	\$0.00	\$724.00	\$0.00	
115	F&I 10' Long X 6' Tall Wrought Iron Sliding Gate	\$2,674.00	\$2,674.00	\$0.00	\$0.00	\$0.00	\$2,674.00	\$0.00	
201	F&I Electrical Equipment: Starter, Contactor, Circuits, Load Center	\$3,443.00	\$3,443.00	\$0.00	\$0.00	\$0.00	\$3,443.00	\$0.00	
202	F&I, 4-#3/0, 2" PVC Conduit	\$1,509.00	\$1,509.00	\$0.00	\$0.00	\$0.00	\$1,509.00	\$0.00	
203	F&I, 3-#2 #8G, 1 1/2" PVC Conduit to Exist, Vault from ML	\$1,797.00	\$1,797.00	\$0.00	\$0.00	\$0.00	\$1,797.00	\$0.00	
204	F&I, LTG Circuits: (2) 4 #12, 3/4" PVC Conduit	\$402.00	\$402.00	\$0.00	\$0.00	\$0.00	\$402.00	\$0.00	
205	F&I, 3-#6, 1" PVC Conduit to Irrigation Meter	\$418.00	\$418.00	\$0.00	\$0.00	\$0.00	\$418.00	\$0.00	
206	F&I, 3-#6, 1" PVC Conduit to Well Pump	\$418.00	\$418.00	\$0.00	\$0.00	\$0.00	\$418.00	\$0.00	
SUB-TOTALS		\$166,966.00	\$166,966.00	\$0.00	\$0.00	\$0.00	\$166,966.00	\$0.00	

CONTINUATION PAGE

PROJECT: 1673 APPLICATION #: 3 Final
 LES LACS Pond Water Well Rebuilding DATE OF APPLICATION: 01/18/2017
 Payment Application containing Contractor's signature is attached. PERIOD THRU: 01/31/2017
 PROJECT #s: 16-43

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	% COMP. (G / C)					
207	F&I Millbank Enclosure	\$11,760.00	\$11,760.00	\$0.00	\$0.00	\$0.00	\$11,760.00	\$0.00	
208	F&I Millbank Irrigation Enclosure	\$2,698.00	\$2,698.00	\$0.00	\$0.00	\$0.00	\$2,698.00	\$0.00	
209	F&I Panel ML, 200A with (3) 100A Frame 3P CB's	\$719.00	\$719.00	\$0.00	\$0.00	\$0.00	\$719.00	\$0.00	
210	F&I Cathodic Protection for Steel Piping	\$28,268.00	\$28,268.00	\$0.00	\$0.00	\$0.00	\$28,268.00	\$0.00	
301	F&I, Common Bermuda, "Mid Iron" Sod	\$299.00	\$299.00	\$0.00	\$0.00	\$0.00	\$299.00	\$0.00	
302	F&I, Wood Chips	\$602.00	\$602.00	\$0.00	\$0.00	\$0.00	\$602.00	\$0.00	
303	Tree Trimming	\$2,261.00	\$2,261.00	\$0.00	\$0.00	\$0.00	\$2,261.00	\$0.00	
304	Tree Protection	\$1,696.00	\$1,696.00	\$0.00	\$0.00	\$0.00	\$1,696.00	\$0.00	
305	90 Day Establishment Period	\$1,696.00	\$1,696.00	\$0.00	\$0.00	\$0.00	\$1,696.00	\$0.00	
306	1 Year Maintenance	\$7,632.00	\$7,632.00	\$0.00	\$0.00	\$0.00	\$7,632.00	\$0.00	
310	C/O #1 1673-01R4 Construct Brick Screening	\$7,809.70	\$7,809.70	\$0.00	\$0.00	\$0.00	\$7,809.70	\$0.00	
311	C/O #2 1673-02R1 Install Time Clock	\$1,113.00	\$1,113.00	\$0.00	\$0.00	\$0.00	\$1,113.00	\$0.00	
TOTALS		\$233,519.70	\$233,519.70	\$0.00	\$0.00	\$0.00	\$233,519.70	\$0.00	\$0.00

Work Session and Regular Meeting**Meeting Date:** 03/28/2017**Department:** Infrastructure- Development Services

AGENDA CAPTION:

Consider Action To **Authorize The City Manager To Approve Change Order No.1 To Teague, Nall, and Perkins For The Midway Road Reconstruction Closed-Circuit Television Investigation And Analysis Of The Sanitary Sewer And Storm Water Lines** In An Amount Not To Exceed \$111,542.03.

BACKGROUND:

October 11, 2016 staff recommended to Council several technical analyses for the Midway Road Reconstruction project in an effort to find potential cost savings. One of these is the performance of a closed-circuit, television (CCTV) analysis of the sanitary sewer and storm water lines. The current scope of the Midway Road Reconstruction project includes the complete replacement of the water, sanitary sewer, and storm water lines. The CCTV investigation and analysis of the sanitary sewer and storm water system will allow staff to better understand the existing conditions of those systems and whether complete replacement is warranted or necessary. The analysis will also identify if there are specific line segments that have failed or might fail in the near future so that only those specific sections can be replaced.

Teague, Nall, and Perkins (TNP), the design engineer for the Midway Road Reconstruction project, received four proposals from qualified firms who perform CCTV investigations. After reviewing those proposals, TNP and Town staff recommend Acme Utility Inspection Services, Inc., to provide the investigation of the sanitary sewer and storm water lines under Midway Road. This recommendation is based on price and past history of successful projects. The Town has used Acme Utility Inspection Services, Inc, in the past for other projects related to CCTV performance and their work has been satisfactory.

The footage from the camera work on Midway will be analyzed by TNP and a prioritized list of line segments that need to be replaced will be provided to the Town for consideration. Because of the technical nature and the need for a Professional Engineers seal, these services are classified as a Professional Service.

The total cost for these services, including the assessment, is \$111,542.03. Although this service was not part of the original budget, approximately \$430,000 remains from the 2012 Bond Funds for this project allowing for this work to be performed within budget. This change order will be a 5.6% increase to TNP's contract for design services. The work is expected to take approximately two months to complete. Once the work is complete and the findings are analyzed, staff will bring the information to Council to discuss how to move forward with the Midway Road improvement.

RECOMMENDATION:

Administration recommends approval.

Attachments

Change Order #1 - CCTV Investigation



Change Order Number: 1
Project Name: Midway Road Revitalization Design
Project Number(s):
Project Manager: Will Barresi, P.E.
Date: 3/14/2017

A. INTENT OF CHANGE ORDER

- a. Performance of CCTV inspection on the sanitary sewer and storm water lines along Midway Road in conjunction with the Bond 2012 project, and analysis of the resulting investigation information to confirm the extent of sanitary sewer and storm water lines requiring replacement/rehabilitation.

B. DESCRIPTION OF CHANGE

- a. The original contract did not include any provision for CCTV inspection of the Town owned utility lines, or evaluation of the condition thereof. This change order includes CCTV inspection of approximately 11,000 L.F. of sanitary sewer lines ranging in size from 6" to 18" and approximately 11,000 L.F of storm water lines ranging in size from 18" to 48". It also includes the evaluation of these lines, to determine which, if any, lines may not require replacement as part of this project.

C. REASON FOR CHANGE

- a. The initial cost estimates for the project are much higher than the actual budget. It was determined that there may be some potential cost savings if replacement of some of the utility lines can be avoided. This additional work will allow for the evaluation of the utility lines to determine if portions of the lines can remain in service, reducing the overall project cost accordingly.

D. EFFECT OF CHANGE ON CONTRACT PRICE

This change order will have the following effect on the cost of this project (see next page):

Item Number/Description	Unit	Quantity	Unit Price	Total Price
Sanitary Sewer Lines - Cleaning (includes disposal)				
6" - 8" Lines	LF	8175	\$ 1.10	\$ 8,992.50
10" Lines	LF	4022	\$ 1.38	\$ 5,530.25
12" Lines	LF	1094	\$ 1.65	\$ 1,805.10
18" Lines	LF	1335	\$ 1.93	\$ 2,569.88
Sanitary Sewer Lines - CCTV				
6" - 8" Lines	LF	8175	\$ 1.05	\$ 8,542.88
10" Lines	LF	4022	\$ 1.05	\$ 4,202.99
12" Lines	LF	1094	\$ 1.05	\$ 1,143.23
18" Lines	LF	1335	\$ 1.05	\$ 1,395.08
Storm Sewer Lines - Cleaning (includes disposal)				
18" Lines	LF	1232	\$ 1.32	\$ 1,626.24
21" Lines	LF	1385	\$ 1.38	\$ 1,904.38
24" Lines	LF	1235	\$ 1.43	\$ 1,766.05
27" Lines	LF	220	\$ 1.82	\$ 399.30
30" Lines	LF	1013	\$ 1.93	\$ 1,950.03
36" Lines	LF	1241	\$ 2.75	\$ 3,412.75
39" Lines	LF	903	\$ 3.30	\$ 2,979.90
42" Lines	LF	3018	\$ 3.85	\$ 11,619.30
48" Lines	LF	641	\$ 4.40	\$ 2,820.40
Storm Sewer Lines - CCTV				
18" Lines	LF	1232	\$ 1.05	\$ 1,287.44
21" Lines	LF	1385	\$ 1.05	\$ 1,447.33
24" Lines	LF	1235	\$ 1.05	\$ 1,290.58
27" Lines	LF	220	\$ 1.05	\$ 229.90
30" Lines	LF	1013	\$ 1.38	\$ 1,392.88
36" Lines	LF	1241	\$ 1.38	\$ 1,706.38
39" Lines	LF	903	\$ 1.65	\$ 1,489.95
42" Lines	LF	3018	\$ 1.65	\$ 4,979.70
48" Lines	LF	641	\$ 1.65	\$ 1,057.65
Total for Line Cleaning				\$ 47,376.07
Total for CCTV Inspection				\$ 30,165.96
Total for Traffic Control (included in costs above)				\$ -
Subtotal of CCTV Contractor Costs				\$ 77,542.03
TNP Effort for CCTV Contractor Coordination, ConditionAssesment, and Report				\$ 34,000.00
Total for All Items				\$ 111,542.03
Original Contract Amount				\$ 1,998,859.00
Total Contract Amount (Including Previous Change Orders)				\$ 1,998,859.00
Amount of the Change Order				\$ 111,542.03
Revised Contract Amount				\$ 2,110,401.03
Total % Increase/Decrease (Including Previous Change Orders)				5.6

E. EFFECT OF CHANGE ON CONTRACT TIME

N/A

F. AGREEMENT

By the signatures below, duly authorized agents of the Town of Addison and Teague Nall and Perkins, Inc. do hereby agree to append this Change Order Number 1 to the original contract between themselves, dated 10/28/2014 (insert original contract date).

Teague, Nall, & Perkins, Inc.
Company Name

5237 N Riverside Drive #100

Fort Worth TX 76137
City State Zip

(817) 336-5773
Phone

Project Manager

Department Director



Michael G. DeMotte, P.E.
Design Engineer's Signature

Fin. & Strat. Services Representative

City Manager

Copies: Design Engineer
Department
City Secretary

Council Agenda: Agenda Date _____
(if applicable) Item Number _____
Approved _____

March 14, 2017

Mr. Wesley S. Pierson
City Manager
Town of Addison
P.O. Box 9010
Addison, Texas 75001

**Re: Midway Road (Town of Addison Project No. IDS 15-01)
Contract Amendment #1
Condition Assessment – Sanitary and Storm Sewer Lines**

Dear Mr. Pierson:

As requested by the Town of Addison, we are submitting this request for a contract amendment to the above referenced existing Engineering Services Contract for additional services as further described below.

Task R: Condition Assessment – Sanitary and Storm Sewer Lines

Teague, Nall, and Perkins, Inc. (TNP) via a sub-consultant (ACME Utility Inspection Services, Inc.), will perform Closed-Circuit Television (CCTV) video investigation and documentation of the condition of the existing sanitary sewer and storm sewer lines within the right-of-way of Midway Road between Spring Valley Road and Keller Springs Road. This work is to be performed in order to provide the Town with a higher level of confidence regarding the potential need to replace existing sanitary sewer and storm sewer lines under the pavement/within the right-of-way of Midway Road, as part of value engineering efforts to reduce the cost of the proposed Midway Road improvements.

As necessary, the lines will be cleaned hydraulically to allow for passage of the video camera. When possible, cleaning of the lines will be avoided in order to minimize costs. Should mechanical cleaning be required, it can be provided as an Additional Service. All solids from cleaning operations will be retrieved (not disposed of downstream or into ditches, etc.).

Detailed video logs will be kept and the locations of offset joints, root intrusions, sags, deformations, and other abnormalities will be recorded.

The findings of the investigation and recommendations with respect to potential replacements of segments of the sanitary sewer and storm sewer lines will be documented and presented in a Condition Assessment Report.

Compensation for the efforts associated with these Additional services shall be on a reimbursable basis, based on the number of linear feet of pipe, by diameter range, cleaned and/or CCTV'd. TNP shall invoice the Client for all direct non-labor and/or subcontract expense based on actual cost plus a markup of ten percent (10%).

A summary of pipe sizes and lengths to be analyzed and corresponding maximum anticipated costs are presented as follows:

Item Number/Description	Unit	Quantity	Unit Price	Total Price
Sanitary Sewer Lines - Cleaning (includes disposal)				
6" - 8" Lines	LF	8175	\$ 1.10	\$ 8,992.50
10" Lines	LF	4022	\$ 1.38	\$ 5,530.25
12" Lines	LF	1094	\$ 1.65	\$ 1,805.10
18" Lines	LF	1335	\$ 1.93	\$ 2,569.88
Sanitary Sewer Lines - CCTV				
6" - 8" Lines	LF	8175	\$ 1.05	\$ 8,542.88
10" Lines	LF	4022	\$ 1.05	\$ 4,202.99
12" Lines	LF	1094	\$ 1.05	\$ 1,143.23
18" Lines	LF	1335	\$ 1.05	\$ 1,395.08
Storm Sewer Lines - Cleaning (includes disposal)				
18" Lines	LF	1232	\$ 1.32	\$ 1,626.24
21" Lines	LF	1385	\$ 1.38	\$ 1,904.38
24" Lines	LF	1235	\$ 1.43	\$ 1,766.05
27" Lines	LF	220	\$ 1.82	\$ 399.30
30" Lines	LF	1013	\$ 1.93	\$ 1,950.03
36" Lines	LF	1241	\$ 2.75	\$ 3,412.75
39" Lines	LF	903	\$ 3.30	\$ 2,979.90
42" Lines	LF	3018	\$ 3.85	\$ 11,619.30
48" Lines	LF	641	\$ 4.40	\$ 2,820.40
Storm Sewer Lines - CCTV				
18" Lines	LF	1232	\$ 1.05	\$ 1,287.44
21" Lines	LF	1385	\$ 1.05	\$ 1,447.33
24" Lines	LF	1235	\$ 1.05	\$ 1,290.58
27" Lines	LF	220	\$ 1.05	\$ 229.90
30" Lines	LF	1013	\$ 1.38	\$ 1,392.88
36" Lines	LF	1241	\$ 1.38	\$ 1,706.38
39" Lines	LF	903	\$ 1.65	\$ 1,489.95
42" Lines	LF	3018	\$ 1.65	\$ 4,979.70
48" Lines	LF	641	\$ 1.65	\$ 1,057.65

A summary of anticipated fees **for budgeting purposes** is presented below:

Cleaning of Sanitary and Storm Sewer Lines (Reimbursable)	\$47,376.07
CCTV Inspection of Sanitary and Storm Sewer Lines (Reimbursable)	\$30,165.96
CCTV Contractor Coordination, Condition Assessment, and Report (Fixed Fee)	\$34,000.00
Total:	\$111,542.03

Budget associated with this Contract Amendment #1 will be added as Task R – Condition Assessment – Sanitary and Storm Sewer Lines. This will increase the Task R budget from \$0 to \$111,542.03.

Except as noted above, the services included within the Contract Amendment are to be performed on a reimbursable basis, based on actual work performed. It is understood that the amounts listed above are for budgetary purposes only. Actual amounts invoiced may vary, based upon the actual quantities of pipe cleaned and CCTV'd.

The following items are assumed:

1. No bypass pumping is required. If necessary, bypass pumping may be provided as an Additional Service.
2. The Town shall provide access to sanitary and storm sewer lines.
3. The investigation shall be completed using one mobilization. If multiple mobilizations are required, these can be provided as an Additional Service.
4. Only normal hydraulic cleaning is provided for (e.g. 1 to 3 passes with a jetter only). If necessary, additional/mechanical cleaning may be provided as an Additional Service.
5. Minor traffic control, consisting of traffic cones and signage, is included. If the Town requires traffic control permits/traffic control plans, these may be provided as Additional Services.
6. The Town will provide water for cleaning operations at no charge.
7. The Town will accept water from cleaning operations for disposal (via sanitary sewer system and storm sewer system) at no charge. The Town will accept debris from cleaning operations for disposal. If desired by the Town, TNP can provide complete disposal of debris as an Additional Service at the rate of \$180.00 per ton.

If this proposal is acceptable to the Town of Addison, please sign the statement below and return one copy of this contract to my attention. Thank you for the opportunity to serve the Town of Addison. We value our relationship with the Town and appreciate the confidence you have shown by selecting our firm for this project.

Sincerely,

tnp
teague nall & perkins



Michael G. DeMotte, P.E.
Associate/Team Leader

This contract amendment is ACCEPTED this _____ day of _____, 20____.

Signed: _____

By: Wesley S. Pierson
City Manager

AI-2120

12.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Manager

AGENDA CAPTION:

Present And Discuss The **Town of Addison Police Department's 2016 Racial Profiling Report.**

BACKGROUND:

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested for traffic violations and whether or not those individuals were searched. The department submitted its data to Del Carmen Consulting, LLC for analysis and review to assist the Addison Police Department in reviewing the data. The report presented verifies the Addison Police Department is in full compliance with the state racial profiling statute regarding prevention policies, data collection and reporting.

RECOMMENDATION:

Information only, no action required.

Attachments

2016 Racial Profiling Report



Annual Contact Report 2016 The Addison Police Department

(I) Introduction

Opening Statement

February 16, 2017

Addison City Council
5300 Belt Line Road
Addison, Texas 75254

Dear Distinguished Members of the City Council,

The Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted in 2001 the Texas Racial Profiling Law. Since then, the Addison Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements are now in place. These most recent requirements have been incorporated by the Addison Police Department and are also being addressed in this report.

This particular report contains three sections with information on traffic and motor vehicle-related contact data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Addison Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074); which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389, which, in 2009, introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCOLE (Texas Commission on Law Enforcement) is included. In addition, you will find, in sections 2 and 3 documentation which demonstrates compliance by the Addison Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, you will find documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/16 and 12/31/16. In addition, this section contains the TCOLE Tier 1 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Addison Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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(II) Responding to the Texas Racial Profiling Law

- a) Institutional Policy on Racial Profiling
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TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an "agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

The article further defines race or ethnicity as being of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American." The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide an analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;
(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained;

and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual

who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop;
and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax

effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;
- (4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;
- (5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;
- (6) whether a search of the vehicle was conducted and whether consent for the search was obtained;
- (7) the plea, the judgment, and whether bail was forfeited;
- (8) [~~(7)~~] the date of conviction; and
- (9) [~~(8)~~] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as

added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 200

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

**Most Recent Legal Requirements
(H.B. 3389)**

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle [~~traffie~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle [~~traffie~~] stops in which a citation is issued and to arrests made as a result of [~~resulting from~~] those [~~traffie~~] stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so,

whether the individual [~~person~~] detained consented to the search;
and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit [to the governing body of each county or municipality served by the agency] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [~~traffic~~] stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [~~traffic~~] stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION ____ . Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC AND PEDESTRIAN~~] STOPS. (a) In this article, "race" [+

~~(1)~~ "Race] or ethnicity" has the meaning assigned by Article 2.132(a).

~~(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]~~

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance [~~regulating traffic or who stops a pedestrian for any suspected offense~~] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [~~each~~] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or

ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [~~traffic law or ordinance alleged to have been violated or the suspected offense~~];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [~~the type~~] of the contraband or evidence [~~discovered~~];

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [~~existed and the facts supporting the existence of that probable cause~~];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop [~~, including a description of the warning or a statement of the violation charged~~].

SECTION ____ . Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle [~~, "pedestrian~~] stop" has the meaning assigned by Article 2.132(a) [~~means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest~~].

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each [~~local~~] law enforcement agency shall submit a report containing the incident-based data [~~information~~] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [~~in a manner approved by the agency~~].

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor

vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities [determine the prevalence of racial profiling by peace officers employed by the agency]; and

(B) examine the disposition of motor vehicle [traffic and pedestrian] stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [the] stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [traffic or pedestrian] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b) (1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [traffic and pedestrian] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [traffic and pedestrian] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [traffic and pedestrian] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds or video and audio equipment sufficient, as

determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle [~~traffic and pedestrian~~] stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and
(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;
(2) the person receives community supervision, including deferred adjudication; or
(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION _____. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [and]

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN

COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a

municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; [and]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION ____ . Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION ____ . Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

SECTION ____ . (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(II) Responding to the Law

Institutional Policy on Racial Profiling

Addison Police Department

167.00 Biased-Based Policing (TBBP: 2.01.1)

167.01 PURPOSE

A. The purpose of this order is to reaffirm the Town of Addison Police Department's commitment to unbiased policing in all its encounters with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

NOTE: This policy is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this General Order, if proven, can only form the basis of a complaint by this Department and only in a non-judicial, administrative setting.

167.02 POLICY

A. It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. Racial profiling is an unacceptable police tactic and will not be condoned.

B. This policy is adopted in compliance with the applicable requirements of the Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

167.03 DEFINITIONS

A. Racial Profiling -a law enforcement-initiated action based on an individual's race, ethnicity, or national origin, rather than on behavior or information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.

B. Race or Ethnicity -persons of a particular descent, including Caucasian, African, Hispanic, Asian, Middle Eastern or Native American descent.

C. Acts Constituting Racial Profiling-acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.

D. Motor Vehicle Contact -means an occasion in which a peace officer stops a motor vehicle for an alleged violation of law or ordinance.

167.04 PROHIBITION

A. Officers of the Addison Police Department are strictly prohibited from engaging in racial profiling. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description of a suspect or witness for whom an officer is searching.

B. Officers of the Addison Police Department shall not engage in profiling based solely on gender, sexual orientation, religion, economic status, age, culture, or any other identifiable group.

167.05 COMPLAINT PROCESS

A. No person shall be discouraged, intimidated or coerced from filing a complaint, or be discriminated against because they have filed a complaint.

B. Any person who believes that a peace officer employed by the Addison Police Department has engaged in racial profiling with respect to that person, may file a complaint in accordance with the provisions of Section 120 of the Standard Operating Procedure (Professional Standards).

1. An employee who is contacted regarding a complaint against an officer shall follow the procedures set forth in Section 120 of the Standard Operating Procedure (Professional Standards).

2. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, "How to File a Complaint." Brochures are maintained in the Addison Police Department lobby, and at Addison Town Hall.

C. Any supervisor who becomes aware of an alleged or suspected violation of this policy shall report the alleged violation in accordance with Section 120 of the Standard Operating Procedure (Professional Standards).

D. All complaints of racial profiling shall be investigated as thoroughly as possible. Final disposition and/or assignment of the investigation will be approved the Chief of Police (or designee). A log of all Racial Profiling Complaints will be maintained by Police Administration.

167.06 DISCIPLINARY AND CORRECTIVE ACTIONS

A. Any officer of this Department who is found, after investigation, to have engaged in racial profiling in violation of this policy may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

167.07 PUBLIC EDUCATION

A. This Department shall provide education to the public concerning the racial profiling complaint process. The primary method of public education shall be through a brochure, "How to File a Complaint" which are maintained in the lobby of the Addison Police Department, and at the Addison Town Hall. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet, and/or public meetings.

167.08 COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED OR ARREST MADE

A. For each motor vehicle contact in which a citation is issued and/or for each arrest resulting from a motor vehicle contact, an officer involved in the stop shall collect the following information:

1. Information identifying the race or ethnicity of the person detained. The following codes will be used to identify the individual's race:

A=Asian

B =Black

C = Caucasian

H =Hispanic

M=Middle Eastern

NA =Native American / American Indian

O =Other

****Note:** Officers may not ask the individual to identify their race. If the officer is unable to determine the race or ethnicity of the person contacted, then the race shall be entered as "Other".

2. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual;
3. What violation/charge was used to make first contact or was it related to a call for service;
4. What was the action taken (citation or arrest);
5. What was the contacted person charged with;
6. Was a search was conducted;
7. If a search was conducted, did the individual consent to the search;
8. Or was the search conducted because probable cause existed?

B. The information collected shall be entered in to a database by entering Racial Profiling data utilizing the in-car Mobile Data Computer (MDC), electronic ticket-writers, or the computers available in the Department. All contacts requiring Racial Profiling data collection must be entered.

1. In the event the data is unable to be collected electronically, the data will be recorded on temporary forms and entered in the database at a later date.

C. The Support Operations Division Commander shall ensure all Racial Profiling Data is collected and reported to the Chief of Police. The data collected shall be compiled in an annual report covering the period January 1 through December 31 of each year, and shall be submitted to the governing body of the Town of Addison no later than March 1 of the following year. The report will include:

1. A breakdown of contacts by race or ethnicity;
2. Number of contacts that resulted in a search;
3. Number of searches that were consensual;
4. Number of contacts that resulted in custodial arrest; and
5. Public education efforts concerning the racial profiling complaint process.

****Contacts are defined as motor vehicle contacts that resulted in a citation or arrest.**

D. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

E. Racial Profiling Data will also be reported to the Texas Commission on Law Enforcement (TCOLE) by March 1 of each year, following the Commission's prescribed format.

167.09 AUDIO AND VIDEO EQUIPMENT

A. Each motor vehicle regularly used by this department to make motor vehicle contacts shall be equipped with a mobile video camera system capable of recording video and audio.

B. Every peace officer employed by the Town of Addison will be issued, or have available for use, a body-mounted camera capable of recording video and audio.

C. Each motor vehicle contact made by an officer of this department capable of being recorded by video and audio, shall be recorded.

D. Supervisors and Officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperable mobile video camera equipment shall not be utilized under normal circumstances.

E. Supervisors shall have the authority to assign patrol units with malfunctioning or inoperable mobile video equipment when situations dictate. Officers assigned to such units are required to have a properly functioning body-mounted camera capable of video and audio recording.

167.10 REVIEW OF VIDEO AND AUDIO DOCUMENTATION

A. Each audio and video recording shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a motor vehicle contact. The Commander of the Field Operations Bureau shall ensure that all audio and recordings are properly stored and retained in accordance with applicable laws and this policy.

B. If a complaint is received alleging that an officer has engaged in racial profiling, the audio/video recording shall be forwarded to Police Administration, along with the complaint documentation. The Administration shall retain the video until final disposition of the complaint has been made.

C. Supervisors shall review a randomly selected sampling of five (5) video and audio recordings, made recently by officers under their direct supervision and employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted quarterly and documented on the appropriate Quarterly Inspection Form.

1. Written documentation shall include:

a. the names of the officers whose contacts were reviewed;

- b. the date(s) of the videos reviewed;
- c. the date the actual review was conducted; and
- d. the name of the person conducting the review.

2. The Field Operations Division Commander shall forward the required documentation to Police Administration.

3. Police Administration shall maintain a file of all video review documentation performed, in compliance with this policy.

D. In reviewing audio and video recordings, the supervisor shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, this includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.

167.11 TRAINING

A. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement (TCOLE) not later than the second anniversary of the date the officer's license was issued or carried by the Addison Police Department.

B. The Chief of Police, in completing the training required by the Texas Education Code for chief administrators, shall complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT).

Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the Addison Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, the Addison Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a complaint on a racial profiling violation by a Addison Police officer. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

Racial Profiling Training

Racial Profiling Training

Since 2002, all Addison Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Addison Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Addison has been included in this report.

It is important to recognize that the Chief of the Addison Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Addison Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

Racial Profiling
Course Number 3256
Texas Commission on Law Enforcement
September 2001

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle

4. The officers visually check all observable parts of the vehicle

5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/16---12/31/16, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the Addison Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/16 ---- 12/31/16.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case

Additional Comments:

Tables Illustrating Traffic and Motor Vehicle-Related Contacts

Tier 1 Data

(I) Tier 1 Data

Motor Vehicle-Related Contact Information (1/1/16—12/31/16)

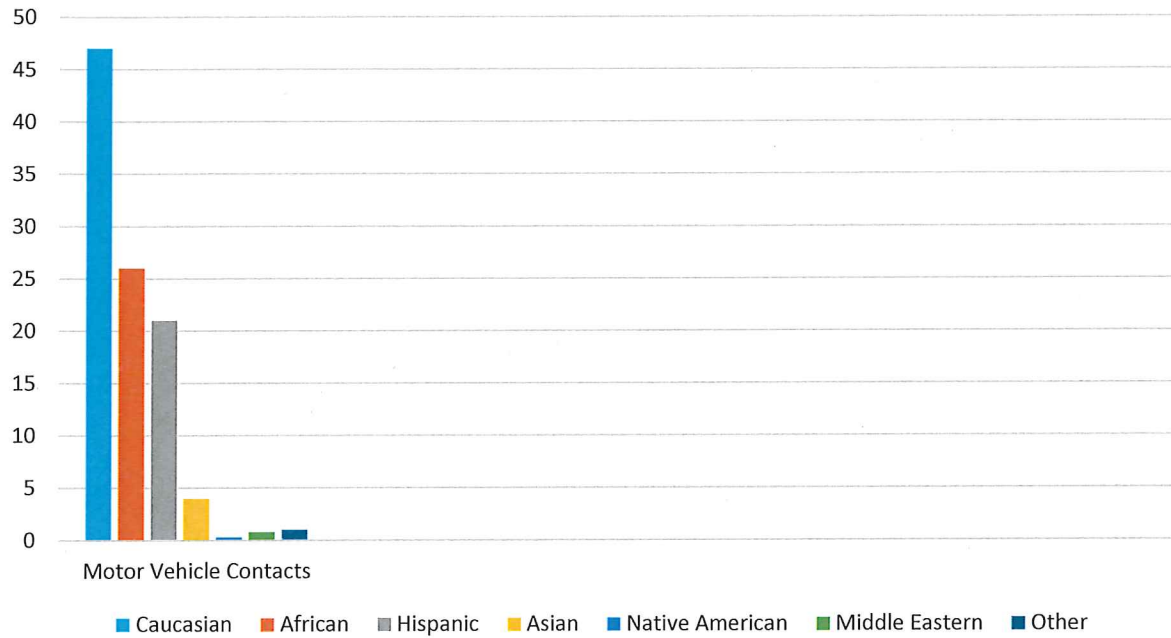
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	1,415	47	114	37	32	41	82	36	227	38
African	774	26	118	38	33	42	85	37	208	35
Hispanic	622	21	62	20	12	15	50	22	131	22
Asian	133	4	5	2	1	1	4	2	10	2
Native American	9	.3	2	.7	0	0	2	.9	1	.2
Middle Eastern	24	.8	1	.3	1	1	0	0	2	.3
Other	37	1	5	2	0	0	5	2	12	2
Total	3,014	100	307	100	79	100	228	100	591	100

"N" represents "number" of traffic-related contacts

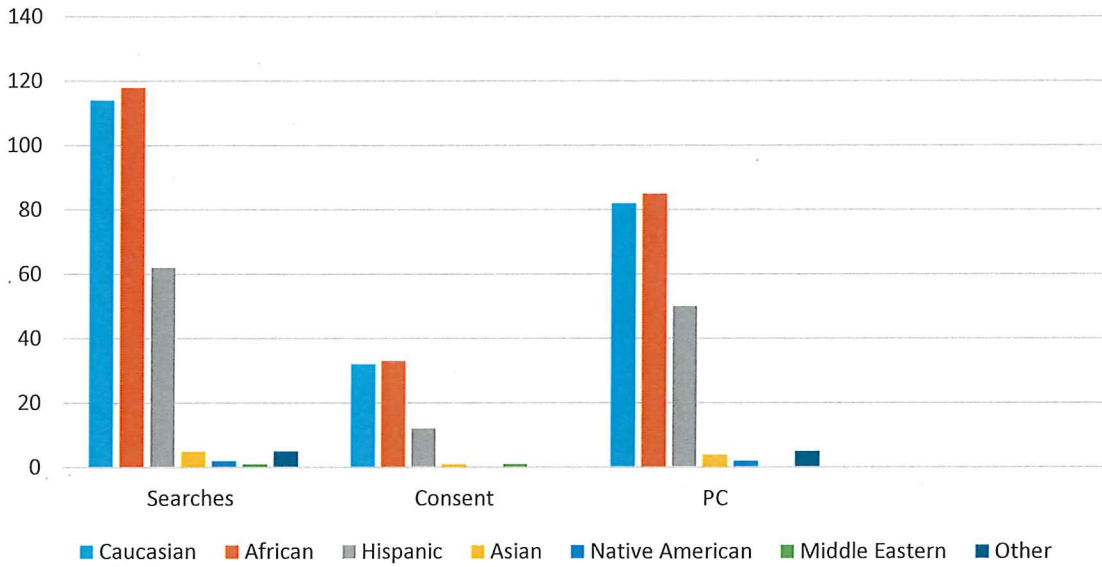
* Race/Ethnicity is defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern".

**Figure has been rounded

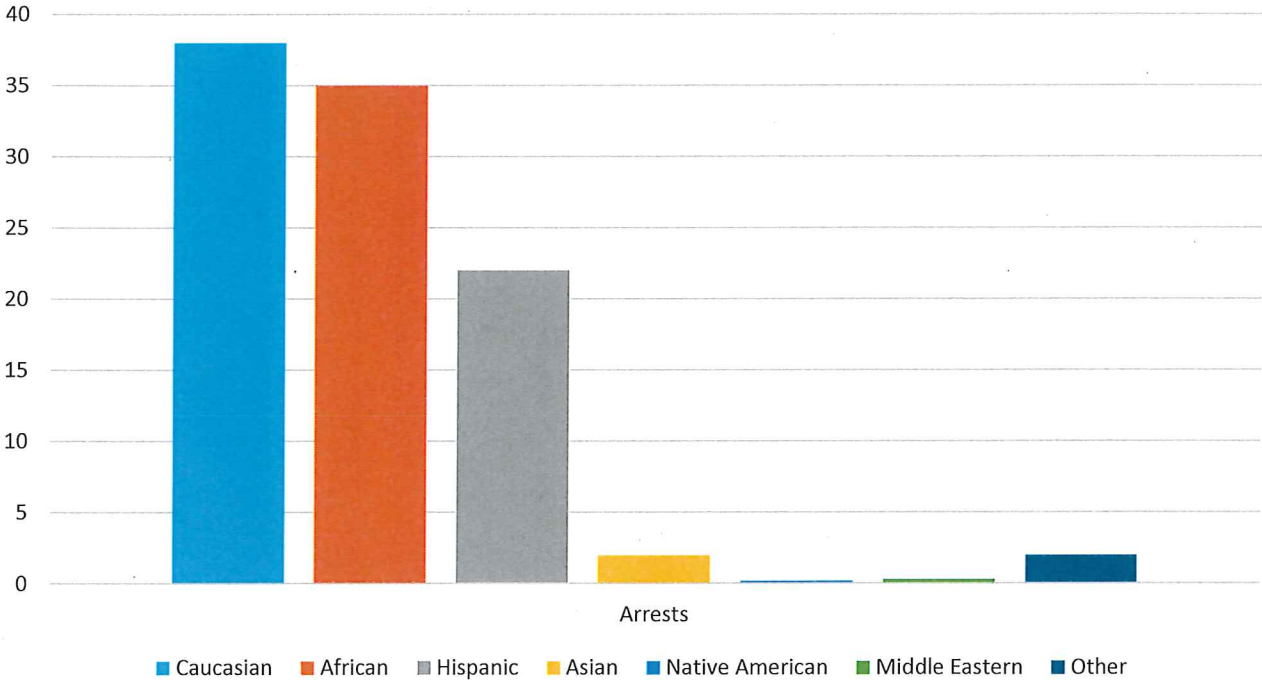
Tier 1 Data (Motor Vehicle Contacts in Percentages)



Tier 1 Data (Frequency of Searches)



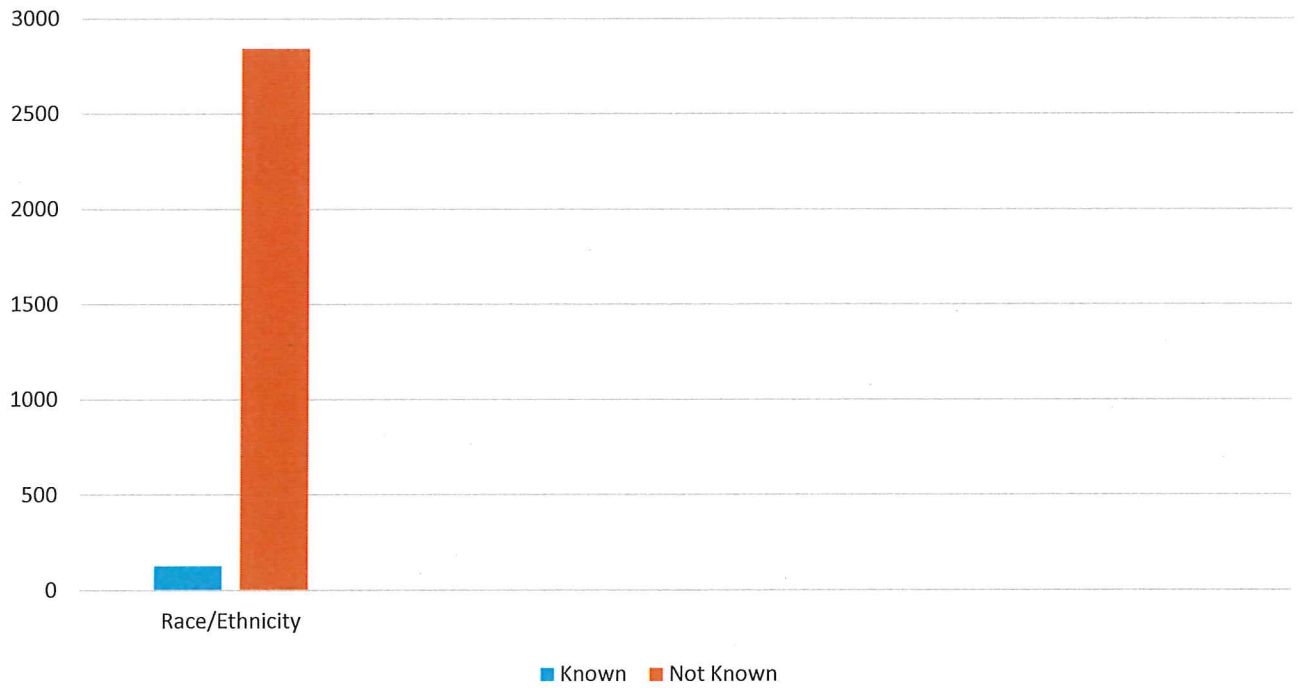
Tier 1 Data (Arrests in Percentages)



Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/16--12/31/16)

Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained	Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained
127	2,843

Known Race/Ethnicity (Frequencies)



Tier 1 (Partial Exemption TCLEOSE Form)

Partial Exemption Racial Profiling Reporting (Tier 1)

Department Name Addison Police Department

Agency Number 113201

Chief Administrator Name Paul Spencer

Reporting Name Mike Vincent

Contact Number 972-450-7122

E-mail Address mvincent@addisontx.gov

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP): Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown

to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These polices are in effect

 1.6.17

Chief Administrator Date

Partial Exemption Racial Profiling Reporting

(Tier 1)

Video and Audio Equipment Exemption


Partial Exemption Claimed by (2.135(a) CCP):

all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

 2.4.17

Chief Administrator Date

Partial Exemption Racial Profiling Reporting (Tier 1)

(This is the TCLEOSE recommended form. The form is not mandatory. The information contained in this form, however, is mandatory. You may use your form, but all information must be provided.)

If you claim a partial exemption you must submit a report that contains the following data or use this format to report the data.

Instructions: Please fill out all boxes. If zero, use 0.

1. Total on lines 4, 11, 14, and 17 Must be equal

2. Total on line 20 Must equal line 15

Number of Motor Vehicle Stops:

1. 2423 citation only

2. 580 arrest only

3. 11 both

4. 3014 Total

Race or Ethnicity:

5. 774 African

6. 133 Asian

7. 1415 Caucasian

8. 622 Hispanic

9. 24 Middle Eastern

10. 9 Native American

* 37 Other

11. 3014 Total

Race or Ethnicity Known Prior to Stop?

12. 127 Yes

13. 2843 No

* 44 Unknown

14. 3014 Total

Search Conducted:

15. 307 Yes

16. 2707 No

17. 3014 Total

Was Search Consented?

18. 79 Yes

19. 228 No

20. 307 Total Must Equal # 15

* Due to data entry failures, 44 contacts could not be categorized in the "Race Known" section.

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

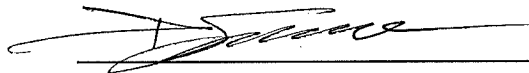
(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above requirements



2.6.17

Chief Administrator

Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

Tier 1 Baseline Comparison (Fair Roads Standard)

(II) Motor Vehicle-Contacts and Fair Roads Standard Comparison

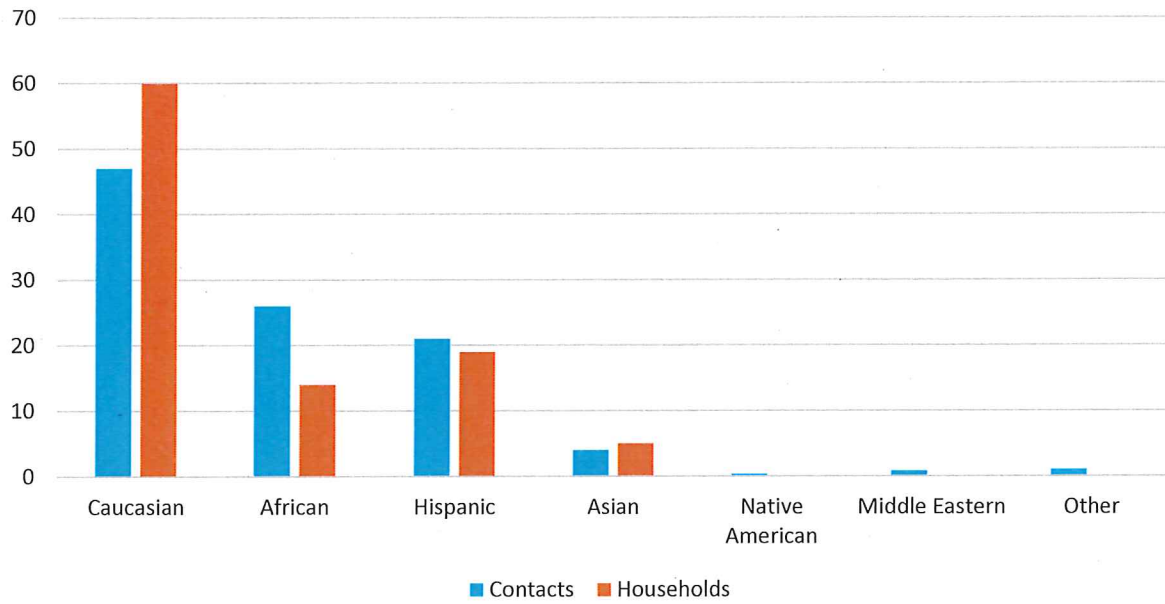
Comparison of motor vehicle-related contacts with households and U.S. Census in the Dallas Fort-Worth Metroplex that have vehicle access (in percentages). (1/1/16—12/31/16)

Race/Ethnicity*	Contacts (in percentages) 2016	U.S. Census DFW 2010 Data (in percentages)
Caucasian	47	60
African	26	14
Hispanic	21	19
Asian	4	5
Native American	.3	N/A
Middle Eastern	.8	N/A
Other	1	N/A
Total	100**	98**

* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American and Middle Eastern”.

**Represents rounded figure

Motor Vehicle Contacts and Households (Percentages) 2016



Analysis and Interpretation of Data

Analysis

In 2001, the Texas legislature passed Senate Bill 1074 which became the Texas Racial Profiling Law. That is, the law came into effect on January 1, 2002 and required all police departments in Texas, to collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the racial profiling law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

The Texas Racial Profiling Law also requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if individual police officers are engaging in racial profiling, from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic or motor vehicle-related contacts.

As stated previously, in 2009, the Texas Legislature passed House Bill 3389, which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These most recent changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the more recent law requires adding "middle eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1st of each year. I am pleased to inform you that these additional requirements have been addressed, since 2009, by the Addison Police Department as it is demonstrated throughout this report.

In an effort to comply with The Texas Racial Profiling Law, the Addison Police Department commissioned the analysis of its 2016 motor vehicle contact data. Thus, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2016 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related contact, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or

probable cause). Also, the data analysis included the number and percentage of individuals who, after they came in contact with the police for a motor vehicle-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2016 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Addison Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2010) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Addison Police Department in 2016 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Addison Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort-Worth Metroplex (DFW).

Tier 1 (2016) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2016, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. With respect to searches, most of them were performed on African American drivers. This was followed by Caucasians. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in motor vehicle-related contacts; this was followed by African Americans and Hispanics.

Fair Roads Standard Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in DFW who indicated, in the 2010 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American and Hispanic descent that came in contact with the police was higher than the percentage of African American and Hispanic households in DFW that claimed, in the 2010 census, to have access to vehicles. With respect to Caucasians and Asians, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Asian drivers that came in contact with the police in 2016 was lower than the percentage of Caucasian and Asian households in DFW with access to vehicles.

Summary of Findings

The comparison of motor vehicle contacts showed that the Addison Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Asian drivers than the percentage that resided in DFW and had access to vehicles. Further, the data suggested that the percentage of African American and Hispanic drivers that came in contact with the police in 2016 was higher than the percentage of African American and Hispanic households in DFW with access to vehicles. In addition, the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

While considering the findings made in this analysis, it is recommended that the Addison Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals; particularly with African Americans and Hispanics. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public.

As part of this effort, the Addison Police Department is also encouraged to:

- 1) Perform an independent search analysis on the search data collected in the first quarter of 2017.
- 2) Commission data audits in 2017 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The Addison Police Department complied with recommendations made last year, in a similar report, regarding data audits and training. In sum, the information and analysis provided in this report serves as evidence that the Addison Police Department has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements were met by the Addison Police Department in accordance with The Texas Racial Profiling Law:

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Addison Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCOLE by March 1, 2017.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting, LLC

817.681.7840

www.texasracialprofiling.com

www.delcarmenconsulting.com

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting, LLC, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

AI-2121

13.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: Police

AGENDA CAPTION:

Present And Discuss **Addison Police Department 2016 Annual Report.**

BACKGROUND:

The Addison Police Department has prepared an Annual Report for 2016. This report includes notable events such as the design of the new police vehicles, promotions, and community outreach events and a statistical review of the year. The report will also include an update on training protocols in place (or to be implemented) for racial sensitivity, violence de-escalation, and dealing with emotionally disturbed persons for Police and Fire.

RECOMMENDATION:

Information only, no action required.

Attachments

2016 Annual Report - Police



Addison Police Department

YEAR IN REVIEW

2016

2016

JANUARY

HIGHLIGHTS



After the conclusion of a nationwide search for Addison's next Chief of Police, **Chief Paul Spencer**, was sworn in on **January 26th**. Chief Spencer has been with Addison for over 20 years!



2016

FEBRUARY

HIGHLIGHTS



Captain Chad Hanson was promoted to Assistant Chief of Police. Quarterly training was completed for all officers involving sexual harassment awareness and prevention, reality based exercises (force-on-force training) and felony traffic stops.



2016

MARCH HIGHLIGHTS

The first **Coffee with Cops** was held at Original Pancake House on March 4. Promotions included **Captain Mike Vincent**, **Lieutenant Blake Potts**, and **Sergeant Brad Jones**.



2016

MARCH HIGHLIGHTS

Dispatch successfully transitioned over to the North Texas Emergency Communications Center (**NTECC**)!



2016

APRIL

HIGHLIGHTS



Chief Spencer attended part two of a Command Leadership course required by the **Texas Commission on Law Enforcement** (TCOLE) held at the Law Enforcement Management Institute of Texas at Sam Houston State University in Huntsville. Chief Spencer and Assistant Chief Hanson participated in a **Body-Worn camera Summit** on the subject of the impact of this technology on public safety.



2016

MAY

HIGHLIGHTS



The **General Orders/Standard operating procedures** review and rewrite was completed. The **Harris Radio Project** and **SunGuard Record Management System** projects were underway. Chief Spencer and IT Director Hamid Khaleghipour attended the International Association of Chiefs of Police, **Law Enforcement Information Management** Conference.



2016

JUNE

HIGHLIGHTS



The design for the **new patrol cars** was completed! **New exercise equipment** was purchased for the new physical fitness program, as well as a **new weapons rack** in the Police Armory for increased security. The **hiring criteria** was also changed for officers to allow for prior law enforcement and military experience in lieu of a 4 year degree.



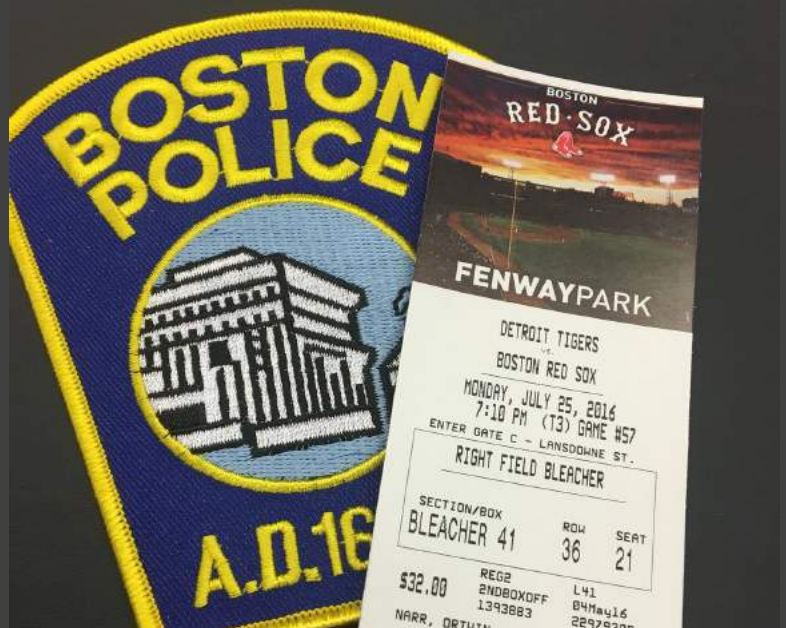
2016

JULY

HIGHLIGHTS



Chief Spencer attended the **Senior Management Institute for Police**, Police Executive Research Forum in Boston, MA. Topics included organizational change and design, change management, ethics in law enforcement leadership, diversity in contemporary organizations, and fair and impartial policing and systems dynamics.



2016

AUGUST

HIGHLIGHTS



The Police department conducted a **community meeting** with its highest attendance of 65 people, and an **Identity Theft seminar** was held for the Addison Circle Homeowners. Police Officers and Firefighters welcomed students at **Bush Elementary** back to school.



2016

SEPTEMBER

HIGHLIGHTS



The Police department held the third **Coffee with a Cop** at Dunn Brothers in conjunction with the Carrollton Police Department. **Kara Curry**, Addison's first dedicated Crime Analyst, was hired on September 26, 2016. This is the first step in achieving the goal of being a data-driven police department.



2016

OCTOBER

HIGHLIGHTS



Jail operations ceased on October 8 and we are now fully using Carrollton for all detention services. This consolidated service will save the Town approximately \$250,000 annually. The joint **Police and Fire Open House** was held and was well attended by the community.



2016

NOVEMBER

HIGHLIGHTS



The first **Women's Self Defense class** was held and was a huge success! **Ceramic, rifle-rated plate carriers** were purchased for all of our officers. The Jail Supervisor position was converted to an Animal Control Supervisor. Animal Control Officer **Ryan Wies** was promoted.



2016

DECEMBER

HIGHLIGHTS



Dr. Alex del Carmen was hired to conduct annual audits and training regarding racial profiling data and collection processes. Officers participated in **Santa Cop** to pass out toys to families in need in several areas around town.



LOOKING FORWARD

OBJECTIVES

2017

Look for ways to be more effective
recruiting police officers and applicants



Increase training for police officers in the
areas of diversity, de-escalation and use of
force



Develop the new Crime Analyst position to
be an effective resource for the department
and Town



Continue to work with Town Management
and the community to be visible,
transparent and proactive in our
delivery of effective public
safety services



Addison Police Department

Statistical Review

2016

2016 Major Crime

UCR - Part 1 Offenses

	Offenses Reported	Offenses Cleared	Clearance Rate
MURDER	1	1	100%
RAPE	12	8	67%
ROBBERY	28	7	25%
AGGRAVATED ASSAULT	60	47	78%
BURGLARY	100	8	8%
LARCENY-THEFT	650	136	21%
MOTOR VEHICLE THEFT	90	10	11%
TOTAL	941	217	23%

UCR Part 1 Offenses:

The Uniform Crime Reporting, or UCR, program was started by the FBI in an effort to develop a uniform system of reporting police crime statistics across the nation based on population.

Part 1 Crimes are classified by specific guidelines breaking down major crimes into seven categories; murder, rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft.

These seven major crimes provide a standardized reporting system for the crime rates throughout the United States.

2016 Major Crime

UCR - Crimes Against Property

COMMERCIAL BURGLARIES

- Unlawful entry of a business (non-residential) building with the intent to commit a felony or theft
- 57 offenses occurred

RESIDENTIAL BURGLARIES

- Unlawful entry of an apartment, hotel room, or house with the intent to commit a felony or theft
- 43 offenses occurred

BURGLARY OF MOTOR VEHICLES

- Unlawful entry of a motor vehicle with the intent to commit a felony or theft
- 273 offenses occurred

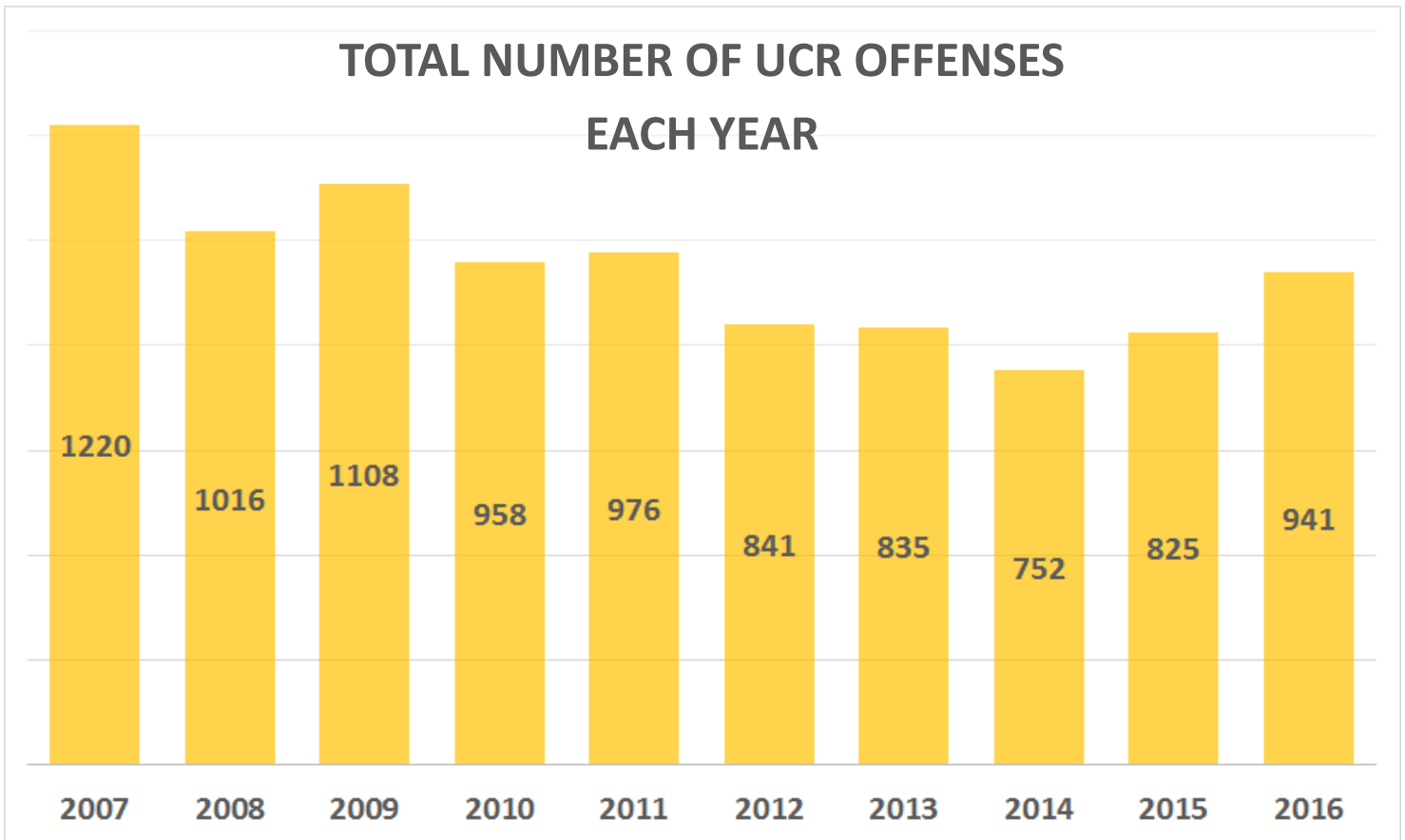
THEFT OF MOTOR VEHICLES

- The theft or attempted theft of a motor vehicle
- 90 offenses occurred

ALL OTHER THEFT

- Attempting to or successfully taking property through deception, fraud, or other nonviolent methods
- 377 offenses occurred

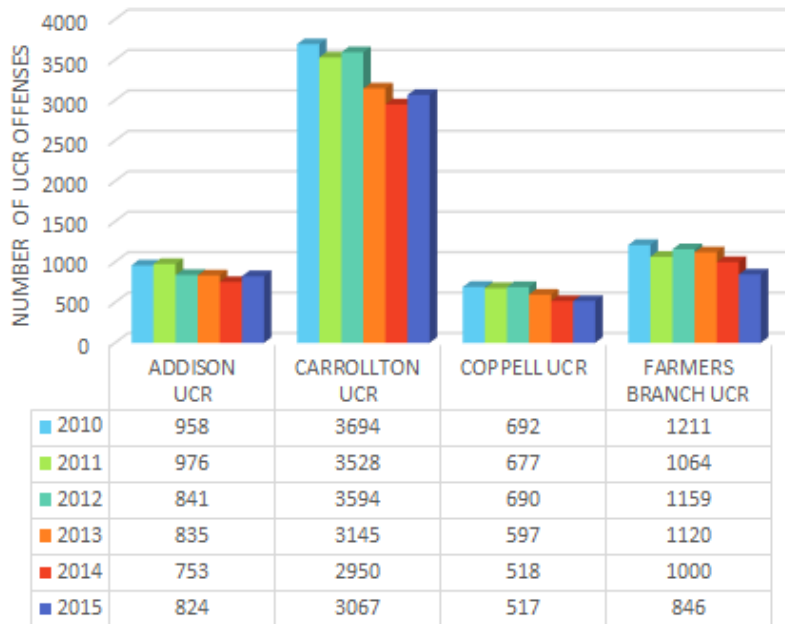
Addison's UCR History



	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
MURDER	0	1	1	1	0	0	1	0	0	1
RAPE	9	7	7	7	10	5	4	7	10	12
ROBBERY AGG	32	29	35	19	18	16	11	15	13	28
ASSAULT	87	54	46	69	50	51	35	44	42	60
BURGLARY	185	142	142	105	117	84	129	83	104	100
LARCENY AUTO	798	704	742	651	676	613	593	541	574	650
THEFT	109	79	135	106	105	72	62	62	82	90
<u>TOTAL</u>	<u>1220</u>	<u>1016</u>	<u>1108</u>	<u>958</u>	<u>976</u>	<u>841</u>	<u>835</u>	<u>752</u>	<u>825</u>	<u>941</u>

UCR Crimes and Clearance Rates

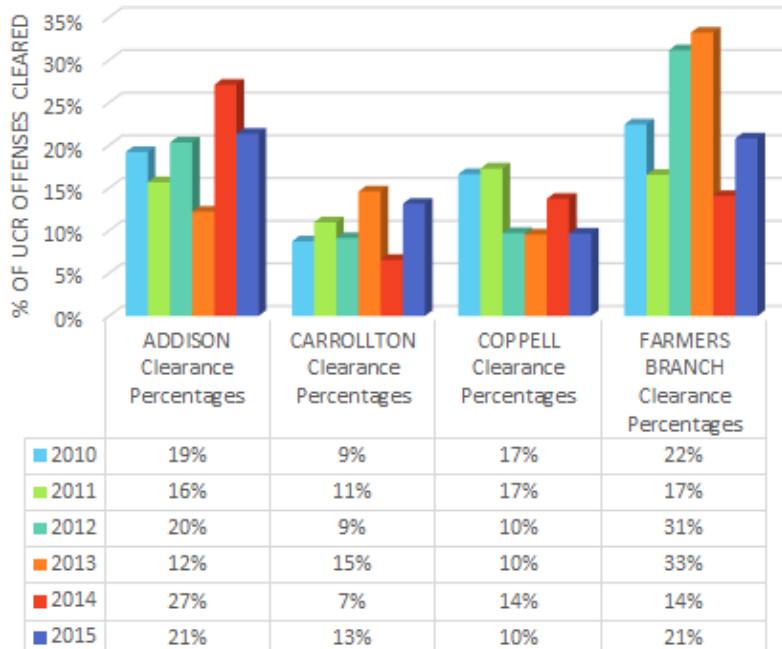
UCR Total Number of Offenses Comparison by City



What do the Metrocrest's crime and clearance rates look like over the years?

- **Carrollton** has the highest number of UCR crimes committed, followed by Farmers Branch and Addison. Coppell has the lowest number.
- **Farmers Branch** has the highest percentage of UCR crimes cleared by detectives, closely followed by Addison. Coppell has the third highest number and Carrollton has the lowest number.
- **For 2015, Addison** has the third most crimes and is tied with **Farmers Branch** for the highest clearance rate.

UCR Percentage Clearance Comparison by City



NIBRS—National Incident Based Reporting System

NIBRS Categories—Group A

- Animal Cruelty
- Arson
- Assault
- Bribery
- Burglary/Breaking and Entering
- Counterfeiting/Forgery
- Destruction/Damage/Vandalism of Property
- Drug/Narcotic Offenses
- Embezzlement
- Extortion/Blackmail
- Fraud
- Gambling
- Homicide
- Kidnapping/Abduction
- Larceny
- Pornography/Obscene Material
- Robbery
- Sex Offenses (Forcible)
- Sex Offenses (Non-Forcible)
- Stolen Property Offenses/Fence
- Weapon Law Violations

GOALS:

- To have a more comprehensive view of more types of offenses that happen each year.
- Addison PD looks to transition to NIBRS and a new Records Management System in 2019.

Pro's of NIBRS:

- NIBRS tracks 3 crime categories: Crimes Against Persons, Crimes Against Property, and Crimes Against Society (narcotics investigations and other activities prohibited by society's rules)
- There are 2 types of offenses. Group A has the listed 22 offense categories on the left, which look at 46 specific crimes and their details. Group B (not listed) looks at 11 crimes that track only arrest data.

2016 Major Crime

An Introduction to LexisNexis Heat-Mapping

How can citizens see what crimes are happening and where?

- Before 2016, RaidsOnline Crime Mapping was publically available. Very similar to Google Maps, this website plots a variety of crimes on a map so citizens can see what offenses are occurring in surrounding neighborhoods, in prospective towns, or across the United States.
- In 2016, LexisNexis purchased the same crime mapping website. The new website is at:

<https://communitycrimemap.com>

What specific tools are available to use on this website?

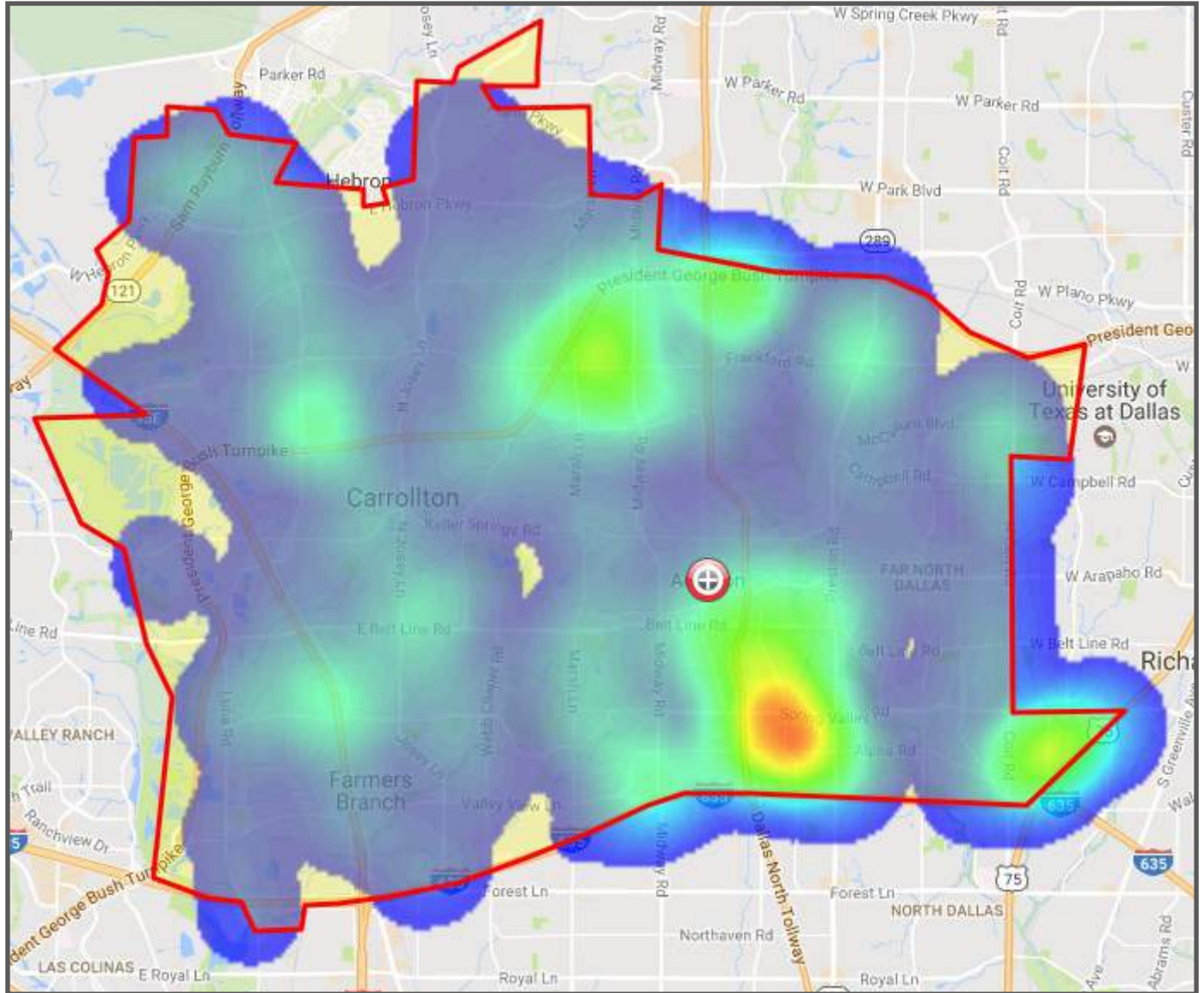
- Date Range: Select a time frame of data (works best for 1 year or less).
- Event: Choose which offenses (Burglary, Vandalism, etc) to view.
- Offenders: See where Sexual Offenders reside.
- Density Map: Plot “Heat Maps” (areas of high and low concentration of offenses).
- Agency Layers: Pick which police agencies’ offenses/offenders to view or ignore.

How does Addison PD track crimes?

- Investigatory personnel use a confidential version of LexisNexis Crime Mapping, called Accurint, to read other agencies’ reports, see area-wide crime locations, and discover crime trends.
- Goal: to drive data-driven policing straight into crime-impacted areas and to make solving crimes easier with information from surrounding agencies.

2016 Major Crime

Where Are Area-Wide UCR Crimes Happening?

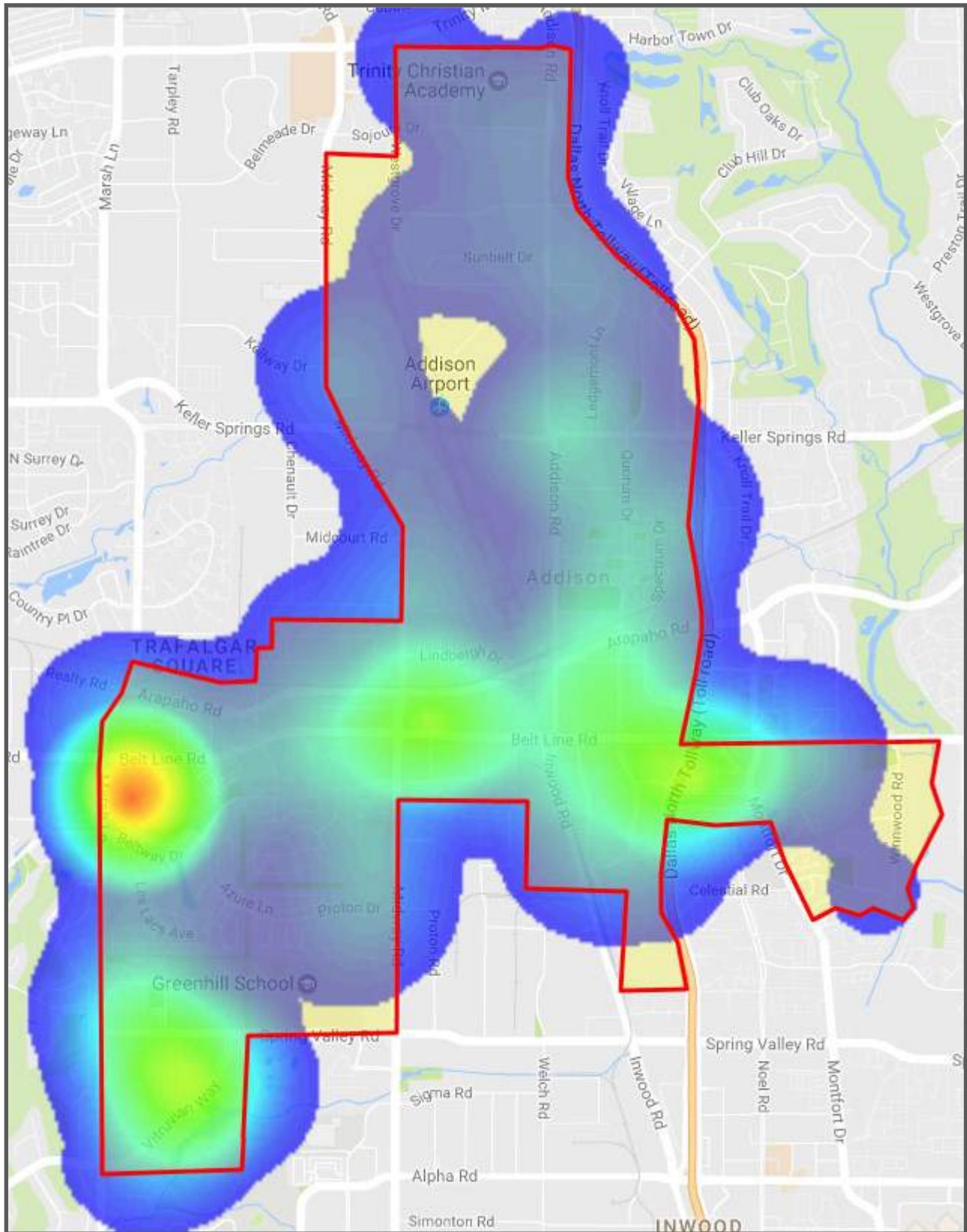


Map includes Addison, Carrollton, Farmers Branch, and Far North Dallas (north of 635, west of 75)

Hotspots include the Dallas Galleria (property crimes) and along major highways and tollways. This is likely due to a higher population density in those areas.

2016 Major Crime

Where Are Addison UCR Crimes Happening?



Addison PD On Patrol:

Dispatched Calls and Self-Initiated Activity

	Total Time for 2016	Average Time per Call
DISPATCHED CALLS	3891 Hours	20:03 Minutes
SELF-INITIATED ACTIVITY	5822 Hours	13:25 Minutes
TOTAL	9713 Hours	15:28 Minutes

What sorts of 911 and non-emergency calls are officers dispatched to?

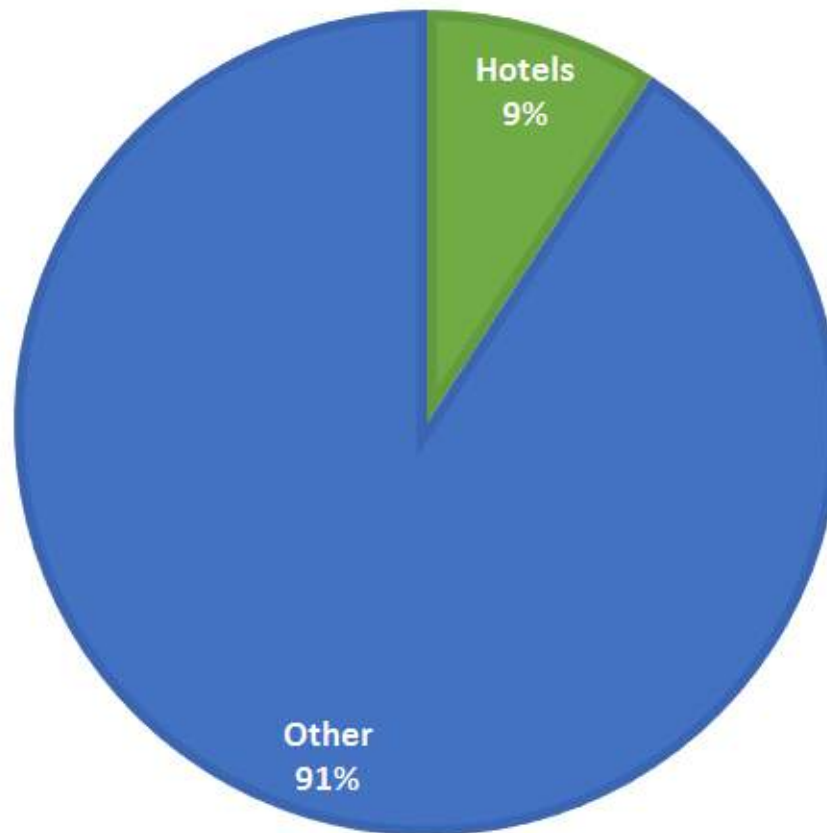
- Burglary Alarms (Business and Home)
- Welfare Checks
- Traffic Hazards
- Drug Investigations
- Car Accidents
- Minor/Major Disturbances
- Loitering and Trespassing Offenses
- 911 Hang-ups

What sorts of self-initiated activity do officers markout on?

- Investigating Alcohol Offenses
- Community Policing Assignments
- Park Checks
- Suspicious Activity
- Vacation Patrols
- Traffic Stops
- Motorist Assists
- Warrant Service

Calls for Service Locations

Hotels VS All Other Calls



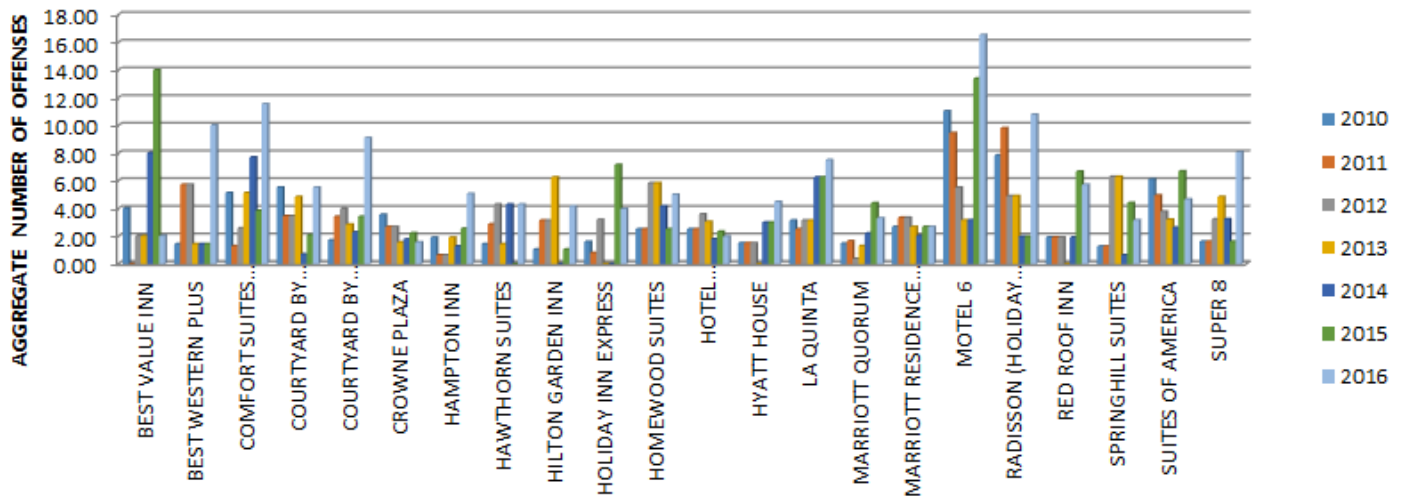
Breakdown of Hotels Statistics

- 22 hotels
- 3989 rooms
- Approximately 2 people per room
- At 100% occupancy: around **8,000** people staying in hotels
- At 60% occupancy: around **4,800** people staying in hotels
- Addison's resident population is around 15,000 people
- **9% of calls from service originate from up to one third of Addison's total bedroom population**

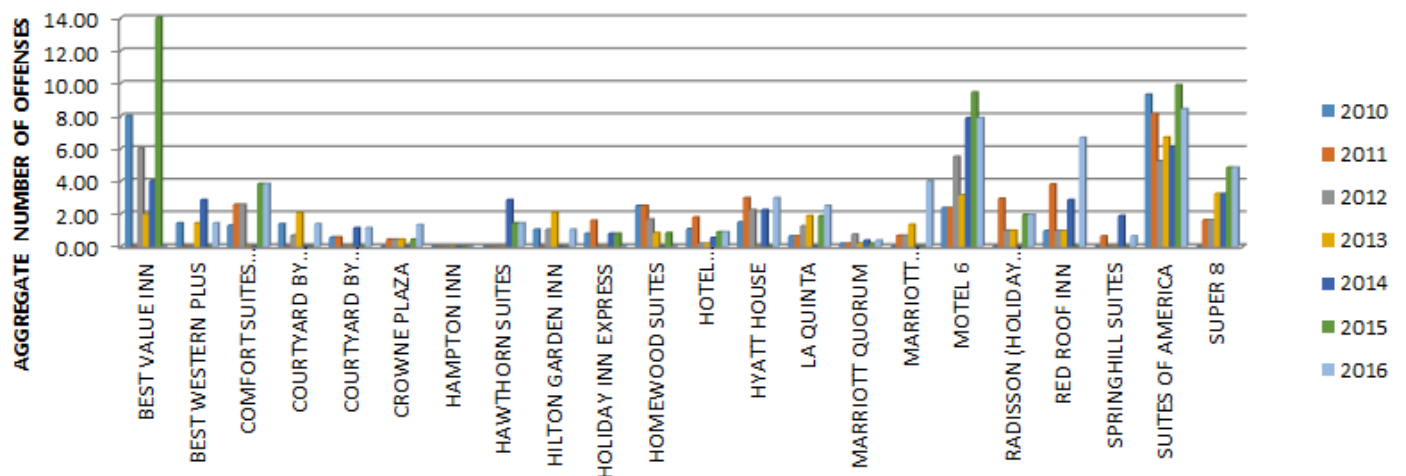
Calls for Service Locations

Comparison of Addison Hotels

CRIMES AGAINST PROPERTY PER 100 ROOMS



CRIMES AGAINST PERSONS PER 100 ROOMS



Adjusted for number of rooms per hotel...

- **Most crimes against property:** Motel 6, Comfort Suites, Radisson
- **Most crimes against persons:** Suites of America, Motel 6, Super 8

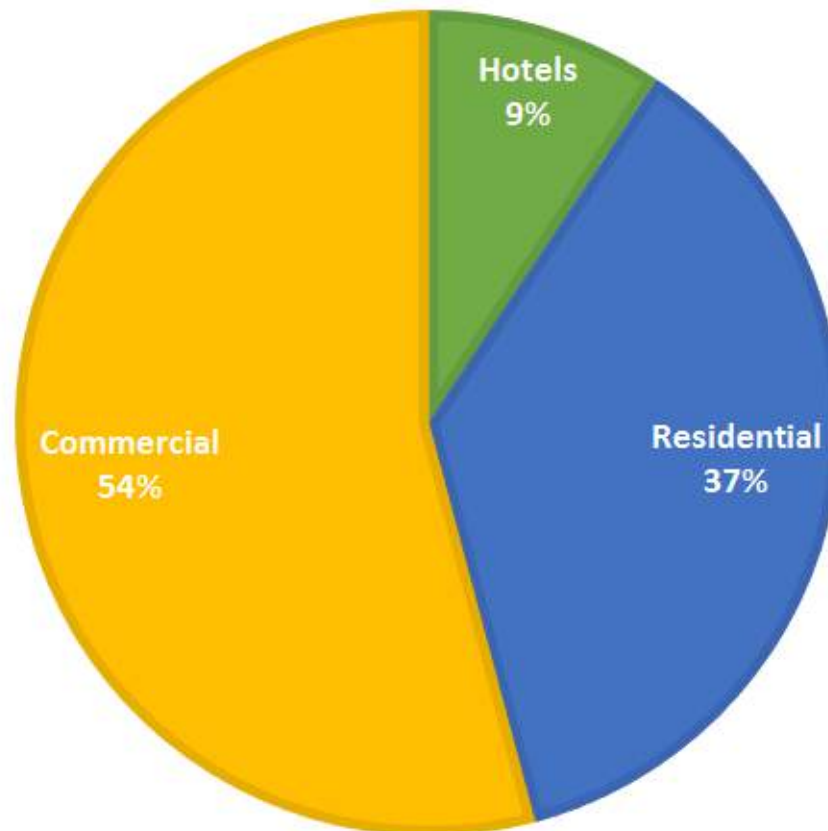
Regarding 2016 data only

Calls for Service Locations

Residential VS Commercial

Commercial Areas:

- Includes business streets, intersections, parking lots, and uninhabited areas.



Residential Areas:

- Includes apartments, houses, neighborhood streets, and apartment parking lots.

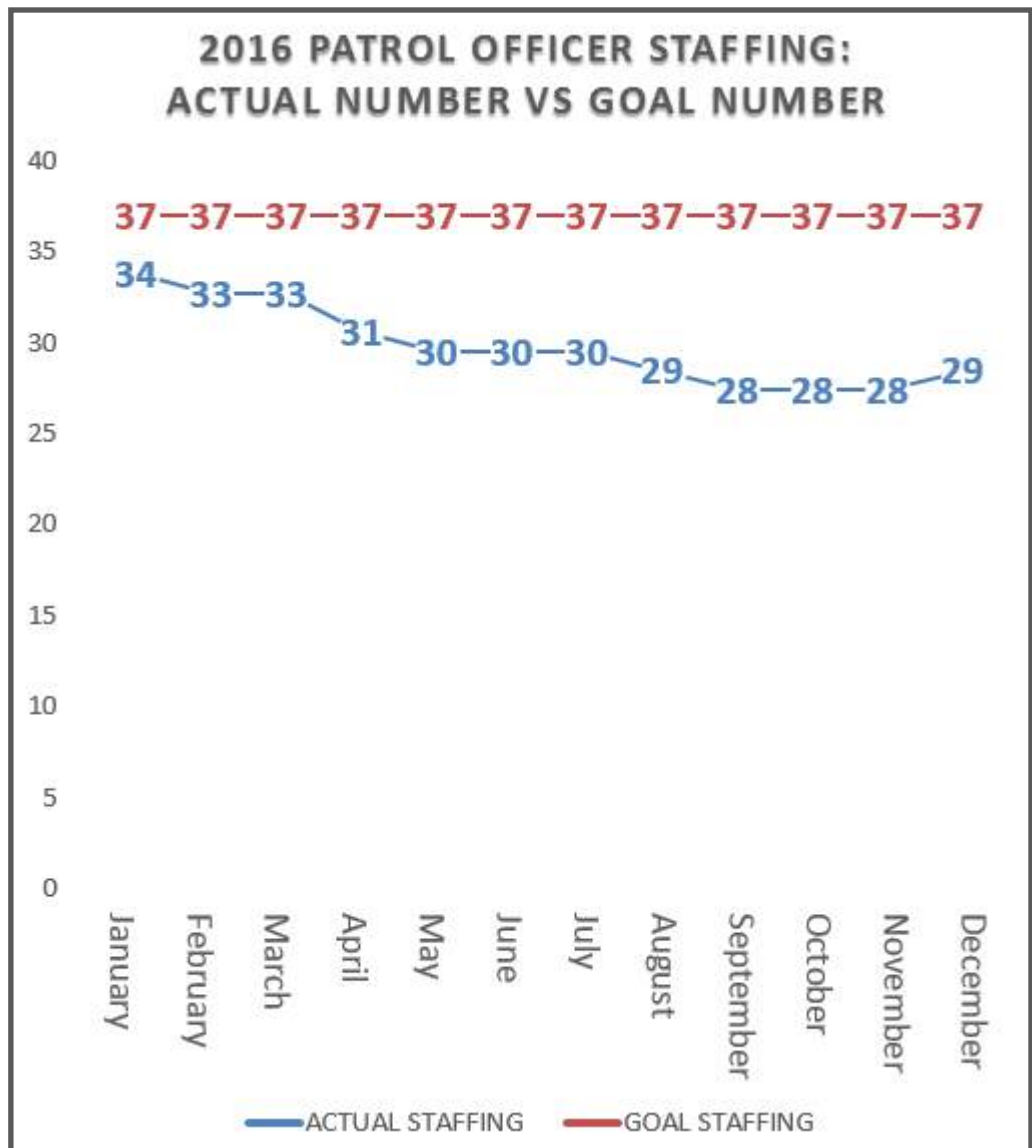
Patrol Staffing—2016

PATROL

Officers made
1543 arrests

TRAFFIC

Officers issued
2447 citations
and gave
3489 warnings



Breakdown of Patrol Shifts (Goal Staffing Conditions)

- A & B Day shifts are comprised of 6 beat officers, 1 Officer in Charge, and 2 Motors officers.
- A & B Night shifts are comprised of 7 beat officers and 2 Officers in Charge.
- K-9 works a floating shift, partially on days and partially on nights.
- **Average number of patrol officers in 2016: 30**

Addison Police Department

Criminal Investigations Division

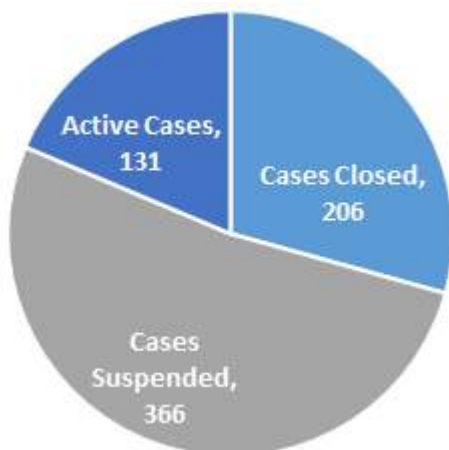
What was the average caseload for a detective in 2016?

Average number of cases assigned per day: 14.5 cases/day
 Average number of cases closed per day: 8.2 cases/day

UCR Part 1 Offenses

- Number of cases assigned: 703
- Number of cases closed: 206
- Number of cases suspended: 366
- Number of cases still active: 131
- Average time to close a case: 30.1 days

HOW UCR OFFENSES CLEARED



STAFFING

10 investigators and 4 other staff members handle an average of **261** cases in **252** working days

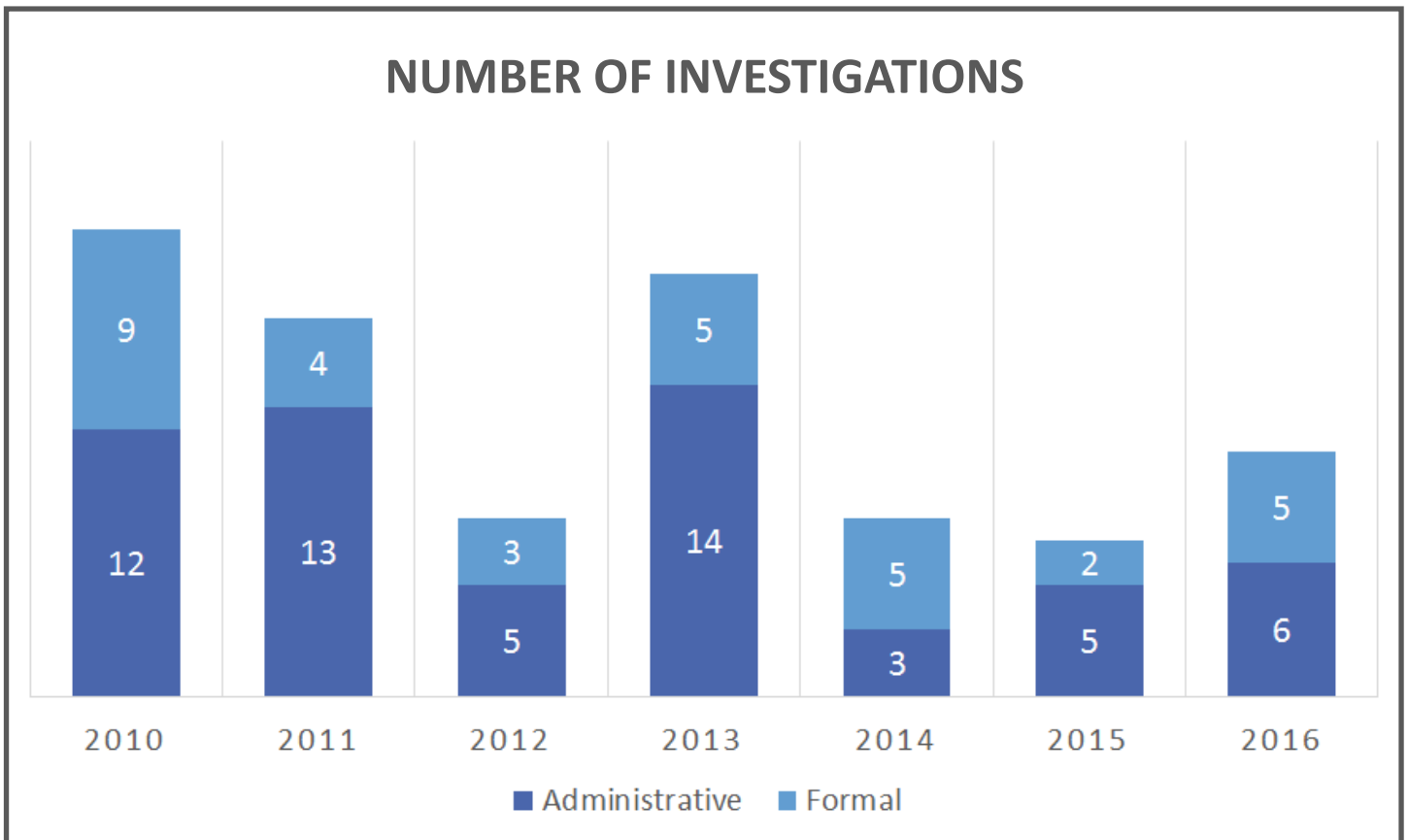
CASELOAD

3656 cases assigned
2069 cases cleared
1424 cases suspended
163 cases active

Internal Affairs Investigations

A Brief History

	2010	2011	2012	2013	2014	2015	2016
Administrative	12	13	5	14	3	5	6
Formal	9	4	3	5	5	2	5
TOTAL	21	17	8	19	8	7	11



Animal Control—A Year in Review

In addition to other duties, an Animal Control Officer patrols Addison looking for loose or stray animals and responds to calls for animal services. Typical calls include:

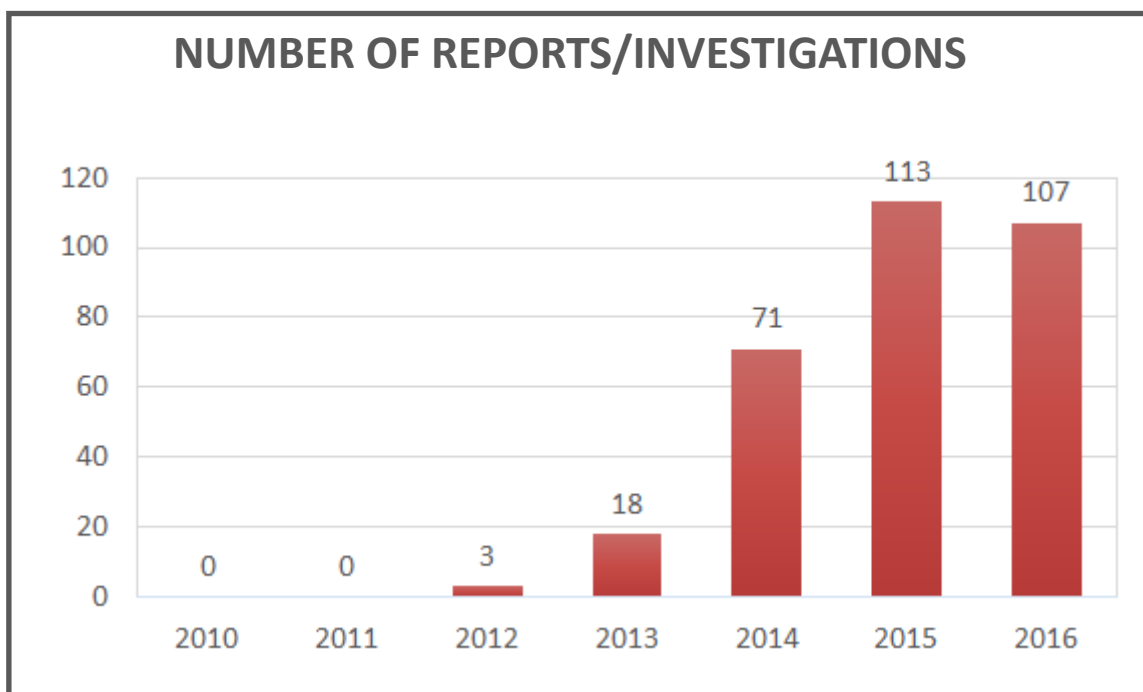
- animal bites
- animal cruelty/abuse offenses
- vicious or dangerous animals
- injured animals
- barking dogs
- loose animals
- stray animals
- dead animal removal
- common pet questions



Issued **121**
Pet Registrations

70 Pets Adopted

Completed **107**
Reports and
Investigations



Don't forget to register your pets every year!

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: Infrastructure- Development Services

AGENDA CAPTION:

Present, Discuss And Consider Action On A **Resolution To Approve A Professional Services Agreement With Stantec Consulting Services Inc., For Design, Bid, And Construction Phase Services Associated With The Potable Water Capital Improvements Program And Authorize The City Manager To Execute The Agreement** In An Amount Not to Exceed \$127,806.

BACKGROUND:

In 2015, Council authorized a professional services contract with Stantec (formally Bury) to complete a comprehensive assessment and Capital Improvement Program (CIP) for the Town's potable water system.

The assessment, which was completed in early 2016, included a CIP plan that identified 26 projects that involve replacement or upsizing of existing waterlines. The identified projects were then prioritized using a risk-based methodology which includes Consequence of Failure (CoF) and Likelihood of Failure (LoF) scores. The CoF value measures the impact that a particular water infrastructure component would have if it failed. The Likelihood of Failure metric is used to measure the potential/probable failure of any given water infrastructure component.

Since Stantec developed the water assessment and are very familiar with the Town's water system, they were selected to provide the design services for the projects that are included in the CIP. This design services are for the first two highest ranking projects according to the Risk factor. The highest ranking project is the removal of approximately 500 lineal feet of asbestos concrete water line that runs along Dooley Road just west of the Addison Airport. Asbestos concrete/cement pipe was used extensively in the mid 1900's for potable water lines because of its low cost and long lifespan. It is no longer approved for use as a potable water pipe and all existing such lines should be replaced. Even though the water is safe for drinking, we are proactively removing the pipe and replacing it with currently approved pipe material. The project design will include the removal of the existing line and then replacement with polyvinyl chloride (PVC) pipe, as well as rebuilding two fire service vaults and the associated roadway repair.

The second highest ranking project is the replacement of approximately 650 linear feet of ductile iron pipe located just east of the Prestonwood Shopping Center on Belt Line Road. This project was identified as a high risk project due to a history of known issues such as leaks and several major failures and the age of the existing pipe, which was installed in 1979. The design will include removal of the existing pipe and replacement

with PVC of 650 linear feet of pipe, services and associated roadway repair.

The total cost for design services for these projects is in an amount not to exceed \$127,806. The total budget allocated in Fiscal Year 2017 Utilities Capital Projects Fund for these projects is \$625,000. That budget is intended to design both projects and construct the Dooley Road project. The construction cost associated with the Prestonwood Place project will be included in the Fiscal Year 2018 budget.

RECOMMENDATION:

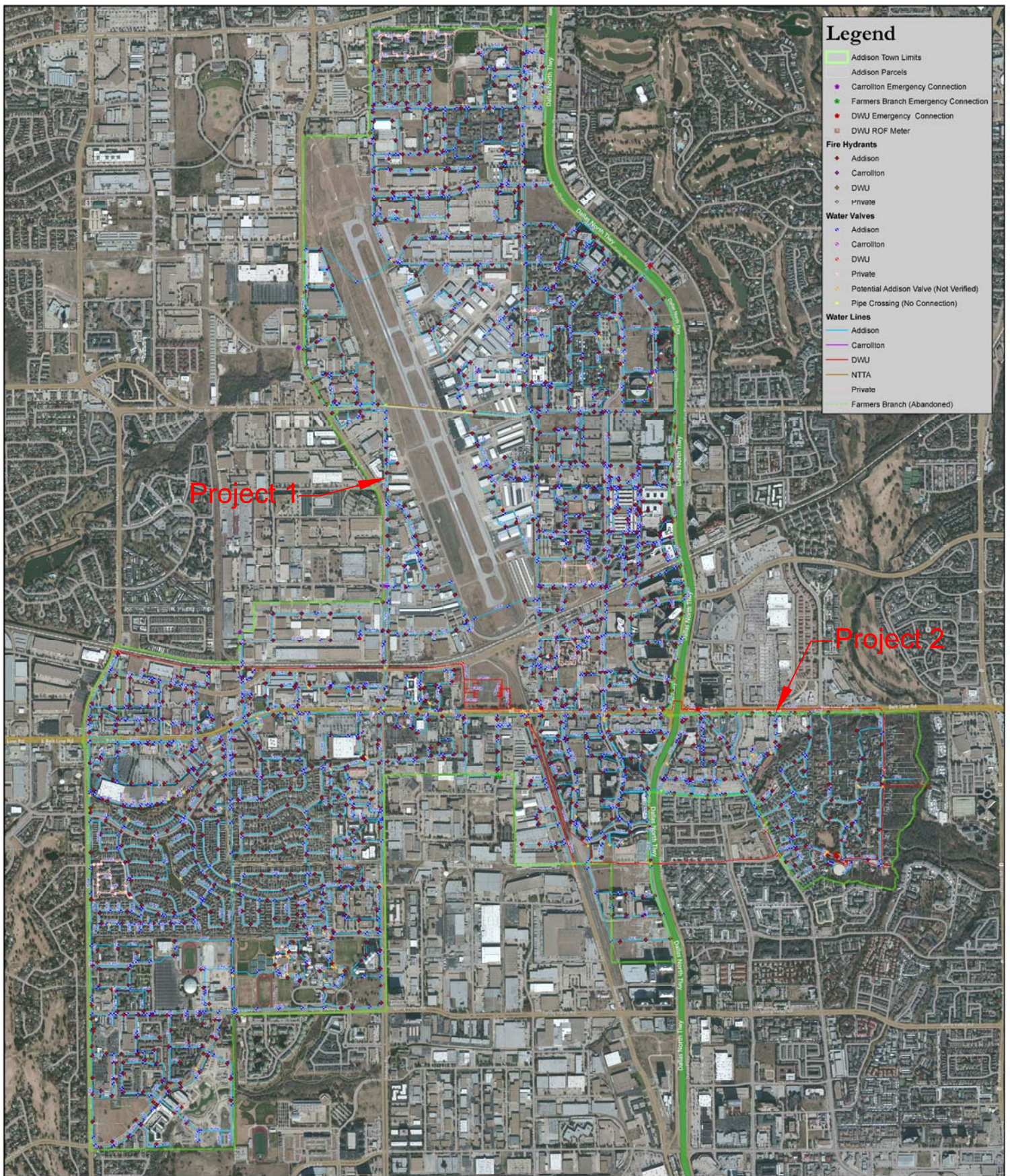
Administration recommends approval.

Attachments

Map of Location of Projects

CIP Projects List

Resolution with Exhibits



Legend

- Addison Town Limits
- Addison Parcels
- Carrollton Emergency Connection
- Farmers Branch Emergency Connection
- DWU Emergency Connection
- DWU ROF Meter

Fire Hydrants

- ◆ Addison
- ◆ Carrollton
- ◆ DWU
- ◆ Private

Water Valves

- ◆ Addison
- ◆ Carrollton
- ◆ DWU
- ◆ Private
- ◆ Potential Addison Valve (Not Verified)
- ◆ Pipe Crossing (No Connection)

Water Lines

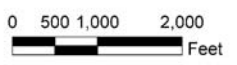
- Addison
- Carrollton
- DWU
- NTTA
- Private
- Farmers Branch (Abandoned)

Project 1

Project 2



Town of Addison Potable Water System



BURY

Water Line CIP

Project List

<u>No.</u>	<u>Project Type/Location</u>	<u>Problem/Issue Solved</u>	<u>Year Installed</u>	<u>Infrastructure Age</u>	<u>Existing Pipe Materials</u>
1	Replacing 8" CI with 8" PVC Water Main (Greenhaven Village Shopping Ctr. @ Intersection of Marsh Ln and Spring Valley Rd)	Experience significant leakage, pressure issues and maintenance requests on this water line.	1970	45	CI
2	Replace 8" AC with 8" PVC Water Main (Dooley Rd)	Experience significant leakage and replace old asbestos concrete pipe sections	N/A	N/A	AC
3	Replacing 8" DI with 8" PVC Water Main (Prestonwood Place Shopping Center near Intersection of Belt Line Road & Montfort Drive)	Experience significant leakage, pressure issues and maintenance requests on this water line.	1979	36	DI
4	Upsizing 8" CI to 10" PVC Water Main (Running N to S from Belt Line Road to George H.W. Bush Elementary School)	Exceeding Maximum Allowable Head Loss (4'/1000') & Replacing old CI with new PVC	1965	50	CI
5	Replacing 8" CI with 8" PVC Water Main (Intersection of Beltway Dr & Belt Line Rd - Beltway Office Park)	Exceeding Maximum Allowable Head Loss (4'/1000') & Replacing old CI with new PVC	1973	42	CI
6	Upsizing 6" CI to 8" PVC Water Main (Lake Forrest Drive)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1969	46	CI
7	Upsizing 6" Unk to 8" PVC Water Main (Apartment Complex at NE Intersection of Addison Rd and Westgrove Dr)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	Unk	Unk	Unk
8	Upsizing 16" DI to 24" RCCP (Intersection of Belt Line Rd and Quorum Dr)	Exceeding Maximum Allowable Head Loss (4'/1000')	1983	32	DI
9	Upsizing 16" RCCP to 24" RCCP (in Belt Line Rd between Addison Rd and Quorum Dr)	Exceeding Maximum Allowable Head Loss (4'/1000')	1979	36	PCCP
10	Upsizing 8" DI to 10" PVC Water Main Nar 36" to 8" Connection (SE Corner of Village on the Parkway)	Exceeding Maximum Allowable Head Loss (4'/1000')	1978	37	DI
11	Upsizing 6" PVC to 8" PVC Water Main (Shadowwood Apartments - Sydney Dr & Marsh Ln)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1976	39	PVC

12	Upsizing Short Connection from 6" to 8" (North of Belt Line on Quorum)	Exceeding Maximum Allowable Head Loss (4'/1000')	1983	32	DI
13	Upsizing 8" PVC to 12" PVC Water Main (The Wellington Square - Southern Edge of Addison)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1980	35	PVC
14	Upsizing 8" PVC to 10" PVC Water Main (Quorum Office Building #2)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1979	36	PVC
15	Upsizing 8" PVC to 12" PVC Water Main (Excel Telecommunications Service Center to Addison Rd)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1996	19	PVC
16	Upsizing 6" Unk to 8" PVC Water Main (Glenn Curtiss Dr & Addison Rd)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	Unk	Unk	Unk
17	Upsizing 8" Unk to 10" PVC Water Main (The Madison 15851 Dallas North Tollway)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1984	31	Unk
18	Upsizing 6" Unk to 8" PVC Water Main (Quorum Office Building #2)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1983	32	PVC
19	Upsizing 8" PVC to 10" PVC Water Main (Lateral off of Quorum Dr)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1979	36	PVC
20	Upsizing 12" PVC to 16" DI Water Main Connection Between 36" & 12" Main (South of Belt Line Rd on Quorum Rd)	Exceeding Maximum Allowable Head Loss (4'/1000')	1985	30	PVC
21	New 8" PVC Water Main Loop (Excel Telecommunications Service Center to Addison Rd)	Exceeding Allowable Water Age	N/A	N/A	N/A
22	Upsizing 8" PVC to 12" PVC Water Main (Millenium Phase 1 - NW Intersection of Arapaho & DNT)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	1999	16	PVC
23	New 8" PVC Water Main Loop (FedEx Store - 4901 Airport Pkwy)	Exceeding Allowable Water Age	N/A	N/A	N/A

24	New 10" PVC Water Main Loop (One Hanover Park Offices to Excel Pkwy along DNT)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	N/A	N/A	N/A
25	Upsizing 6" PVC to 8" PVC Water Line for Lateral (Off of Claire Chennault St)	Exceeding Maximum Allowable Velocity (7 fps) @ 1000 gpm	2010	5	PVC
26	New 12" PVC Water Main Loop (APT. Complex in NW Corner of Town)	Exceeding Allowable Water Age	N/A	N/A	N/A

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BETWEEN THE TOWN OF ADDISON AND STANTEC CONSULTING SERVICES, INC. FOR DESIGN, BID, AND CONSTRUCTION PHASE SERVICES ASSOCIATED WITH THE POTABLE WATER CAPITAL IMPROVEMENTS PROGRAM IN AN AMOUNT NOT TO EXCEED \$127,806, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Agreement for Professional Engineering Services between the Town of Addison and Stantec Consulting Services, Inc., for design, bid, and construction phase services associated with the potable water Capital Improvements Program in an amount not to exceed \$127,806, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of March, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

**AGREEMENT
BETWEEN
THE TOWN OF ADDISON, TEXAS (TOWN)
AND
STANTEC CONSULTING SERVICES INC
FOR
PROFESSIONAL ENGINEERING SERVICES**

Made as of the ____ day of _____ in the year 2017,

BETWEEN the Town: The Town of Addison, Texas
16801 Westgrove Drive
Addison, Texas 75001
Telephone: (972) 450-7001

and the Consultant: Stantec Consulting Services Inc.
5310 Harvest Hill Road,
Ste 299
Dallas, Texas 75230
Telephone: 972-813-21434

for the following Project: On-Call Water and Wastewater Engineering
Services

The Town and the Consultant agree as set forth below.

THIS AGREEMENT is made and entered by and between the **Town of Addison, Texas**, a Home-Rule Municipal Corporation, hereinafter referred to as "Town," and **Stantec Consulting Services Inc.**, hereinafter referred to as "Consultant," to be effective from and after the date as provided herein, hereinafter referred to as "Agreement."

WHEREAS, the Town desires to engage the services of the Consultant to provide professional services which shall include, but not be limited to, professional engineering services for water and wastewater infrastructure within the Town of Addison, Texas; hereinafter referred to as "Project"; and

WHEREAS, the Consultant desires to render such professional engineering services for the Town upon the terms and conditions provided herein.

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NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

ARTICLE 1 CONSULTANT'S SERVICES

- 1.1 **Employment of the Consultant** – The Town hereby agrees to retain the Consultant to perform professional engineering services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform such services as are set forth and described in Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or modifications to the scope of services described in Exhibit "A," in the form of written change orders, may be authorized from time to time by the Town.
 - 1.2.1 **Requirement of Written Change Order** – "Extra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the Addison Town Manager, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the Addison Town Council's authorization for the Addison Town Manager to execute said change order.
 - 1.2.2 **DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE ADDISON TOWN MANAGER.** Project Managers, Superintendents, and/or Inspectors of the Town are not authorized to issue verbal or written change orders.
- 1.3 **Schedule of Work** – The Consultant agrees to commence work immediately upon the execution of this Agreement and receipt of written Notice to Proceed, and to proceed diligently with said work to completion as described in the Compensation Schedule / Project Billing / Project Budget attached hereto as **Exhibit "B"** and incorporated herein by reference for all purposes, but in no event shall the Project be completed any later than as identified in **Exhibit "A"**.
- 1.4 **Failure to Meet Established Deadlines** – Consultant acknowledges the performance of services under this Agreement shall be in accordance

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with mutually agreed upon schedule as set forth in the Compensation Schedule / Project Billing / Project Budget attached hereto as Exhibit "B."

ARTICLE 2 THE TOWN'S RESPONSIBILITIES

Town shall do the following in a timely manner so as not to delay the services of Consultant:

- 2.1 **Project Data** – The Town shall furnish required information that is currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and the Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 **Town Project Manager** – The Town shall designate, when necessary, a representative authorized to act on the Town's behalf with respect to the Project (the "Project Manager"). The Town or such authorized representative shall examine the documents submitted by the Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of the Consultant's services. The Project Manager is not authorized to issue verbal or written change orders for "extra" work or "claims" invoiced as "extra" work.

ARTICLE 3 CONSULTANT'S COMPENSATION

- 3.1 **Compensation for Consultant's Services** – As described in "Article 1, Consultant's Services," compensation for this Project shall be on a Fixed Fee Basis not to exceed contract amount of \$127,806.00 ("Consultant's Fee") and shall be paid in accordance with Article 3 and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B." **The final five percent (5%) of the Consultant's Fee amount of \$99,886.00 for services provided through the Bid Phase for both Projects A and B, or \$4,994.00, shall not be paid until the Consultant has completed all of the services required for the Town to award a construction contract and as described in Exhibit "A" and delivered to the Town all of the documents, plans, data, maps, and/or other information required in Exhibit "A."**
 - 3.1.1 **Completion of Record (As-Built) Documents** – The Town and Consultant agree that the As-Built documents for Projects A and B shall be completed, submitted to, and accepted by the Town prior to payment of the **final five percent (5%) of the balance of Consultant's Fee amount of \$27,920.00, or \$1,396.00.** The electronic formatting shall be consistent with the standards

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established in Town of Addison Guidelines for Computer Aided Design and Drafting ("CADD"). Completion of the Record Documents and/or "As-Built" documents, if any, shall be included in the Consultant's Fee and considered to be within the Scope of Services defined under this Agreement.

3.1.2 **Disputes between Town and Construction Contractor** – intentionally omitted.

3.1.3 **Consultation and Approval by Governmental Authorities and Franchised Utilities** – intentionally omitted.

3.2 **Direct Expenses – Direct Expenses are included in the Consultant's Fee as described** in Article 3.1 and include actual reasonable and necessary expenditures made by the Consultant and the Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit "B," and consistent with Exhibit "C," Town of Addison Guidelines for Direct Expenses, General and Administrative Markup, and Travel and Subsistence Expenses. The Consultant shall be solely responsible for the auditing of all Direct Expenses, including the subcontractors, prior to submitting to the Town for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment for services; provided, however this shall not be the Town's sole and exclusive remedy for said overpayment.

3.3 **Additional Services** – The Consultant shall provide the services as described in the Scope of Services as set forth in Exhibit "A" of this Agreement. If authorized in writing by the Town, the Consultant shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph ("Additional Services"). These services may include, but are not limited to:

3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations which are not provided for or contemplated in the Scope of Services described in Exhibit "A."

3.3.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in Exhibit "A." Drafts or revisions required as the result of errors or omissions by the Consultant shall not be considered Additional Services, but shall fall within the Scope of Services.

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- 3.3.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in Exhibit "A."
- 3.3.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in Exhibit "A."
- 3.3.5 Compensation for Additional Services authorized by the Town shall be in addition to the Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 3.3.6 Compensation for Additional Services authorized by the Town shall be in addition to the Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to Town.

Hourly Billable Rates by Position

Classification	Rates
Engineers / Architects	
E-1.....	NA
E-2.....	NA
E-3.....	NA
Project Engineer E-4.....	165.00
Engineering Manager E-5.....	200.00
Project Manager E-6.....	250.00
Planners / Environmental Specialist	
P-1.....	NA
P-2.....	NA
P-3.....	NA
Designers	
D-1.....	NA
D-2.....	NA
D-3.....	NA
Sr Engineering Tech/CAD Designer D-4.....	150.00
Technicians	
Office Technician T-1.....	131.00
RPLS Surveyor T-2.....	179.00
Field Technician T-3.....	185.00
Management/Administration	

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X-1.....	NA
X-2.....	NA
Clerical X-3.....	100.00
X-4.....	NA

3.4 **Invoices** – No payment to Consultant shall be made until Consultant tenders an invoice to the Town. Invoices are to be mailed to Town immediately upon completion of each individual task listed in Exhibit “B.” On all submitted invoices, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.

3.5 **Timing of Payment** – Town shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by Town to Consultant is considered to be complete upon mailing of payment by Town. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.

3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by Town, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. Town shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date the Town receives the invoice. Town shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of the Consultant, Town shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5. If a dispute is resolved in favor of the Town, Consultant shall submit to Town a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid Town in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. Town agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.

3.7 **Failure to Pay** – Failure of the Town to pay an invoice, for a reason other than upon written notification as stated in the provisions of Article 3.6 to the Consultant within sixty (60) days from the date of the invoice shall

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grant the Consultant the right, in addition to any and all other rights provided, to, upon written notice to the Town, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to Town, in accordance with Chapter 2251, Subchapter "D" ("Remedy for Nonpayment") of the *Texas Government Code*. The Town shall not be required to pay any invoice submitted by the Consultant if the Consultant breached any provision(s) herein.

- 3.8 **Adjusted Compensation** – If the Scope of the Project or if the Consultant's services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of the Consultant's compensation shall be equitably adjusted as approved by Town. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.
- 3.9 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of Town in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to Town all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, the Consultant's compensation shall be equitably adjusted as approved by the Town. Any additional amounts paid to the Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 **Documents Property of the Town** – Upon full payment of all monies owed to Consultant, the Project documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any materials relating to the Project ("Documents") shall become property of the Town, and Consultant may not use the Documents for any other purpose not relating to the Project without Town's prior written consent. Town shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in Exhibit "A."

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Upon completion of the work, or any earlier termination of this Agreement under Article 3 and/or Article 7, Consultant will revise plans, data, documents, maps, and any other information as defined in Exhibit "A" to reflect changes while working on the Project and promptly furnish the same to the Town in an acceptable electronic format. All such reproductions shall be the property of the Town who may use them without the Consultant's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project, provided that Consultant shall not be liable for additions, alterations, modifications, and/or revisions to the Project made by the Town or any entity that obtains the Documents from or through the Town.

- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that Town is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or Sub-consultants) under this Agreement are instruments of service in respect of the Project and property of the Town and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (*Texas Government Code*, Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents.

ARTICLE 5 CONSULTANT'S INSURANCE REQUIREMENTS

- 5.1 **Required Professional Liability Insurance** – Consultant shall maintain, at no expense to Town, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each claim, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.2 **Required General Liability Insurance** - Consistent with the terms and provisions of Exhibit "D," Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, a

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general liability insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of Exhibit "D," Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent service(s), and authorized to transact business in the State of Texas. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If Project size and scope warrant, Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to the Town, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Consistent with the terms and provisions of Exhibit "F," such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property

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damage, or any other loss to the extent that the same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to the Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CONSULTANT'S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to the Town as indicated in Article 3.4. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be included in the monthly invoices.

ARTICLE 7 AUDITS AND RECORDS / PROHIBITED INTEREST / VENDOR DISCLOSURE

The Consultant agrees that at any time during normal business hours and as often as the Town may deem necessary, Consultant shall make available to representatives of the Town for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the Town to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Consultant agrees that it is aware of the prohibited interest requirement of the Town Charter, which is repeated on the Affidavit, attached hereto as Exhibit "E" and incorporated herein for all purposes, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit attached hereto as Exhibit "E". Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit "F" and incorporated herein for all purposes.

If the Agreement is required to go to the City Council for approval, then the Consultant shall execute and deliver to the Town the Form 1295 Certificate of Interested Parties,

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as required by section 2252.908, Texas Government Code, as amended, prior to the City's execution of this Agreement.

Notwithstanding the foregoing, the Town's right to inspect, copy and audit shall not extend to the composition of the Consultant's rates and fees, percentage mark-ups or multipliers.

ARTICLE 8 TERMINATION OF AGREEMENT / REMEDIES

Town may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, and without prejudice to any other remedy it may have. If Town terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds the Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 herein and agrees to pay any costs over and above the fee which the Town is required to pay in order to finish the Project. On any default and/or breach by Consultant, Town may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from the Consultant's Fee due Consultant as set forth in Article 3 herein. If Town terminates this Agreement and Consultant is not in default of the Agreement, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of the Town in accordance with the provisions of this Agreement prior to termination.

In the event of any termination, Consultant shall deliver to Town all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

ARTICLE 9 DISPUTE RESOLUTION / MEDIATION

In addition to all remedies at law, the parties may resolve/mediate any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator.

ARTICLE 10

INDEMNITY

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CONSULTANT SHALL HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENTS), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND/OR ARISING OUT OF PROFESSIONAL SERVICES PROVIDED BY CONSULTANT PURSUANT TO THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE TOWN (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. THIS INDEMNIFICATION SHALL EXTEND TO THE PAYMENT OR REIMBURSEMENT OF THE TOWN'S REASONABLE ATTORNEYS FEES AND ASSOCIATED COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE CONSULTANT'S LIABILITY.

CONSULTANT SHALL PROMPTLY NOTIFY TOWN OF THE DEFENSE COUNSEL RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER, AND TIMELY NOTIFY TOWN OF ANY AND ALL LEGAL ACTIONS TAKEN BY THE DEFENSE COUNSEL REGARDING ANY AND ALL CLAIMS.

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THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Consultant agrees that all notices or communications to Town permitted or required under this Agreement shall be delivered to Town at the following addresses:

Director of Infrastructure and Development Services

Town of Addison
16801 Westgrove Drive
Addison, Texas 75001

Town agrees that all notices or communication to Consultant permitted or required under this Agreement shall be delivered to Consultant at the following addresses:

Stantec Consulting Services Inc.

Ramon Salazar, PE, Team Lead NT Water
5310 Harvest Hill Road Suite 299
Dallas, TX, 75230

Any notice provided in writing under the terms of this Agreement by either party to the other shall be in writing and may be effected by registered or certified mail, return receipt requested.

All notices or communication required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is postmarked by the sending party. Each party may change the address to which notice may be sent to that party by giving notice of such change to the other party in accordance with the provisions of this Agreement.

ARTICLE 12 MISCELLANEOUS

- 12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled “A” through “F,” all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modifies except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:

12.1.1 Exhibit “A,” Scope of Services.

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- 12.1.2 Exhibit "B," Compensation Schedule / Project Billing / Project Budget.
 - 12.1.3 Exhibit "C," Town of Addison Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.
 - 12.1.6 Exhibit "D," Town of Addison Contractor Insurance Requirements.
 - 12.1.7 Exhibit "E," Affidavit.
 - 12.1.8 Exhibit "F", Conflict of Interest Questionnaire, Form CIQ.
- 12.2 **Assignment and Subletting** – The Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the Town. The Consultant further agrees that the assignment or subletting or any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Consultant of its full obligations to the Town as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third party billing.
- 12.3 **Successors and Assigns** – Town and Consultant, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.
- 12.4 **Severability** – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained herein.
- 12.5 **Venue** – This entire Agreement is performable in Dallas County, Texas and the venue for any action related directly or indirectly, to this Agreement or in any manner connected therewith shall be in Dallas County, Texas, and this Agreement shall be construed under the laws of the State of Texas.
- 12.6 **Execution / Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

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- 12.7 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for an on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.8 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.9 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.10 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- 12.11 **Sovereign Immunity** – The parties agree that the Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.
- 12.12 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.13 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 12.14 **No Third Party Beneficiaries** -- Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

EXHIBIT A

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

Effective Date: _____

TOWN:
Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

CONSULTANT:
Stantec Consulting Services Inc.

By: Ashok Varma
Ashok Varma, P.E., Principal

Date: 1-27-2017

EXHIBIT A

STATE OF TEXAS

§

COUNTY OF DALLAS

§

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Wesley S. Pierson**, Town of Addison, Texas City Manager, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of _____, 2016.

Notary Public In and For the State of Texas
My commission expires: _____

STATE OF TEXAS

§

COUNTY OF DALLAS

§

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **AsHok VARMA** known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27 day of January, ~~2016~~ 2017

Peggy R Towner
Notary Public In and For the State of Texas
My commission expires: 12-2-2017

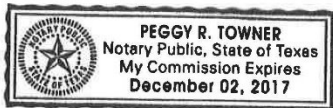


EXHIBIT A

Exhibit "A"
Scope of Services
Agreement by and between the Town of Addison, Texas (Town)
and Stantec Consulting Services Inc. (Consultant)
to perform Professional Engineering Services

I. PROJECT DESCRIPTION/SCOPE OF SERVICES

See attached Scope of Services

EXHIBIT A

EXHIBIT "B" COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

I. COMPENSATION SCHEDULE / PROJECT BILLING SUMMARY.

TOTAL CONSULTANT'S FEE (NOT-TO-EXCEED)	\$	127,806.00
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Projects - Phases		Contract Amount (Fee)
A. Dooley Road - Asbestos Concrete Water Line Replacement		\$60,798
Labor Phases:		
1	Data Collection and Verification	\$7,290
2	Design of Improvements	\$25,080
3	Bid-Phase Services	\$2,080
4	Construction Phase Services	\$12,470
Expense Phases:		
700	Reimbursables	\$385
701	5% Subconsultant Markup	\$643
801	SUE - Hayden Consultants, Inc.	\$10,350
802	Geotech - HVJ Associates	\$2,500
B. Prestonwood - Ductile Iron Water Line Replacement		\$67,008
Labor Phases:		
1	Data Collection and Verification	\$5,940
2	Design of Improvements	\$25,080
3	Bid-Phase Services	\$2,080
4	Construction Phase Services	\$15,450
Expense Phases:		
700	Reimbursables	\$440
701	5% Subconsultant Markup	\$858
801	SUE - Hayden Consultants, Inc.	\$14,660
802	Geotech - HVJ Associates	\$2,500
Total		\$127,806

Expense Phases: Cumulative for Both Projects		
700	Reimbursables	\$825
701	5% Subconsultant Markup	\$1,501
801	SUE - Hayden Consultants, Inc.	\$25,010
802	Geotech - HVJ Associates	\$5,000
803	Other?	\$0
804	[subconsultant name]	\$0
805	[subconsultant name]	\$0
Total Expenses:		\$32,336

EXHIBIT A

EXHIBIT "C"

TOWN OF ADDISON GUIDELINES FOR DIRECT EXPENSES; GENERAL AND ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

I. **CONSULTANT'S RESPONSIBILITY.** The Consultant shall be solely responsible for the auditing of all direct expense, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those to be included under a sub-contract, prior to the Town for reimbursement, and Consultant shall be responsible for the accuracy thereof. Any overpayment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment(s) for services; however, this shall not be the Town's sole and exclusive remedy for said overpayment.

II. GUIDELINES FOR DIRECT EXPENSES.

A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of the Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall Town reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of Town's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by Town. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

B. **Supplies, Material, Equipment** – Town shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by Town's Project Manager in writing.

C. **Commercial Reproduction** – Town shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to Town at each phase of progress, and final Construction Documents prepared for distribution at bidding phase, provided that the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the Town. Consultant shall provide such documentation to Town for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

D. **In-House Reproduction** - Consultant shall make arrangements with the Town for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number or reproductions, the

EXHIBIT A

date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- E. **Commercial Plotting** – Town shall reimburse the actual cost of plots, specifically limited to final documents, provided the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the Town. Consultant shall provide such documentation to Town for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with Town for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – Town shall reimburse the actual cost of postage and delivery of Instruments of Service, provided the Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the Town, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Consultant and/or the Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, and then only reimbursable for the actual cost subject to compliance with the Town's currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.

III. **GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.**

- 1. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define

EXHIBIT A

to Town specifically what costs are included in the markup calculation. To apply General and/or Administrative Markup, Consultant must also document to Town what costs would be considered direct costs. Town shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. Town reserves the right to reject any and all requests for General and/or Administrative Markup.

IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.

1. **Adherence to Currently Adopted Town Travel Policy** – Unless otherwise stated within this Agreement, reimbursements shall be governed by the same travel policies provided for Town employees according to current adopted policy. All lodging and meals are reimbursed in accordance with IRS rules and rates as shown on the U.S. General Services Administration website for the Town: <http://www.gsa.gov/portal/category/21287>.
2. Prior to the event, Consultant shall request, and the Town shall provide the provisions and the restrictions that apply to out-of-town reimbursements.

EXHIBIT A

EXHIBIT "D" TOWN OF ADDISON PROFESSIONAL SERVICES/CONSULTANT INSURANCE GUIDELINES

REQUIREMENTS

Contractors performing work on CITY OF ADDISON property or public right-of-way shall provide the CITY OF ADDISON a certificate of insurance or a copy of their insurance policy(s) (and including a copy of the endorsements necessary to meet the requirements and instructions contained herein) evidencing the coverages and coverage provisions identified herein within ten (10) days of request from CITY OF ADDISON. Contractors shall provide CITY OF ADDISON evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. Work shall not commence until insurance has been approved by CITY OF ADDISON.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must have a A.M. Best's rating A-:VII or greater.

Listed below are the types and minimum amounts of insurances required and which must be maintained during the term of the contract. CITY OF ADDISON reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

	TYPE OF INSURANCE	AMOUNT OF INSURANCE	PROVISIONS
1.	Workers' Compensation Employers' Liability to include: (a) each accident (b) Disease Policy Limits (c) Disease each employee	Statutory Limits per occurrence Each accident \$1,000,000 Disease Policy Limits \$1,000,000 Disease each employee \$1,000,000	CITY OF ADDISON to be provided a <u>WAIVER OF SUBROGATION AND 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-:VII rated or above.
2.	Commercial General (Public) Liability to include coverage for: a) Bodily Injury b) Property damage c) Independent Contractors d) Personal Injury e) Contractual Liability	Bodily Injury/Property Damage per occurrence \$1,000,000, General Aggregate \$2,000,000 Products/Completed Aggregate \$2,000,000, Personal Advertising Injury per occurrence \$1,000,000, Medical Expense 5,000	CITY OF ADDISON to be listed as <u>ADDITIONAL INSURED</u> and provided <u>30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-:VII rated or above.
3.	Business Auto Liability to include coverage for: a) Owned/Leased vehicles b) Non-owned vehicles c) Hired vehicles	Combined Single Limit \$1,000,000	CITY OF ADDISON to be listed as <u>ADDITIONAL INSURED</u> and provided <u>30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A:VII-rated or above.

Certificate of Liability Insurance forms (together with the endorsements necessary to meet the requirements and instructions contained herein) may be **faxed** to the Purchasing Department:

EXHIBIT A

972-450-7074 or emailed to: purchasing@addisontx.gov. Questions regarding required insurance should be directed to the Purchasing Manager.

With respect to the foregoing insurance,

1. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the City of Addison.
2. All insurance policies shall be endorsed to require the insurer to immediately, or no later than thirty (30) days, notify the City of Addison, Texas of any material change in the insurance coverage.
3. All insurance policies shall be endorsed to the effect that the City of Addison, Texas will receive at least thirty (30) days' notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name the City of Addison, Texas as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
5. Insurance must be purchased from insurers that are financially acceptable to the City of Addison and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Upon request, Contractor shall furnish the City of Addison with complete copies of all insurance policies certified to be true and correct by the insurance carrier.

This form must be signed and returned with your quotation. You are stating that you do have the required insurance and if selected to perform work for CITY OF ADDISON, will provide the certificates of insurance (and endorsements) with the above requirements to CITY OF ADDISON within 10 working days.

A CONTRACT/PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE AND APPROVAL OF INSURANCE.

AGREEMENT

I agree to provide the above described insurance coverages within 10 working days if selected to perform work for CITY OF ADDISON. I also agree to require any subcontractor(s) to maintain insurance coverage equal to that required by the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

Project/Bid# _____

Company: STANTEC CONSULTING SERVICES INC.

Printed Name: ASHOK VARMA, P.E.

Signature: Ashok Varma Date: 1-27-2017

EXHIBIT A

EXHIBIT "E"
AFFIDAVIT

THE STATE OF TEXAS

§
§
§

THE COUNTY OF DALLAS

I, ASHOK VARMA, a member of STANTEC, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

- Ownership of 10% or more of the voting shares of the business entity.
- Ownership of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty Five Thousand and 00/100 Dollars (\$25,000.00).
- A relative of mine has substantial interest in the business entity or property that would be affected by my business decision of the public body of which I am a member.
- Other: _____
- None of the Above.

Upon filing this affidavit with the Town of Addison, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of a public body which took action on the agreement.

Signed this 27th day of January, 2017
Ashok Varma, PRINCIPAL
Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared Ashok Varma and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 27 day of January, 2017.

Peggy R Towner
Notary Public in and for the State of Texas
My commission expires: 12-02-2017

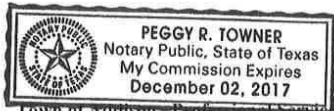


EXHIBIT A

EXHIBIT "F" CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

FORM CIQ CONFLICT OF INTEREST QUESTIONNAIRE For vendor or other person doing business with local governmental entity	
This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.	OFFICE USE ONLY Date Received
1. Name of person who has a business relationship with local governmental entity. <u>STANTEC CONSULTING SERVICES INC.</u>	
2. Check this box if you are filing an update to a previously filed question <input type="checkbox"/> <small>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</small>	
3. Name of local government officer with whom filer has employment or business relationship. <u>N/A</u> Name of Local Government Officer This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire? Yes <input type="checkbox"/> No <input type="checkbox"/> B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity? Yes <input type="checkbox"/> No <input type="checkbox"/> C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more? Yes <input type="checkbox"/> No <input type="checkbox"/> D. Describe each employment or business relationship with the local government officer named in this section. _____ _____ _____ _____	

EXHIBIT A

EXHIBIT "F" CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

4. Signature of person doing business with the governmental entity Date:


Signature

1/27/2017
Date

Local Government Officers Town of Addison, Texas

For purposes of completion of the required Conflict of Interest Questionnaire for the Town of Addison Texas (required by all Vendors who submit bids/proposals), Local Government Officers are:

Mayor: Todd Meier

Council
Members: Al Angel, Council Member
Jim Duffy, Council Member
Bruce Arfsten, Council Member
Paul Walden, Council Member
Ivan Hughes, Council Member
Dale Wilcox, Council Member

City Manager: Wesley S. Pierson

EXHIBIT A



Scope of Services

A. DOOLEY ROAD - ASBESTOS CONCRETE WATER LINE REPLACEMENT

Project Description:

The Dooley Road - Asbestos Concrete Water Line Replacement consists of the demolition and replacement with PVC of approximate 500 LF of 8-inch Asbestos Concrete (AC) Pipe at an approximate depth of 4.5-foot depth with 3 Fire Hydrants, 3 Fire service vaults, and 4 - 2 inch taps (one crossing entire road) along with the rebuilding of two vaults with fire services currently in existing vaults that are collapsing at north end of project (past where the AC pipe ends). There appears to be 4 sanitary sewer lateral crossings along with storm sewer, natural gas, telephone/fiber, and underground power utilities in the vicinity that will need to be designed around. This work will, also, include but not limited to roadway repair and existing utility relocations.

1.0 Phase 1: Data Collection and Verification

1.1 Kickoff meeting with Town Staff

It is assumed that 1 meeting will be conducted to officially kickoff the project once the town staff has approved the project to start. During this meeting discussion and recap will consist of the following items but not limited to team introductions, expectations, budget, scope of services, project schedule, organizational chart/chain of command, points of contact, and an initial site visit and walk-through.

1.2 Prepare meeting minutes and circulate

Stantec will prepare meeting minutes and circulate to the entire team including town staff for review and revisions. Meeting minutes will be dated and used in the future as a reference document.

1.3 Project Administration

Project administration will consist of preparing & tracking the project schedule, monthly invoice preparation, preparation of bi-weekly project status reports to be sent to the project team for tracking status purposes, conducting an internal (Stantec) team kickoff meeting, occasional site visits and walk-throughs (assume 2 additional site visits beyond the initial), and miscellaneous email and team management coordination efforts.

1.4 Geotechnical Engineering (Subconsultant: HVI Associates)

Reference the attached Proposal.

EXHIBIT A



1.5 *Subsurface Utility Engineering (Subconsultant: Hayden Consultants, Inc.)*

Reference the attached Proposal.

1.6 *Professional Surveying Services*

- 1.6.1 Records Research
- 1.6.2 Data Study/Plotting
- 1.6.3 Corner Recovery
- 1.6.4 Perimeter Traverse (GPS Control)
- 1.6.5 Computations
- 1.6.6 Horizontal Topo
- 1.6.7 Vertical Topo
- 1.6.8 Input Field Data/Analysis
- 1.6.9 Drafting
- 1.6.10 Supervision
- 1.6.11 Tree Survey
- 1.6.12 Review/Redline
- 1.6.13 Administrative

1.7 *Record Drawing Review*

Record drawing review will be a cursory evaluation by the project engineer and the senior engineering technician of the existing utilities CAD file prepared by the Survey team and SUE Sub-consultant for the purposes of ensuring that all existing utilities have been accounted for.

2.0 Phase 2: Design of Improvements

2.1 *30% Preliminary Opinion of Probable Construction Cost (POPCC)*

Stantec will prepare a preliminary opinion of probable cost estimate with appropriate construction contingencies factored in to reflect 30% construction documents.

2.2 *60% Construction Documents & Specifications*

2.2.1 Project Meetings

Stantec will conduct one internal project status and planning meeting for each phase of the construction document preparation and will subsequently prepare meeting minutes to circulate to the entire team.

2.2.2 2nd Plan Revisions

Stantec will prepare 60% construction plans in adherence to the Town of Addison and industry best practices of engineering and construction standards. The 60% construction plans will include horizontal alignment and vertical profiles, appurtenance placement, traffic control plan (if necessary), erosion/stormwater pollution prevention

EXHIBIT A



control plan, construction phasing plan, temporary servicing plans for affected water customers, and standard construction details and trench sections.

2.2.3 Update Technical Spec and Front End Bid Manual Preparation

Stantec will prepare a preliminary front end bid manual and technical specifications in adherence to the Town of Addison and industry best practices of engineering and construction standards. The preliminary front end bid manual and technical specifications will likely consist of but not limited to:

- Division 00 - General Conditions: blank invitation to bidders, instructions to bidders, bid form, proposal form unit price, bid bond, prequalification statements, bidders prequalification's, prequalification statement, bidder prequalification application, contractor compliance with worker's compensation law, agreement, certificate of insurance, performance bond, payment bond, maintenance bond, general conditions, and standard city conditions of the construction contract.
- Division 01 – General Requirements: summary of work, substitution procedures, preconstruction meeting, project meetings, construction progress schedule, preconstruction video, submittals, special project procedures, testing and inspection services, temporary facilities and controls, street use permit and modifications to traffic control, storm water pollution prevention plan, temporary project signage, product requirements, product storage and handling requirements, mobilization and remobilization, construction staking, cleaning, closeout requirements, operation and maintenance data, and project record documents
- Division 02-End – Pertinent technical specifications in accordance with the design and construction plans.

2.2.4 Internal QA/QC

Prior to submittal to the Town, project deliverables will undergo constructability and technical review by a Stantec Internal QA/QC support staff to ensure compliance with the Town's standards and best engineering practice standards and customer requirements.

60% Construction Documents Deliverables:

- (5) hardcopies of the 60% construction plans will be submitted for review
- (1) PDF of the 60% construction plans will be submitted for review
- (2) hardcopies of the preliminary tech specs and front-end bid manual for review*
- (1) PDF of the preliminary tech specs and front-end bid manual for review*

*Assuming both project areas (A. Dooley Road and B. Prestonwood) will be combined into one bid manual.

2.3 *Intermediate Opinion of Probable Construction Cost (IOPCC)*

Stantec will prepare a 60% design phase opinion of probable cost estimate with appropriate construction contingencies factored in to reflect the 60% construction documents.



2.4 100% Construction Documents & Specifications

2.4.1 Project Meetings

Stantec will conduct one internal project status and planning meeting for each phase of the construction document preparation and will subsequently prepare meeting minutes to circulate to the entire team which will be used as reference in the future.

2.4.2 Addressing Town Comments

Stantec will update and prepare 100% complete construction plans to reflect the Town's comments in accordance with established deliverable schedule and with the Town's comments; prepare a comment/response log; maintain the issues log to track resolution of on-going project concerns; and communicate with the Town for any questions or concerns.

2.4.3 Final Plan Revisions

Stantec will prepare the final bid-ready construction plans and specifications in adherence to the Town of Addison and industry best practices of engineering and construction standards. The final bid-ready documents will include finalized horizontal alignment and vertical profiles, appurtenance placement, traffic control plan (if necessary), erosion/stormwater pollution prevention control plan, construction phasing plan, temporary servicing plans for affected water customers, and standard construction details and trench sections.

2.4.4 Finalized Technical Spec and Front End Bid Manual Preparation

Stantec will update the preliminary front end bid manual and technical specifications per the comments received and in adherence to the Town of Addison and industry best practices of engineering and construction standards and finalized the technical specs and front end bid manual.

2.4.5 Internal QA/QC

Prior to submittal to the Town, project deliverables will undergo constructability and technical review by a Stantec Internal QA/QC support staff to ensure compliance with the Town's standards and best engineering practice standards and customer requirements.

100% Construction Documents Deliverables:

- (10) hardcopies of the 100% construction plans will be submitted for release to the contractor
- (1) PDF of the 100% construction plans will be submitted to the Town for their records
- (5) hardcopies of the finalized tech specs & front-end bid manual for release to the contractor*
- (1) PDF of the finalized technical specifications and front-end bid manual*

*Assuming both project areas (A. Dooley Road and B. Prestonwood) will be combined into one bid manual.



2.5 *Final Opinion of Probable Construction Cost (FOPCC)*

Stantec will prepare a final opinion of probable cost estimate with appropriate construction contingencies factored in to reflect the 100% construction documents. The intent of this cost estimate is to be used as a metric by which to judge the various contractor bid estimates that will be received and evaluated during bid-phase services.

3.0 Phase 3: Bid-Phase Services

3.1 *Advertisement of Contractor Services Needed*

Stantec will provide support to the Town in preparing and advertising the project for contractor construction bids.

3.2 *Contractor Bid Evaluation, Selection, & Bid-Spec Authorizations*

Stantec will assist the Town in evaluating contractor bids and qualifications and provide an Engineer's Recommendation to Award in support of the contractor selection process.

4.0 Phase 4: Construction Phase Services

All construction phase services will be established as hourly billing with no limit to accommodate unknown variables encountered during construction.

4.1 *Pre-Construction Meeting*

It is assumed that 1 meeting will be conducted to officially kickoff the construction of the project once the Town has been released to the contractor to start. During this meeting discussion and recap will consist of the following items but not limited to team introductions, expectations, budget, scope of services, project schedule, organizational chart/chain of command, points of contact, and a site visit and walk-through.

4.2 *Construction Staking*

Stantec surveying services will provide construction staking for but not limited to setting up the project, establishing proper construction boundaries, marking locations of existing utilities, staking the horizontal alignment, and staking the vertical profile depths of the water line.

4.3 *Construction Administration & Coordination*

Construction administration will consist of preparing & tracking the project schedule, monthly invoice preparation, preparation of bi-weekly project status reports to be sent to the project team for tracking status purposes, occasional site visits and walk-throughs (assume 2 additional site visits beyond the initial), and miscellaneous email and team management coordination efforts.

EXHIBIT A



4.3.1 RFI's

Stantec will be on-call to address any requests for information (RFI) the contractor may have during construction; it assume that there will be approximately 5 RFI's to address throughout the duration of the project.

4.3.2 Submittal Reviews

Stantec will provide engineering review services of material and product submittals to be installed by the contractor; close adherence to the Town of Addison's standards and best engineering practice standards will be maintained and factored in during the review of submittals.

4.3.3 Change Orders

For budgeting purposes, Stantec assumes that up to 3 construction change orders may be required to accommodate unknown site conditions encountered during construction.

4.4 *Water Quality Testing*

At the Town's request, Stantec will support as necessary the collection of samples for water quality testing and evaluation to ensure proper compliance of chlorine residual and bacteriological concentrations in accord with TCEQ standards.

4.5 *Pressure Testing*

At the Town's request, Stantec will support as necessary pressure testing activities and ensure the installed water lines meet fire flow residual pressure and standard operating condition minimum pressure requirements.

4.6 *Project Closeout Meeting*

It is assumed that 1 meeting will be conducted to officially closeout the construction of the project once the Town has completed its final inspection and walk-through. During this meeting discussion and recap will consist of the following items but not limited to final deliverables of closed-out bid-spec documents, bonds, certificates of insurance, and official public opening of the water line.

EXHIBIT A

January 3, 2017

EXHIBIT A: DOOLEY ROAD - ASBESTOS CONCRETE WATER LINE REPLACEMENT





Scope of Services

B. PRESTONWOOD - DUCTILE IRON WATER LINE REPLACEMENT

Project Description:

The Prestonwood Shopping Center – Ductile Iron Water Line Replacement consists of the demolition and replacement with PVC of approximate 650 LF of 8-inch Ductile Iron (DI) Pipe at an approximate depth of unknown depth with an estimated 3 Fire Hydrants, 3 Fire service vaults, and 4 - 2 inch taps. There appears to be some sanitary sewer, storm sewer, natural gas, telephone/fiber, and underground power utilities in the vicinity that will need to be designed around. This work will, also, include but not limited to roadway repair and existing utility relocations. Also, key to this design and construction work will be maintaining uninterrupted service and access to the commercial buildings adjacent to the water line which will entail planned phasing and temporary service feeds.

1.0 Phase 1: Data Collection and Verification

1.1 Kickoff meeting with Town Staff

It is assumed that 1 meeting will be conducted to officially kickoff the project once the town staff has approved the project to start. During this meeting discussion and recap will consist of the following items but not limited to team introductions, expectations, budget, scope of services, project schedule, organizational chart/chain of command, points of contact, and an initial site visit and walk-through.

1.2 Prepare meeting minutes and circulate

Stantec will prepare meeting minutes and circulate to the entire team including town staff for review and revisions. Meeting minutes will be dated and used in the future as a reference document.

1.3 Project Administration

Project administration will consist of preparing & tracking the project schedule, monthly invoice preparation, preparation of bi-weekly project status reports to be sent to the project team for tracking status purposes, conducting an internal (Stantec) team kickoff meeting, occasional site visits and walk-throughs (assume 2 additional site visits beyond the initial), and miscellaneous email and team management coordination efforts.

1.4 Geotechnical Engineering (Subconsultant: HVJ Associates)

Reference the attached Proposal.



1.5 *Subsurface Utility Engineering (Subconsultant: Hayden Consultants, Inc.)*

Reference the attached Proposal.

1.6 *Professional Surveying Services*

- 1.6.1 Records Research
- 1.6.2 Data Study/Plotting
- 1.6.3 Corner Recovery
- 1.6.4 Perimeter Traverse (GPS Control)
- 1.6.5 Computations
- 1.6.6 Horizontal Topo
- 1.6.7 Vertical Topo
- 1.6.8 Input Field Data/Analysis
- 1.6.9 Drafting
- 1.6.10 Supervision
- 1.6.11 Tree Survey
- 1.6.12 Review/Redline
- 1.6.13 Administrative

1.7 *Record Drawing Review*

Record drawing review will be a cursory evaluation by the project engineer and the senior engineering technician of the existing utilities CAD file prepared by the Survey team and SUE Sub-consultant for the purposes of ensuring that all existing utilities have been accounted for.

2.0 Phase 2: Design of Improvements

2.1 *30% Preliminary Opinion of Probable Construction Cost (POPCC)*

Stantec will prepare a preliminary opinion of probable cost estimate with appropriate construction contingencies factored in to reflect 30% construction documents.

2.2 *60% Construction Documents & Specifications*

2.2.1 Project Meetings

Stantec will conduct one internal project status and planning meeting for each phase of the construction document preparation and will subsequently prepare meeting minutes to circulate to the entire team.

2.2.2 2nd Plan Revisions

Stantec will prepare 60% construction plans in adherence to the Town of Addison and industry best practices of engineering and construction standards. The 60% construction plans will include horizontal alignment and vertical profiles, appurtenance placement, traffic control plan (if necessary), erosion/stormwater pollution prevention

EXHIBIT A



control plan, construction phasing plan, temporary servicing plans for affected water customers, and standard construction details and trench sections.

2.2.3 Update Technical Spec and Front End Bid Manual Preparation

Stantec will prepare a preliminary front end bid manual and technical specifications in adherence to the Town of Addison and industry best practices of engineering and construction standards. The preliminary front end bid manual and technical specifications will likely consist of but not limited to:

- Division 00 - General Conditions: blank invitation to bidders, instructions to bidders, bid form, proposal form unit price, bid bond, prequalification statements, bidders prequalification's, prequalification statement, bidder prequalification application, contractor compliance with worker's compensation law, agreement, certificate of insurance, performance bond, payment bond, maintenance bond, general conditions, and standard city conditions of the construction contract.
- Division 01 – General Requirements: summary of work, substitution procedures, preconstruction meeting, project meetings, construction progress schedule, preconstruction video, submittals, special project procedures, testing and inspection services, temporary facilities and controls, street use permit and modifications to traffic control, storm water pollution prevention plan, temporary project signage, product requirements, product storage and handling requirements, mobilization and remobilization, construction staking, cleaning, closeout requirements, operation and maintenance data, and project record documents
- Division 02-End – Pertinent technical specifications in accordance with the design and construction plans.

2.2.4 Internal QA/QC

Prior to submittal to the Town, project deliverables will undergo constructability and technical review by a Stantec Internal QA/QC support staff to ensure compliance with the Town's standards and best engineering practice standards and customer requirements.

60% Construction Documents Deliverables:

- (5) hardcopies of the 60% construction plans will be submitted for review
- (1) PDF of the 60% construction plans will be submitted for review
- (2) hardcopies of the preliminary tech specs and front-end bid manual for review*
- (1) PDF of the preliminary tech specs and front-end bid manual for review*

*Assuming both project areas (A. Dooley Road and B. Prestonwood) will be combined into one bid manual.

2.3 Intermediate Opinion of Probable Construction Cost (IOPCC)

Stantec will prepare a 60% design phase opinion of probable cost estimate with appropriate construction contingencies factored in to reflect the 60% construction documents.

EXHIBIT A



2.4 100% Construction Documents & Specifications

2.4.1 Project Meetings

Stantec will conduct one internal project status and planning meeting for each phase of the construction document preparation and will subsequently prepare meeting minutes to circulate to the entire team which will be used as reference in the future.

2.4.2 Addressing Town Comments

Stantec will update and prepare 100% complete construction plans to reflect the Town's comments in accordance with established deliverable schedule and with the Town's comments; prepare a comment/response log; maintain the issues log to track resolution of on-going project concerns; and communicate with the Town for any questions or concerns.

2.4.3 Final Plan Revisions

Stantec will prepare the final bid-ready construction plans and specifications in adherence to the Town of Addison and industry best practices of engineering and construction standards. The final bid-ready documents will include finalized horizontal alignment and vertical profiles, appurtenance placement, traffic control plan (if necessary), erosion/stormwater pollution prevention control plan, construction phasing plan, temporary servicing plans for affected water customers, and standard construction details and trench sections.

2.4.4 Finalized Technical Spec and Front End Bid Manual Preparation

Stantec will update the preliminary front end bid manual and technical specifications per the comments received and in adherence to the Town of Addison and industry best practices of engineering and construction standards and finalized the technical specs and front end bid manual.

2.4.5 Internal QA/QC

Prior to submittal to the Town, project deliverables will undergo constructability and technical review by a Stantec Internal QA/QC support staff to ensure compliance with the Town's standards and best engineering practice standards and customer requirements.

100% Construction Documents Deliverables:

- (10) hardcopies of the 100% construction plans will be submitted for release to the contractor
- (1) PDF of the 100% construction plans will be submitted to the Town for their records
- (5) hardcopies of the finalized tech specs & front-end bid manual for release to the contractor*
- (1) PDF of the finalized technical specifications and front-end bid manual*

*Assuming both project areas (A. Dooley Road and B. Prestonwood) will be combined into one bid manual.



2.5 *Final Opinion of Probable Construction Cost (FOPCC)*

Stantec will prepare a final opinion of probable cost estimate with appropriate construction contingencies factored in to reflect the 100% construction documents. The intent of this cost estimate is to be used as a metric by which to judge the various contractor bid estimates that will be received and evaluated during bid-phase services.

3.0 Phase 3: Bid-Phase Services

3.1 *Advertisement of Contractor Services Needed*

Stantec will provide support to the Town in preparing and advertising the project for contractor construction bids.

3.2 *Contractor Bid Evaluation, Selection, & Bid-Spec Authorizations*

Stantec will assist the Town in evaluating contractor bids and qualifications and provide an Engineer's Recommendation to Award in support of the contractor selection process.

4.0 Phase 4: Construction Phase Services

All construction phase services will be established as hourly billing with no limit to accommodate unknown variables encountered during construction.

4.1 *Pre-Construction Meeting*

It is assumed that 1 meeting will be conducted to officially kickoff the construction of the project once the Town has been released to the contractor to start. During this meeting discussion and recap will consist of the following items but not limited to team introductions, expectations, budget, scope of services, project schedule, organizational chart/chain of command, points of contact, and a site visit and walk-through.

4.2 *Construction Staking*

Stantec surveying services will provide construction staking for but not limited to setting up the project, establishing proper construction boundaries, marking locations of existing utilities, staking the horizontal alignment, and staking the vertical profile depths of the water line.

4.3 *Construction Administration & Coordination*

Construction administration will consist of preparing & tracking the project schedule, monthly invoice preparation, preparation of bi-weekly project status reports to be sent to the project team for tracking status purposes, occasional site visits and walk-throughs (assume 2 additional site visits beyond the initial), and miscellaneous email and team management coordination efforts.

EXHIBIT A



4.3.1 RFI's

Stantec will be on-call to address any requests for information (RFI) the contractor may have during construction; it assume that there will be approximately 5 RFI's to address throughout the duration of the project.

4.3.2 Submittal Reviews

Stantec will provide engineering review services of material and product submittals to be installed by the contractor; close adherence to the Town of Addison's standards and best engineering practice standards will be maintained and factored in during the review of submittals.

4.3.3 Change Orders

For budgeting purposes, Stantec assumes that up to 3 construction change orders may be required to accommodate unknown site conditions encountered during construction.

4.4 *Water Quality Testing*

At the Town's request, Stantec will support as necessary the collection of samples for water quality testing and evaluation to ensure proper compliance of chlorine residual and bacteriological concentrations in accord with TCEQ standards.

4.5 *Pressure Testing*

At the Town's request, Stantec will support as necessary pressure testing activities and ensure the installed water lines meet fire flow residual pressure and standard operating condition minimum pressure requirements.

4.6 *Project Closeout Meeting*

It is assumed that 1 meeting will be conducted to officially closeout the construction of the project once the Town has completed its final inspection and walk-through. During this meeting discussion and recap will consist of the following items but not limited to final deliverables of closed-out bid-spec documents, bonds, certificates of insurance, and official public opening of the water line.

EXHIBIT A

January 3, 2017

EXHIBIT B: PRESTONWOOD - DUCTILE IRON WATER LINE REPLACEMENT



Work Session and Regular Meeting**Meeting Date:** 03/28/2017**Department:** Parks & Recreation

AGENDA CAPTION:

Present, Discuss, And Consider Action On **The Site Selection For A Relocated Playground.**

BACKGROUND:

In September 2013, Addison was notified by Oncor that for safety reasons the Town would need to remove the playground located in Oncor's easement along Redding Trail. A year later, the Town entered into an agreement with Oncor that allowed a three-year window for the removal of the playground. September 15, 2017 marks that agreement's deadline.

During the Addison Athletic Club Master Plan Committee process in 2015, residents asked where the existing playground could be relocated. Staff mentioned Dome Park as a possible location, but no promises were made. As part of the Fiscal Year 2016 budget preparation process, Addison Park staff made a request to the City Manager's Office for funds to study the potential for a new playground at Dome Park. Those funds were not included in the fiscal year 2016 budget due to significant budget constraints after the Town's loss of a major tax payer. Staff did not submit a request to Council in fiscal year 2017.

Following the Public Hearing at the February 14, 2017 Council meeting, Town staff engaged TBG Partners to provide design services and evaluate three possible sites for a new playground. These sites were evaluated based on four criteria provided by the residents that formed the playground focus group:

1. Short walking distance from current easement playground (Staff set limit at .25 mile radius);
2. Surrounded by Residential Zoning;
3. Limited Parking Access;
4. No crossing of busy streets.

TBG Partners also provided additional parameters for evaluating the sites, including:

1. Disruption to Adjacent Lots
2. Flat Site
3. Limited Demolition Required
4. Access to Utilities
5. Access to Trails
6. Good Visibility/Feels Safe

7. Limited Safety Hazards
8. Adjacent to Other Playgrounds

Based on the evaluation of the three sites, TBG Partners recommends the sites in the following order: (see attached presentation)

1. Dome Park
2. Les Lacs Park (adjacent to lake)
3. Athletic Club

Before staff can move forward with the installation of the new playground, the following actions will need to be taken by Council:

1. Select the site for the relocation of the playground
2. Approve the schematic design
3. Approve funding for the relocation since it is not included in the Fiscal Year 2017 budget

Parks staff has received formal opposition from one resident in close proximity to Dome Park.

RECOMMENDATION:

Administration recommends Dome Park as the preferred site for a new playground based on the park evaluation and analysis performed by TBG Partners.

Attachments

Playground Site Inventory and Analysis Presentation



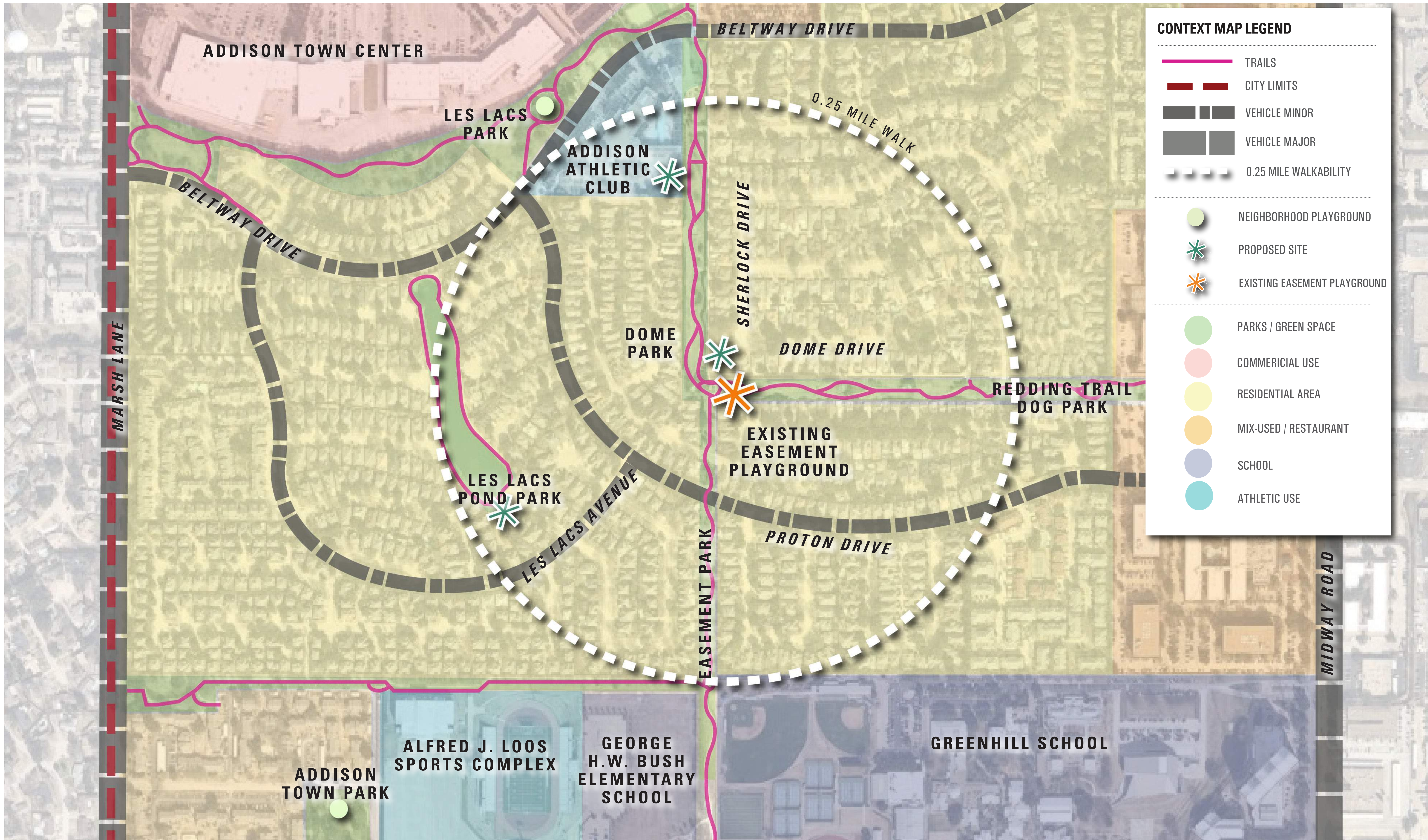
ADDISON PARKS EVALUATION / SITE INVENTORY AND ANALYSIS



PURPOSE : EVALUATE 3 AVAILABLE SITES WITHIN A 0.25 MILE WALKING RADIUS TO REPLACE THE EXISTING EASEMENT PLAYGROUND STRUCTURE



GOAL : PROVIDE A RECOMMENDATION BASED UPON THE MOST DESIRABLE SITE FOR THE NEW LOCATION OF THE PLAYGROUND



CONTEXT MAP LEGEND

-  TRAILS
-  CITY LIMITS
-  VEHICLE MINOR
-  VEHICLE MAJOR
-  0.25 MILE WALKABILITY

-  NEIGHBORHOOD PLAYGROUND
-  PROPOSED SITE
-  EXISTING EASEMENT PLAYGROUND

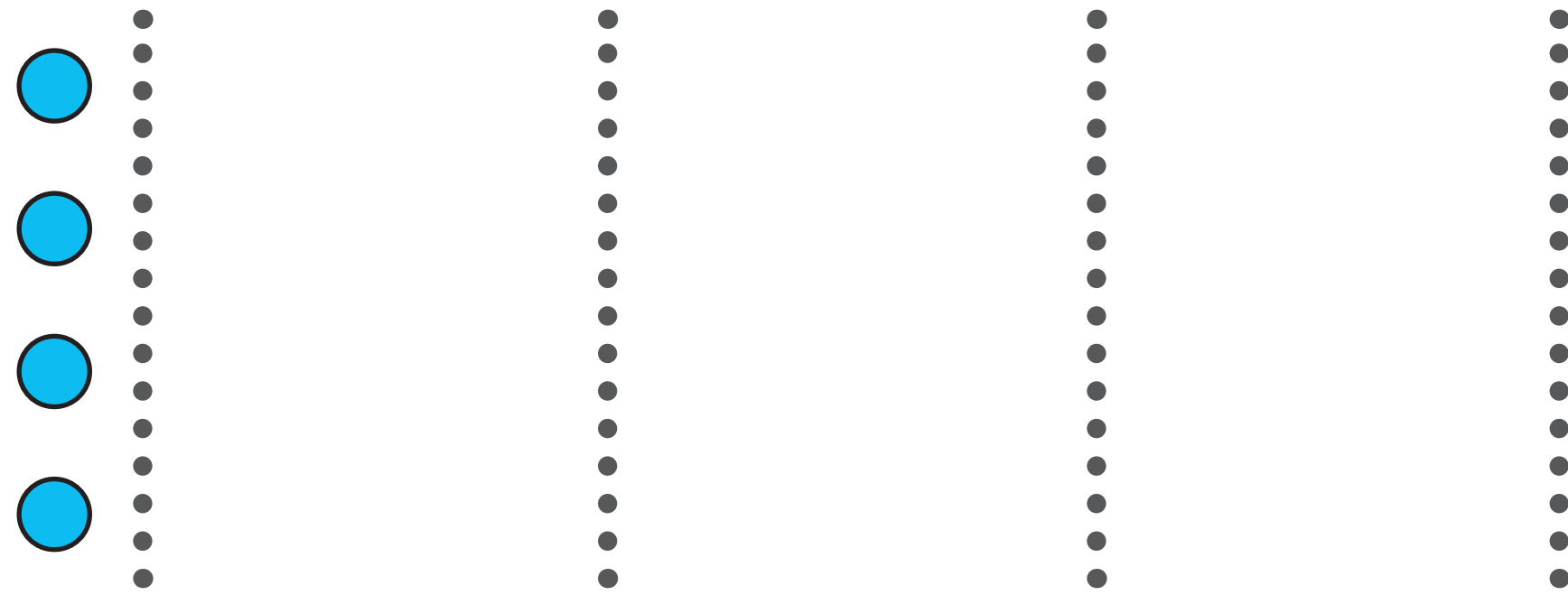
-  PARKS / GREEN SPACE
-  COMMERCIAL USE
-  RESIDENTIAL AREA
-  MIX-USED / RESTAURANT
-  SCHOOL
-  ATHLETIC USE



TOWN OF ADDISON PARAMETERS

- 0.25 MI WALKABILITY
- SURROUNDED BY RESIDENTIAL ZONING
- LIMITED PARKING ACCESS
- DOES NOT CROSS BUSY STREETS

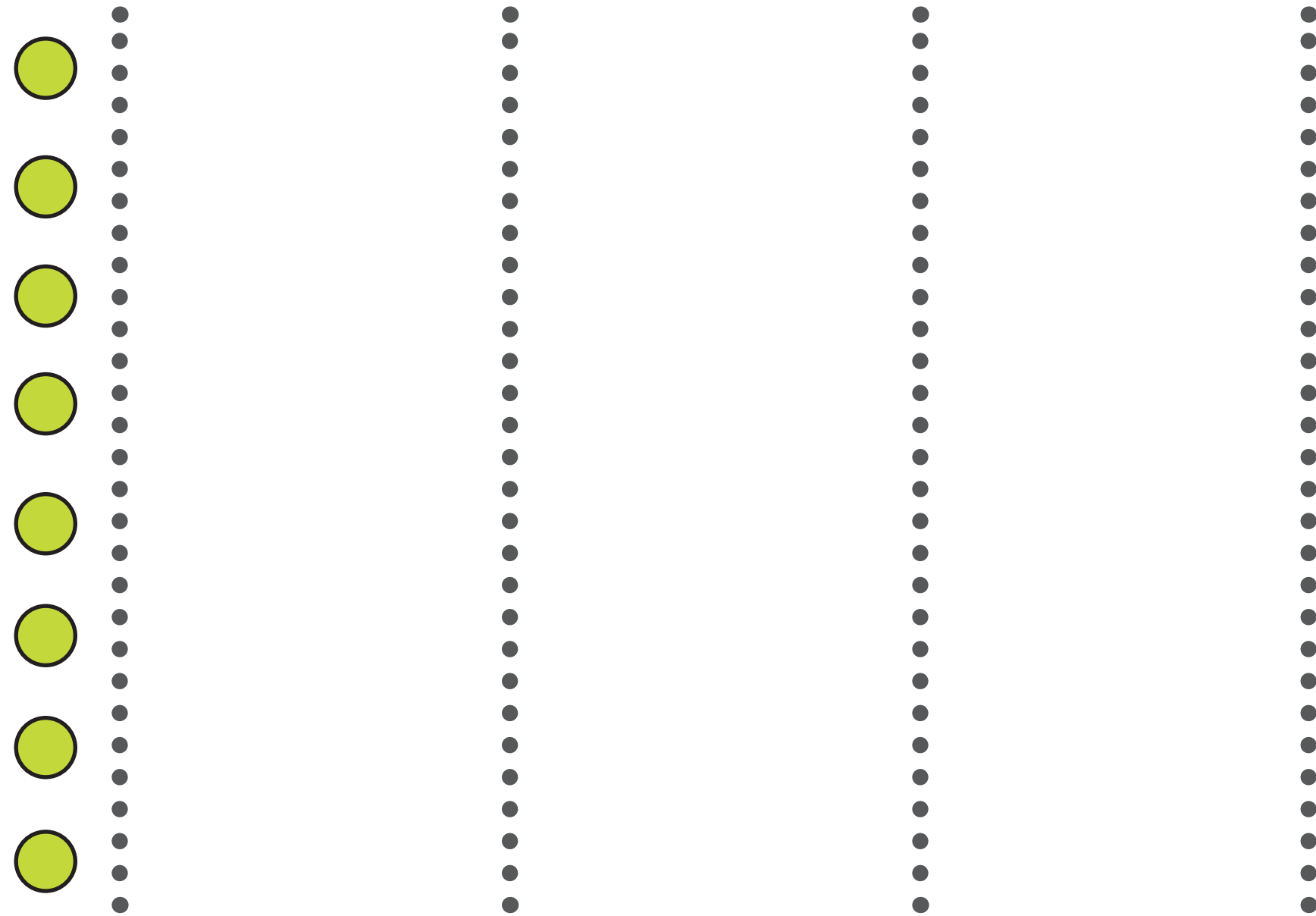
← **LEAST DESIRABLE** (1) (2) **MOST DESIRABLE** (3) →



ADDITIONAL PARAMETERS

- DISRUPTION TO ADJACENT LOTS
- FLAT SITE
- LIMITED DEMOLITION REQUIRED
- ACCESS TO UTILITIES
- ACCESS TO TRAILS
- GOOD VISIBILITY/ FEELS SAFE
- LIMITED SAFETY HAZARDS
- ADJACENT TO OTHER PLAYGROUNDS

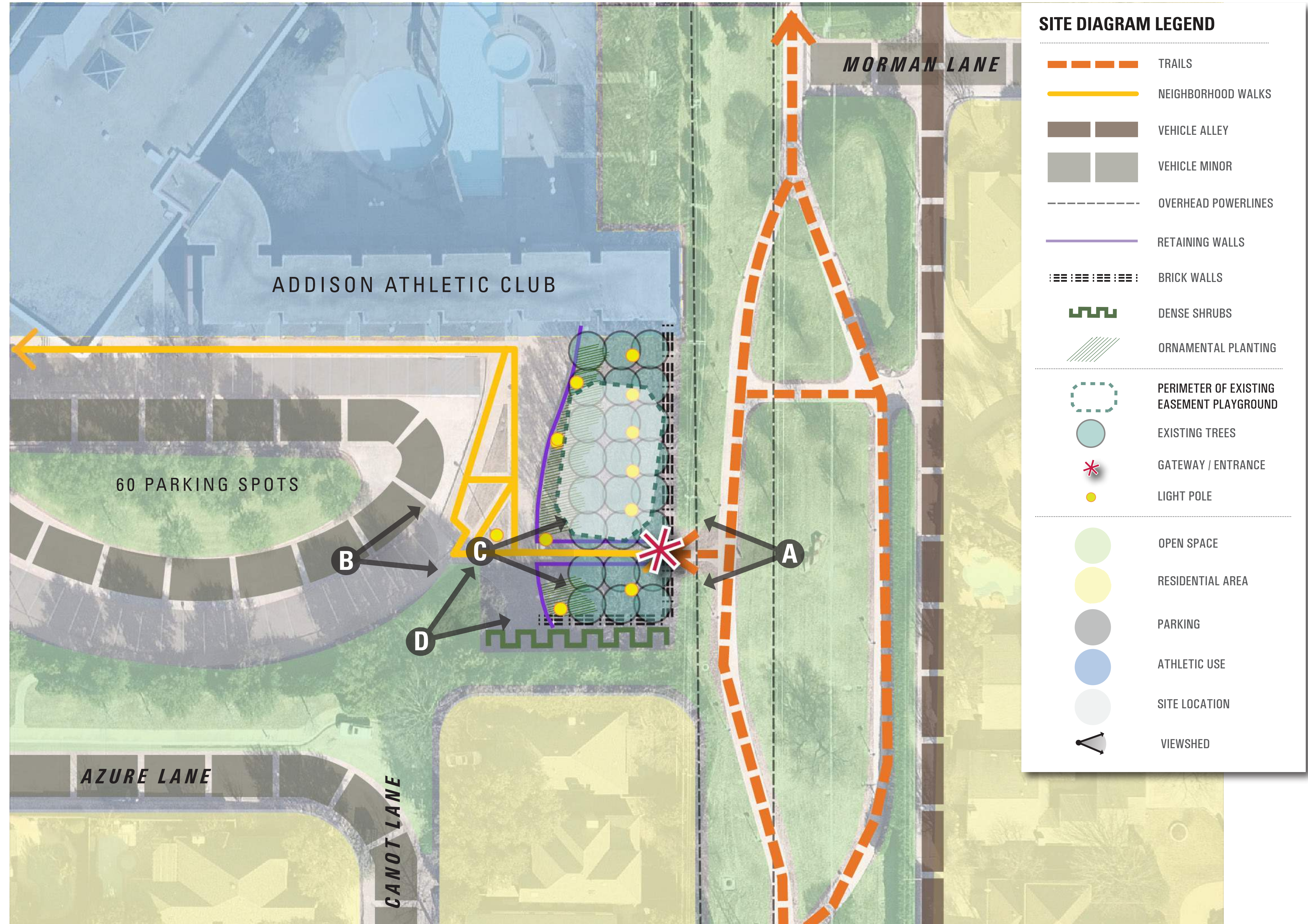
← **LEAST DESIRABLE** (1) (2) **MOST DESIRABLE** (3) →



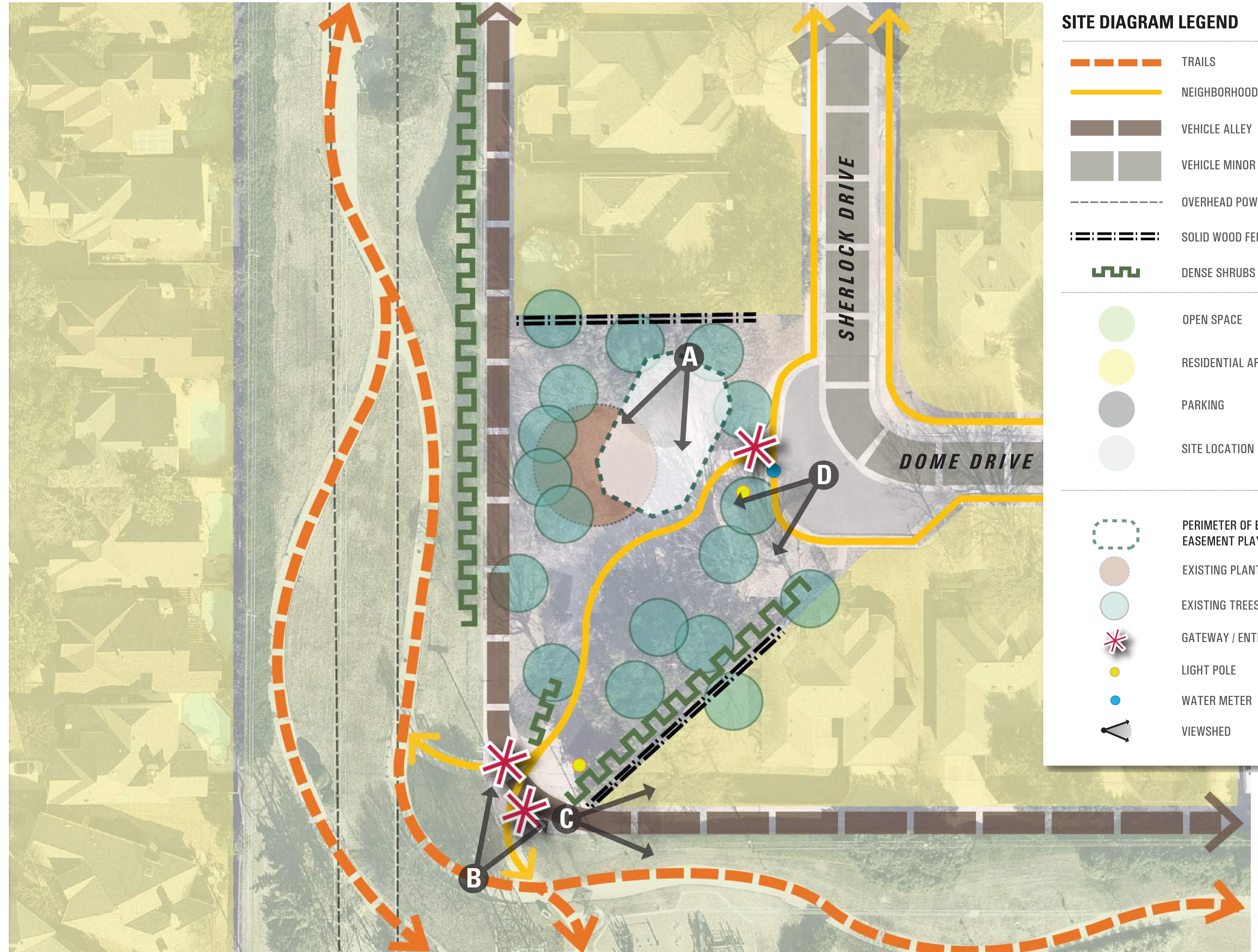


- ### SITE DIAGRAM LEGEND
- - - - TRAILS
 - NEIGHBORHOOD WALKS
 - VEHICLE MINOR
 - OVERHEAD POWERLINES
 - ORNAMENTAL IRON FENCE
 - OPEN SPACE
 - RESIDENTIAL AREA
 - PARKING
 - POND
 - SITE LOCATION
 - PERIMETER OF EXISTING EASEMENT PLAYGROUND
 - EXISTING TREES
 - LIGHT POLE
 - ➔ HEAVY SLOPE
 - ∠ VIEWSHED

TOWN OF ADDISON PARAMETERS	0.25 MI WALKABILITY	LEAST (1)	(2)	MOST (3)	ADDITIONAL PARAMETERS	DISRUPTION TO ADJACENT LOTS	LEAST (1)	(2)	MOST (3)	ADDITIONAL PARAMETERS	ACCESS TO TRAILS	LEAST (1)	(2)	MOST (3)
	SURROUNDED BY RESIDENTIAL ZONING	●	●	●		FLAT SITE	●	●	●		GOOD VISIBILITY / FEELS SAFE	●	●	●
LIMITED PARKING ACCESS	●	●	●	LIMITED DEMOLITION REQUIRED	●	●	●	LIMITED SAFETY HAZARDS	●	●	●			
DOES NOT CROSS BUSY STREETS	●	●	●	ACCESS TO UTILITIES	●	●	●	ADJACENT TO OTHER PLAYGROUNDS	●	●	●			



	LEAST (1)	(2)	MOST (3)		LEAST (1)	(2)	MOST (3)		LEAST (1)	(2)	MOST (3)
TOWN OF ADDISON PARAMETERS											
0.25 MI WALKABILITY	●	●	●								
SURROUNDED BY RESIDENTIAL ZONING	●	●	●								
LIMITED PARKING ACCESS	●	●	●								
DOES NOT CROSS BUSY STREETS	●	●	●								
ADDITIONAL PARAMETERS											
DISRUPTION TO ADJACENT LOTS	●	●	●								
FLAT SITE	●	●	●								
LIMITED DEMOLITION REQUIRED	●	●	●								
ACCESS TO UTILITIES	●	●	●								
ADDITIONAL PARAMETERS											
ACCESS TO TRAILS	●	●	●								
GOOD VISIBILITY / FEELS SAFE	●	●	●								
LIMITED SAFETY HAZARDS	●	●	●								
ADJACENT TO OTHER PLAYGROUNDS	●	●	●								



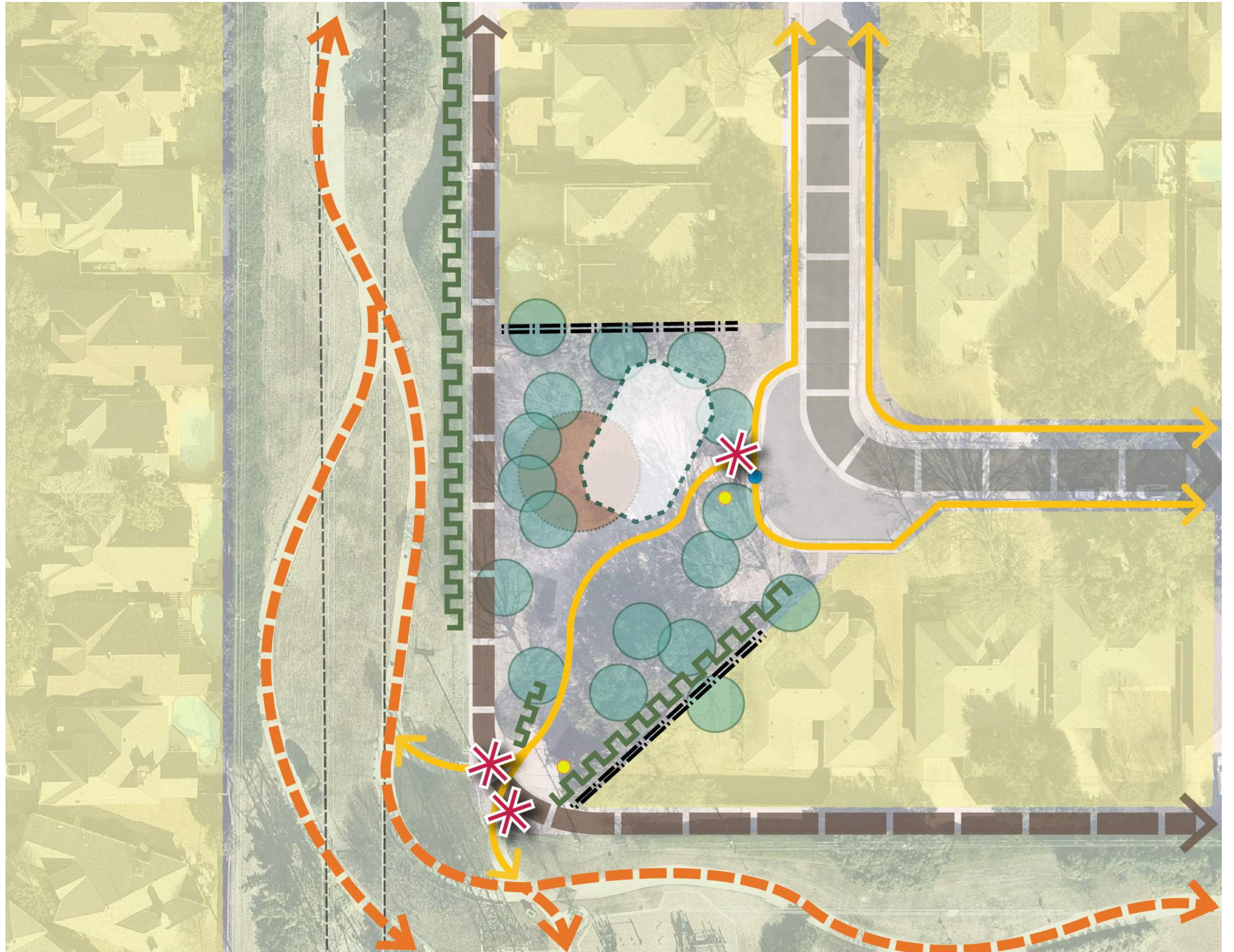
	LEAST (1)	(2)	MOST (3)		LEAST (1)	(2)	MOST (3)		LEAST (1)	(2)	MOST (3)
TOWN OF ADDISON PARAMETERS											
0.25 MI WALKABILITY											
SURROUNDED BY RESIDENTIAL ZONING											
LIMITED PARKING ACCESS											
DOES NOT CROSS BUSY STREETS											
ADDITIONAL PARAMETERS											
DISRUPTION TO ADJACENT LOTS											
FLAT SITE											
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ACCESS TO UTILITIES											
ADDITIONAL PARAMETERS											
ACCESS TO TRAILS											
GOOD VISIBILITY / FEELS SAFE											
LIMITED SAFETY HAZARDS											
ADJACENT TO OTHER PLAYGROUNDS											



LES LACS TOTAL = 22



ATHLETIC CLUB TOTAL = 20



DOME PARK TOTAL = 31



THANK YOU

Work Session and Regular Meeting**Meeting Date:** 03/28/2017**Department:** Finance

AGENDA CAPTION:

Present, Discuss, And Consider Action On A **Resolution Approving Amendment No. 1 To The Agreement For Grant Funding With Addison Arbor Foundation And Authorizing The City Manager To Enter Into An Agreement** In An Amount Not To Exceed \$47,500.

BACKGROUND:

This grant funding agreement was originally approved by the Council in September 2016. The Addison Arbor Foundation (Foundation) has reviewed the agreement and has requested the following changes:

- In lieu of an audit of the financial statement by an independent Certified Public Accountant, the Foundation will provide a complete accounting of the funding and documents that support the grant expenses. For example, copies of any purchase orders, invoices, canceled checks or other evidence of disbursements will be provided to Town staff.
- Add language to Section III: Funding- Due to the nature of some projects not being completed within the fiscal year, the Foundation will be allowed to continue the program as long as they provide status through quarterly reporting submissions.
- Add to language to Section IV: Responsibility: Indemnification - They requested for language to be added that states both the Town and the Foundation will communicate with each other in writing of any claims filed.
- Section numbering adjustments: Additional Requirements of the Organization & Independent Contractor sections were labeled with the same section number (Section VIII), the Foundation requested that the section numbering be updated throughout the document as needed.

Town staff has reviewed the above requests and has provided an amended copy of the grant agreement that reflects the changes for the additional language in sections III & IV and the section numbering adjustments.

Regarding the request by the Foundation to NOT be required to have an audit by an independent Certified Public Accountant, staff would like for council to have a discussion about this request. It is a best practice to have non-profit agencies be required to submit an audit by an independent Certified Public Accountant. Financial audits are a tool used to demonstrate an organization's commitment to financial accountability and

transparency. Currently, the Town requires that any agency receiving grant funds be required to provide an audit completed by an independent Certified Public Accountant.

Listed below are now the Foundation will use the grant funds:

- Landscaping, public art, sculptural works and education.
- Purchase of public art piece(s) for installation along the North/South Quorum corridor and/or Beltway.

The grant funds are budgeted and funded in the general fund. Funding will not be allocated until an agreement is approved and signed by both the Town and the Foundation.

RECOMMENDATION:

Administration recommends approval of the agreement as presented.

Attachments

Resolution with Amended Agreement Exhibit

Original Funding Agreement- Addison Arbor Foundation

Redline- Addison Arbor Funding Agreement

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AMENDMENT NO. 1 TO THE AGREEMENT FOR GRANT FUNDING BETWEEN THE TOWN OF ADDISON AND THE ADDISON ARBOR FOUNDATION, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT NO. 1, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Amendment No. 1 to the Agreement for Grant Funding between the Town of Addison and the Addison Arbor Foundation, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the Amendment No. 1.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of March, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

AMENDMENT NO. 1 TO THE AGREEMENT FOR GRANT FUNDING BETWEEN THE TOWN OF ADDISON, TEXAS AND ADDISON ARBOR FOUNDATION

This AMENDMENT NO. 1 to the Agreement for Grant Funding between the Town of Addison, Texas and Addison Arbor Foundation ("Amendment No. 1") is made and entered into between the Town of Addison, Texas ("Town") and Addison Arbor Foundation ("Organization") to be effective from and after March 28, 2017 ("Effective Date").

WHEREAS, the Town and Organization entered into an agreement for a grant of public funds effective October 1, 2016 ("Agreement"); and

WHEREAS, the Town and Organization desire to amend the Agreement as hereinafter set forth.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, the mutual benefits to be obtained hereby and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Organization do mutually agree as follows:

1. **Amendment to Agreement, Section Numbering.** Section VIII (Independent Contractor) shall be corrected to Section IX (Independent Contractor), and thereafter all section numbers shall increase by one numeric value.
2. **Amendment to Agreement, Section III, FUNDING.** Section III, FUNDING shall be amended as follows:

"For the completion of the Program as described herein, the City shall pay to the Organization the sum of no more than Forty-Seven Thousand Five Hundred and No/100 Dollars (\$47,500.00) ("Funding") as follows: fifty percent (50%) of the Funding shall be paid to the Organization within thirty (30) days of the City's execution of this Agreement, and the remaining fifty percent (50%) of the Funding shall be paid to the Organization on May 30, 2017. However, the Organization may send a written request to the Chief Financial Officer of the City for an advance of the second fifty percent (50%) distribution prior to May 30, 2017 for a compelling reason, and the Chief Financial Officer may or may not grant this request in his sole and absolute discretion. Payment is made contingent upon the Organization not then being in default of this Agreement. While Funding is generally limited to the current fiscal year, due to the nature of the projects that are commissioned by the Organization, it is understood that Programs undertaken by the Organization may not be completed within the Term. If the Organization fails to complete the Program, the Organization may be allowed to continue the Program provided that it complies with the terms of this Agreement, including quarterly reporting on the expenditure of Funding. If the Organization fails to complete the Program identified herein to the satisfaction of the City within the Term, then the Organization shall return any and all unexpended

EXHIBIT A

Funding to the City immediately upon request, and the Organization may be ineligible for the receipt of Funding the following year.”

3. Amendment to Agreement, Section IV(b), RESPONSIBILITY; INDEMNIFICATION.

Section IV(b), RESPONSIBILITY; INDEMNIFICATION shall be amended as follows:

“...(b)

...

THE PARTIES SHALL PROMPTLY ADVISE EACH OTHER IN WRITING OF ANY CLAIM OR DEMAND AGAINST ANY ADDISON PERSON OR THE ORGANIZATION RELATED TO OR ARISING OUT OF THE ORGANIZATION’S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT THE ORGANIZATION’S SOLE COST AND EXPENSE. THE ADDISON PERSONS SHALL HAVE THE RIGHT, AT THE ADDISON PERSONS’ OPTION AND AT OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING THE ORGANIZATION OF ANY OF ITS OBLIGATIONS HEREUNDER.

...”

4. **Counterparts.** This Amendment No. 1 may be executed in a number of identical counterparts. If so executed, each of such counterparts is deemed to be an original for all purposes. If so executed, each of such counterparts shall, collectively, constitute one Amendment No. 1. An electronic signature will also be deemed to constitute an original if properly executed.

5. **Defined Terms/Ratification of Agreement.** Any term not defined herein shall be deemed to have the same definition identified in the Agreement. Except as expressly amended herein, all of the terms, provisions, covenants, and conditions of the Agreement are hereby ratified and confirmed and shall continue in full force and effect.

6. **Authority to Execute.** The individuals executing this Amendment No. 1 represent and warrant that they are empowered and duly authorized to execute this Amendment No. 1 on behalf of the parties they represent.

7. **Entire Agreement/Amendment No. 1.** The Agreement and this Amendment No. 1 embody the entire agreement between the parties regarding the subject matter hereof. There are no oral understandings or arrangements between the parties regarding the subject matter hereof.

8. **Venue.** This Amendment No. 1 shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Dallas County, Texas.

9. **Assignment.** This Amendment No. 1 may not be assigned except as authorized by the Agreement.

EXHIBIT A

IN WITNESS HEREOF, the parties have executed this Amendment No. 1 to the Agreement, as reflected by the signatures below.

TOWN OF ADDISON, TEXAS

**ADDISON ARBOR
FOUNDATION**

Wesley S. Pierson, City Manager
Date: _____

Name: _____
Title: _____
Date: _____

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE GRANT FUNDING AGREEMENT BETWEEN THE TOWN AND THE ADDISON ARBOR FOUNDATION; AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT FUNDING AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the Town of Addison, Texas ("City Council") has investigated and determined that it is in the best interest of the Town of Addison, Texas ("Town") to provide a grant of public funds to various organizations that promote public purposes and benefit the public within the Town; and

WHEREAS, the City Council has adopted an application process ("Application") whereby these organizations may apply for public funds that will be used for public purposes within the Town, as determined by the Town; and

WHEREAS, the Addison Arbor Foundation submitted an Application to the Town for consideration; and

WHEREAS, the Town has reviewed the Application and investigated and determined that the requests set forth in the Application are for a public purpose and will benefit its citizens; and

WHEREAS, the Town and the Addison Arbor Foundation desire to enter into this Agreement to set forth the terms and conditions regarding the Addison Arbor Foundation's use of the public funds.

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

Section 1. The Grant Funding Agreement between the Town and the Addison Arbor Foundation, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute said agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 29th day of September, 2016.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

STATE OF TEXAS §
 § AGREEMENT FOR GRANT FUNDING
COUNTY OF DALLAS §

This Agreement for Grant Funding (“Agreement”) is made and entered into as of the 1st day of October, 2016 by and between the Town of Addison, Texas (the “City”) and the Addison Arbor Foundation (the “Organization”).

WITNESSETH:

WHEREAS, the City Council has investigated and determined that it is in the best interest of the City to provide a grant of public funds to various organizations that promote public purposes and benefit the public within the City; and

WHEREAS, the City Council has adopted an application process (“Application”) whereby these organizations may apply for public funds that will be used for public purposes within the City, as determined by the City; and

WHEREAS, the Organization submitted an Application to the City for consideration; and

WHEREAS, the City has reviewed the Application and investigated and determined that the requests set forth in the Application are for a public purpose and will benefit its citizens; and

WHEREAS, the City and Organization desire to enter into this Agreement to set forth the terms and conditions regarding the Organization’s use of the public funds.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and the Organization do hereby agree as follows:

I. TERM

The term of this Agreement shall be for a period of one year from the 1st day of October, 2016, through the 30th day of September, 2017, except as otherwise provided for herein, and subject to the earlier termination of this Agreement (“Term”). The Program, hereinafter defined, must be completed during the Term of the Agreement to the satisfaction of the City.

II. GRANT USE

The Organization shall complete the following program(s) with the assistance of grant funding received by the City (collectively, the “Program”) (the monetary amounts identified in this Section II below are approximate amounts to be expended by the Organization in accomplishing the Program, and the maximum amount to be funded by the City shall be based upon the actual expenses for the following Program):

(a) Purchase and installation of one or two public art pieces along the North/South Quorum corridor and/or Beltway redevelopment. The City must provide prior written approval for the artist, selected artwork and location of the installation.

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(b) Work with City staff to incorporate and/or refresh landscaping, public art, sculptural works and educational activities.

The Organization shall submit detailed quarterly program results to the City listing the expenditures made by the Organization with the Funding received pursuant to this Agreement by the following dates:

January 30, 2017

April 30, 2017

July 30, 2017

October 30, 2017

In satisfaction hereof and as determined by the City, the Program may be provided directly by the Organization or funding of the Program may be provided to the City by the Organization. The Program will be provided upon the prior approval by the City. Design for any of the Program provided by the Organization is subject to the City's approval prior to installation thereof.

III. FUNDING

For the completion of the Program as described herein, the City shall pay to the Organization the sum of no more than Forty-Seven Thousand Five Hundred and No/100 Dollars (\$47,500.00) ("Funding") as follows: fifty percent (50%) of the Funding shall be paid to the Organization within thirty (30) days of the City's execution of this Agreement, and the remaining fifty percent (50%) of the Funding shall be paid to the Organization on May 30, 2017. However, the Organization may send a written request to the Chief Financial Officer of the City for an advance of the second fifty percent (50%) distribution prior to May 30, 2017 for a compelling reason, and the Chief Financial Officer may or may not grant this request in his sole and absolute discretion. Payment is made contingent upon the Organization not then being in default of this Agreement. Funding shall not carry over into the following fiscal year. If the Organization fails to complete the Program identified herein to the satisfaction of the City within the Term, then the Organization shall return any and all unexpended Funding to the City immediately upon request, and the Organization may be ineligible for the receipt of Funding the following year.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) THE ORGANIZATION AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF THE PROGRAM PERFORMED AND TO BE PERFORMED HEREUNDER BY THE ORGANIZATION OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) INDEMNITY OWED BY THE ORGANIZATION. THE ORGANIZATION COVENANTS AND AGREES TO FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS AND THE ELECTED AND APPOINTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS, INDIVIDUALLY OR COLLECTIVELY, IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES (THE TOWN OF ADDISON,

EXHIBIT A

TEXAS AND THE ELECTED AND APPOINTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS EACH BEING AN “**ADDISON PERSON**” AND COLLECTIVELY THE “**ADDISON PERSONS**”), FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, HARM, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, JUDGMENTS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND SUITS, OF ANY KIND AND NATURE WHATSOEVER MADE UPON OR INCURRED BY ANY ADDISON PERSON, WHETHER DIRECTLY OR INDIRECTLY, (THE “**CLAIMS**”), THAT ARISE OUT OF, RESULT FROM, OR RELATE TO: (1) THE PROGRAM AS DESCRIBED IN SECTION II OF THIS AGREEMENT; (2) REPRESENTATIONS OR WARRANTIES BY THE ORGANIZATION UNDER THIS AGREEMENT; AND/OR (3) ANY OTHER ACT OR OMISSION UNDER OR IN PERFORMANCE OF THIS AGREEMENT BY THE ORGANIZATION, OR ANY OWNER, OFFICER, DIRECTOR, MANAGER, EMPLOYEE, AGENT, REPRESENTATIVE, CONSULTANT, CONTRACTOR, SUBCONTRACTOR, LICENSEE, INVITEE, PATRON, GUEST, CUSTOMER, OR CONCESSIONAIRE OF OR FOR THE ORGANIZATION, OR ANY OTHER PERSON OR ENTITY FOR WHOM THE ORGANIZATION IS LEGALLY RESPONSIBLE, AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, REPRESENTATIVES, CONSULTANTS, CONTRACTORS, SUBCONTRACTOR, LICENSEES, INVITEES, PATRONS, GUESTS, CUSTOMERS, AND CONCESSIONAIRES. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

THE ORGANIZATION SHALL PROMPTLY ADVISE THE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST ANY ADDISON PERSON OR THE ORGANIZATION RELATED TO OR ARISING OUT OF THE ORGANIZATION’S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT THE ORGANIZATION’S SOLE COST AND EXPENSE. THE ADDISON PERSONS SHALL HAVE THE RIGHT, AT THE ADDISON PERSONS’ OPTION AND AT OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING THE ORGANIZATION OF ANY OF ITS OBLIGATIONS HEREUNDER.

THE PROVISIONS OF THIS DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION, AND ANY OTHER DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SET FORTH IN THIS AGREEMENT, SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

V. TERMINATION

This Agreement may be canceled and terminated by either party at any time and for any reason or no reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Agreement. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if the Organization has failed at the time of such cancellation and termination to provide the Program set forth herein, the Organization shall immediately refund to the City that portion of Funding paid to the Organization under the terms of this Agreement (and identified in Section II, above) allocable to the Program that has not been completed at the time of cancellation and termination, as determined by the City.

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Upon payment or tender of any refund amount, all of the obligations of the Organization and the City under this Agreement shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Agreement as provided for in this Agreement) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the Program performed under or pursuant to this Agreement.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Agreement or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer, employee, representative, or volunteer of the Organization shall have any financial interest, direct or indirect, in this Agreement or the proceeds hereof.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, the Organization shall submit for the City's review a budget showing the use of the Funding provided pursuant to this Agreement, and the Organization shall make such quarterly financial reports to the City, as provided for herein, listing the expenditures made by the Organization from the Funding. The approval of the Organization's annual budget creates a fiduciary duty in the Organization with respect to the Funding provided by this Agreement.

Funding received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs, provided that such costs are necessary for the promotion and encouragement of the purposes for which the Funding may be used as described herein.

The Organization shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of Funding received pursuant to this Agreement. On request of the City at any time, the Organization shall make all its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of the Organization's fiscal year, the Organization shall provide the City with a financial statement signed by the Chairman of the Organization's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, at the Organization's expense, setting forth the Organization's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Agreement. If this Agreement is terminated prior to its expiration, the Organization shall provide such reports as required by the City for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Agreement shall survive the expiration of this Agreement.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must

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be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing a hard-copy, non-electronic format.

VIII. ADDITIONAL REQUIREMENTS OF THE ORGANIZATION

The Organization agrees to the following:

- (a) The City may conduct an on-site visit to the Organization during the Term;
- (b) Within thirty (30) days of the City's execution of this Agreement, the Organization shall provide to the City a current list of all Organization board members and a schedule of all board meetings. A representative from the City may choose to attend any scheduled board meetings. The City shall be immediately notified of any changes to the schedule; and
- (c) In any and all marketing material produced by the Organization, the City shall be prominently recognized as a supporter of the Organization through the use of the City designated logo provided.

VIII. INDEPENDENT CONTRACTOR

In completing the Program under this Agreement, the relationship between the City and the Organization is that of independent contractor, and the City and the Organization by the execution of this Agreement do not change the independent status of the Organization. The Organization is an independent contractor, and no term or provision of this Agreement or action by the Organization in the performance of this Agreement is intended nor shall be construed as making the Organization the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which the Organization performs the Program which is described in this Agreement.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

The Organization may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Agreement or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Agreement without such approval shall be null and void and be cause for immediate termination of this Agreement by the City.

This Agreement is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Agreement shall be deemed to constitute that the City and the Organization are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Agreement creates, a joint enterprise.

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XI. NON-DISCRIMINATION

During the term of this Agreement, the Organization agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; AGREEMENT SUBJECT TO LAWS; RECITALS

The Organization shall observe and abide by, and this Agreement is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The Organization agrees that any and all records of the Organization which, including but not limited to describe, relate to, convey and/or illustrate the obligations, terms and conditions set forth in this Agreement shall be subject to the Texas Public Information Act, Texas Government Code Chapter 552, as amended. The above and foregoing recitals to this Agreement are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Agreement, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

XIV. 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.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. The rights or remedies under this Agreement are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Agreement shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and the Organization agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

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The City's address:

Attn: City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

The Organization's address:

Dr. Jay M. Ihrig
Addison Arbor Foundation
PO Box 1649
Addison, TX 75001

XVII. SEVERABILITY

The terms of this Agreement are severable, and if any section, paragraph, clause, or other portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Agreement initially.

XVIII. AUTHORITY TO EXECUTE AGREEMENT

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

XIX. ENTIRE AGREEMENT

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

XX. SOVEREIGN IMMUNITY

The parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

ADDISON ARBOR FOUNDATION

By: _____
Wesley S. Pierson, City Manager

By: _____
Dr. Jay M. Ihrig, President

Date: _____

Date: _____

STATE OF TEXAS

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AGREEMENT FOR GRANT FUNDING

COUNTY OF DALLAS

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WHEREAS, the City Council has adopted an application process (“Application”) whereby these organizations may apply for public funds that will be used for public purposes within the City, as determined by the City; and

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WHEREAS, the City and Organization desire to enter into this Agreement to set forth the terms and conditions regarding the Organization’s use of the public funds.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and the Organization do hereby agree as follows:

I. TERM

The term of this Agreement shall be for a period of one year from the 1st day of October, 2016, through the 30th day of September, 2017, except as otherwise provided for herein, and subject to the earlier termination of this Agreement (“Term”). The Program, hereinafter defined, must be completed during the Term of the Agreement to the satisfaction of the City.

II. GRANT USE

The Organization shall complete the following program(s) with the assistance of grant funding received by the City (collectively, the “Program”) (the monetary amounts identified in this Section II below are approximate amounts to be expended by the Organization in accomplishing the Program, and the maximum amount to be funded by the City shall be based upon the actual expenses for the following Program):

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IV. RESPONSIBILITY; INDEMNIFICATION

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(b) **INDEMNITY OWED BY THE ORGANIZATION.** THE ORGANIZATION COVENANTS AND AGREES TO FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS AND THE ELECTED AND APPOINTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS, INDIVIDUALLY OR COLLECTIVELY, IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES (THE TOWN OF ADDISON, TEXAS AND THE ELECTED AND APPOINTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS EACH BEING AN “ADDISON PERSON” AND COLLECTIVELY THE “ADDISON PERSONS”), FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, HARM, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, JUDGMENTS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND SUITS, OF ANY KIND AND NATURE WHATSOEVER MADE UPON OR INCURRED BY ANY ADDISON PERSON, WHETHER DIRECTLY OR INDIRECTLY, (THE “CLAIMS”), THAT ARISE OUT OF, RESULT FROM, OR RELATE TO: (1) THE PROGRAM AS DESCRIBED IN SECTION II OF THIS AGREEMENT; (2) REPRESENTATIONS OR WARRANTIES BY THE ORGANIZATION UNDER THIS AGREEMENT; AND/OR (3) ANY OTHER ACT OR OMISSION UNDER OR IN PERFORMANCE OF THIS AGREEMENT BY THE ORGANIZATION, OR ANY OWNER, OFFICER, DIRECTOR, MANAGER, EMPLOYEE, AGENT, REPRESENTATIVE, CONSULTANT, CONTRACTOR, SUBCONTRACTOR, LICENSEE, INVITEE, PATRON, GUEST, CUSTOMER, OR CONCESSIONAIRE OF OR FOR THE ORGANIZATION, OR ANY OTHER PERSON OR ENTITY FOR WHOM THE ORGANIZATION IS LEGALLY RESPONSIBLE, AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, REPRESENTATIVES, CONSULTANTS, CONTRACTORS, SUBCONTRACTOR, LICENSEES, INVITEES, PATRONS, GUESTS, CUSTOMERS, AND CONCESSIONAIRES. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

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THE PROVISIONS OF THIS DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION, AND ANY OTHER DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SET FORTH IN THIS AGREEMENT, SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

V. TERMINATION

This Agreement may be canceled and terminated by either party at any time and for any reason or no reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Agreement. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if the Organization has failed at the time of such cancellation and termination to provide the Program set forth herein, the Organization shall immediately refund to the City that portion of Funding paid to the Organization under the terms of this Agreement (and

identified in Section II, above) allocable to the Program that has not been completed at the time of cancellation and termination, as determined by the City.

Upon payment or tender of any refund amount, all of the obligations of the Organization and the City under this Agreement shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Agreement as provided for in this Agreement) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the Program performed under or pursuant to this Agreement.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Agreement or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer, employee, representative, or volunteer of the Organization shall have any financial interest, direct or indirect, in this Agreement or the proceeds hereof.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, the Organization shall submit for the City's review a budget showing the use of the Funding provided pursuant to this Agreement, and the Organization shall make such quarterly financial reports to the City, as provided for herein, listing the expenditures made by the Organization from the Funding. The approval of the Organization's annual budget creates a fiduciary duty in the Organization with respect to the Funding provided by this Agreement.

Funding received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs, provided that such costs are necessary for the promotion and encouragement of the purposes for which the Funding may be used as described herein.

The Organization shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of Funding received pursuant to this Agreement. On request of the City at any time, the Organization shall make all its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of the Organization's fiscal year, the Organization shall provide the City with a financial statement signed by the Chairman of the Organization's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, at the Organization's expense, setting forth the Organization's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Agreement. If this Agreement is terminated prior to its expiration, the Organization shall provide such reports as required by the City for the period prior to the expiration for which reports have not been provided, and such obligation

shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Agreement shall survive the expiration of this Agreement.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing a hard-copy, non-electronic format.

VIII. ADDITIONAL REQUIREMENTS OF THE ORGANIZATION

The Organization agrees to the following:

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(b) Within thirty (30) days of the City's execution of this Agreement, the Organization shall provide to the City a current list of all Organization board members and a schedule of all board meetings. A representative from the City may choose to attend any scheduled board meetings. The City shall be immediately notified of any changes to the schedule; and

(c) In any and all marketing material produced by the Organization, the City shall be prominently recognized as a supporter of the Organization through the use of the City designated logo provided.

~~VIII~~IX. INDEPENDENT CONTRACTOR

In completing the Program under this Agreement, the relationship between the City and the Organization is that of independent contractor, and the City and the Organization by the execution of this Agreement do not change the independent status of the Organization. The Organization is an independent contractor, and no term or provision of this Agreement or action by the Organization in the performance of this Agreement is intended nor shall be construed as making the Organization the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which the Organization performs the Program which is described in this Agreement.

~~IX~~X. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

The Organization may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Agreement or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Agreement without such approval shall be null and void and be cause for immediate termination of this Agreement by the City.

This Agreement is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

XIX. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Agreement shall be deemed to constitute that the City and the Organization are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Agreement creates, a joint enterprise.

XII

XI. NON-DISCRIMINATION

During the term of this Agreement, the Organization agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XHXIII. LEGAL COMPLIANCE; AGREEMENT SUBJECT TO LAWS; RECITALS

The Organization shall observe and abide by, and this Agreement is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The Organization agrees that any and all records of the Organization which, including but not limited to describe, relate to, convey and/or illustrate the obligations, terms and conditions set forth in this Agreement shall be subject to the Texas Public Information Act, Texas Government Code Chapter 552, as amended. The above and foregoing recitals to this Agreement are true and correct and incorporated herein and made a part hereof.

XHXIV. VENUE; GOVERNING LAW

In the event of any action under this Agreement, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

XHXV. 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.

XHXVI. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. The rights or remedies under this Agreement are cumulative to any other rights or remedies, which may be granted by law.

XVHXVII. NOTICES

All notices, communications and reports, required or permitted under this Agreement shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and the Organization agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Attn: City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

The Organization's address:

Dr. Jay M. Ihrig
Addison Arbor Foundation
PO Box 1649
Addison, TX 75001

XVHXVIII. SEVERABILITY

The terms of this Agreement are severable, and if any section, paragraph, clause, or other portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Agreement initially.

XVHXIX. AUTHORITY TO EXECUTE AGREEMENT

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

XIXXX. ENTIRE AGREEMENT

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

XXXXI. SOVEREIGN IMMUNITY

The parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

ADDISON ARBOR FOUNDATION

By: _____
Wesley S. Pierson, City Manager

By: _____
Dr. Jay M. Ihrig, President

Date: _____

Date: _____

Work Session and Regular Meeting**Meeting Date:** 03/28/2017**Department:** Information Technology

AGENDA CAPTION:

Present And Discuss An **Update On The Public, Educational, And Governmental (PEG) Channel.**

BACKGROUND:

This item is to provide an update to the Council on the status of the Public, Educational, and Governmental (PEG) channel.

In 2005, the Texas Legislature passed Senate Bill 5, which enacted a new Chapter 66 to the Texas Utilities Code, authorizing a state-issued certificate of franchise authority for cable and video providers. Chapter 66 provides for additional funds to PEG access facilities for their citizens. Chapter 66 expressly states that providers are required to pay these additional funds to the city, over-and-above the five percent franchise fee to assist the city in providing PEG channel capacity. These funds have a restricted use. If the funds are not spent for the purposes specified in Chapter 66, the provider may be able to deduct the amount they previously paid from future franchise fee payments.

Since the inception of the PEG fund, Addison has collected close to \$320,000 in PEG fees. As part of the Fiscal Year 2017 Budget, Council authorized staff to upgrade the existing steaming system in the Council Chambers and purchase three additional high definition (HD) broadcast and streaming systems to be permanently installed at the parlor in Town Hall, the Addison Treehouse, and the Addison Conference Centre to be paid for by the PEG funds in an amount not to exceed \$199,867.65. This work has been completed and will be utilized to webcast/broadcast meetings on the web and the PEG channels.

The Town's transparency philosophy has always been to use all of the available media resources (newsletter, website, Facebook, Twitter, Instagram, publication, door hangers, etc.) to communicate with its stakeholders. The PEG channel is the last leg of the communication platform to be offered to the public.

The PEG channel broadcast to the AT&T channel will be available to the public after the Town Meeting on April 3, 2017.

RECOMMENDATION:

Information only, no action required.

Work Session and Regular Meeting**Meeting Date:** 03/28/2017**Department:** City Manager**AGENDA CAPTION:**

Present, Discuss, And Consider Action On **TCEQ Certification, Additional Environmental Investigation, And Environmental Documents Obtained By The Town Of Addison Relating To 5015 Spectrum Drive.**

BACKGROUND:

The property at 5015 Spectrum Drive was recently rezoned by the Town of Addison from Commercial to a Planned Development to allow a Multi-Family Residential project by AMLI Residential.

Mayor Todd Meier requested an update from staff on the environmental documents that have been obtained by the Town of Addison relating to the property located at 5015 Spectrum Drive. The Texas Commission on Environmental Quality (TCEQ), through its Voluntary Cleanup Program, has certified that the property at 5015 Spectrum Drive is acceptable for residential land use.

At the March 14, 2017 Council meeting, Mayor Meier proposed pursuing additional environmental testing and analysis of the property at 5015 Spectrum Drive beyond that which was required of the property owner (Dallas Investment Corp.) as part of the TCEQ's Voluntary Clean Up Program.

The TCEQ Voluntary Cleanup Program (VCP) provides administrative, technical, and legal incentives to encourage the cleanup of contaminated sites in Texas. The VCP is designed to address sites that are burdened by real or reasonably perceived environmental issues that may hamper real estate transactions or redevelopment and eliminate those issues through proper remediation. Once the issues are properly resolved, a VCP Certificate of Completion is issued which enables many unused or under used properties to be restored to economically productive or community beneficial uses.

Town Staff requested and received the documents in the Voluntary Cleanup Program (VCP) case file related to 5015 Spectrum Drive. The documents in the case file include the following and are provided below:

- The TCEQ – VCP Final Certificate of Completion
- The Phase II Environmental Site Assessment
- The Affected Property Assessment Report (APAR) that TCEQ uses to make its land-use determination under the VCP (Click [here](#) to view the PDF

attachment. It is large and may take a few minutes to load).

Also attached is a detailed summary -- "5015 Spectrum Drive - Summary of Environmental Reports" – which provides an overview of the history of the property, the environmental assessments conducted, and the conclusion from the Texas Commission on Environmental Quality (TCEQ) that the 5015 Spectrum Drive is acceptable for residential use.

It is staff's view that the Final Certificate of Completion issued by TCEQ is sufficient evidence that all environmental concerns have been satisfactorily addressed so as to certify that the property at 5015 Spectrum Drive is acceptable for residential land use.

Mayor Todd Meier has requested to show a video of responses from AMLI representatives during the February 14, 2017 Council meeting. The video can be viewed by clicking [here](#).

RECOMMENDATION:

Staff requests direction from Council on this matter.

Attachments

[5015 Spectrum Drive - Summary of Environment Reports](#)

[5015 Spectrum Drive - Certificate of Completion](#)

[5015 Spectrum Drive - Phase II Environmental Investigation](#)

Summary: 5015 Spectrum Drive Environmental Reports

The following information is a summary of the environmental reports related to the property located at 5015 Spectrum Drive. The property at 5015 Spectrum Drive was recently rezoned by the Town of Addison from Commercial to a Planned Development to allow a Multi-Family Residential project by AMLI. The document is structured in a way to help the “layperson” understand the following:

- The types and purpose of Environmental Site Assessments (explained in the section entitled, *Environmental Reports*);
- The purpose and process of the TCEQ Volunteer Cleanup Program (explained in the section entitled, *TCEQ Voluntary Cleanup Program (VCP)*);
- The history related to the property located at 5015 Spectrum Drive and related environmental reports, as well as the history related to relevant properties adjacent to 5015 Spectrum Drive and related environmental reports (explained in the section entitled, *Background – 5015 Spectrum Drive*); and
- The conclusion that was reached by the TCEQ on the acceptability of residential land uses on the property located at 5015 Spectrum Drive (explained in the section entitled, *Conclusion*).

Environmental Reports

An Environmental Site Assessment (ESA) is a report prepared for a real estate holding that identifies potential or existing environmental contamination liabilities. There are different levels of environmental site assessments that are pursued to ensure properties are environmentally acceptable for various types of uses. The standard environmental site assessments include:

- Phase I
- Phase II – Limited
- Phase II – Comprehensive

Phase I

The goal of the Phase I ESA is to determine if there are any situations on the site that meet the definition of a Recognized Environmental Condition (REC). A REC is defined as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property.

A REC doesn't necessarily mean that there is contamination, just that it is possible. The finding of a REC often requires further investigation of the REC to determine if there has been any environmental impact.

Each Phase I Environmental Site Assessment follows the same four-stage process:

1. Records Review
2. Site Reconnaissance
3. Interviews
4. Report Preparation

Summary: 5015 Spectrum Drive Environmental Reports

Phase II – Limited

Once a Phase I ESA is complete, typically a “limited” Phase II environmental study is performed to confirm the presence of a pollutant. If a pollutant is detected, then a property owner (or potential buyer) will have to decide whether or not to conduct a comprehensive phase II study.

A common procedure in a land transaction is for an owner/buyer to conduct a Limited Phase II ESA to determine:

1. If the Recognized Environmental Condition (REC) is minor or inconsequential
2. If the REC is confirmed and may pose more of a risk than the buyer is willing to accept
3. If the REC is confirmed and more study is needed to quantify the extent of pollutants discovered in order to make an appropriate decision

If decision 3 is selected, a follow-up Comprehensive Phase II ESA would be conducted.

Phase II – Comprehensive

A comprehensive Phase II ESA includes extensive sampling to fully characterize the extent of contamination, analysis of potential migration pathways and potential receptors so that cleanup costs can be estimated.

TCEQ Voluntary Cleanup Program (VCP)

The TCEQ Voluntary Cleanup Program (VCP) provides administrative, technical, and legal incentives to encourage the cleanup of contaminated sites in Texas. The VCP is a brownfields program designed to address sites that are burdened by real or reasonably perceived environmental issues that may hamper real estate transactions or redevelopment. Since all non-responsible parties, including future lenders and landowners, receive protection from liability to the state of Texas for cleanup of sites under the VCP, most of the constraints for completing real estate transactions at those sites are eliminated once a VCP certificate of completion is issued. As a result, many unused or under used properties may be restored to economically productive or community beneficial use.

The VCP provides certification of acceptable land uses of various types, the highest certification is for residential uses. In other words, if a site is certified as acceptable for residential uses, all environmental concerns have been appropriately addressed and/or remediated to the satisfaction of the Texas Commission on Environmental Quality (TCEQ).

After a property owner applies to participate in the Voluntary Cleanup Program, the applicant typically submits a Phase II Environmental Site Assessment to TCEQ to communicate what is found on the property from an environmental stand point. All VCP participants are required by law to complete an Affected Property Assessment Report (APAR) which is considered to be more extensive than a Comprehensive Phase II ESA. The APAR is a comprehensive report that documents the horizontal and vertical extent of contamination, and evaluates the applicable exposure pathways (i.e., groundwater ingestion, human health exposure to surface soil

Summary: 5015 Spectrum Drive Environmental Reports

contamination, surface water exposure, etc.) to further define if and how the contamination needs to be cleaned up (i.e., soil removal, groundwater treatment, etc.). Most Phase II ESAs document whether there has been an impact to soil or groundwater from the limited sample set collected in areas of concern, but do not go as far as delineating the source(s) of contamination.

Once the APAR is completed to the satisfaction of TCEQ, the information is reviewed, a determination is made by TCEQ, and the outcome communicated to the applicant.

The resulting determination can be one of three outcomes:

1. Issuance of a *Conditional Certificate of Completion* – This certifies an applicant has demonstrated that long-term response actions (e.g. engineering controls, remediation systems, etc.) meet performance standards and are being implemented under requirements established in the Texas Voluntary Cleanup Program.
2. Issuance of a *Final Certificate of Completion* – This certifies an applicant has implemented or completed all requirements of the Texas Voluntary Cleanup Agreement.
3. Issuance of a *Final Certificate of Completion with a Municipal Setting Designation* – The Municipal Settings Designation certifies that designated groundwater at the property is not used as potable water, and is prohibited from future use as potable water because the groundwater is contaminated in excess of the applicable potable-water protective concentration level.

Background – 5015 Spectrum Drive

Ashland Chemical Company operated in Addison as a chemical products and storage operation for many years (approximately the 1960s – 1983). Their facility was located at the southwest corner of the intersection of what is now Arapaho Road and Quorum Drive. The Ashland facility had an on-site tank farm with tank capacities of 500,000 gallons, drum storage totaling 55,000 gallons, and approximately 10,000 square feet of warehouse storage space for flammable, corrosive, and various non-hazardous materials. The chemicals in the tank farm included petroleum hydrocarbons and chemicals such as tetrachloroethene (PCE), trichloroethene (TCE), dichlorobenzene isomers, toluene, and xylenes.

A remedial action report was completed by Woodward-Clyde (dated May 1998), which indicated that remedial action was conducted on the Ashland property in late 1997 and early 1998. The remedial action consisted of the removal and disposal of impacted soil from an area 40 feet x 40 feet to a maximum depth of 12 feet with 1,300 cubic yards of soil removed.

The Ashland property (Tract 1) and two additional tracts (5015 Spectrum Drive [Tract 2] and Town of Addison Right-of-Way Property [Tract 3]) were entered into the Voluntary Cleanup Program (VCP No. 204) administered by the Texas Natural Resource Conservation Commission [TNRCC, predecessor to the current Texas Commission on Environmental Quality (TCEQ)]. The additional tracts were presumably included in the VCP closure because potentially affected groundwater had migrated from the Ashland facility. Ownership of Tract 2 was identified as

Summary: 5015 Spectrum Drive Environmental Reports

Dallas Investment Corporation (DIC), which corresponds to the property at 5015 Spectrum Drive. Tract 3 was identified as the ROW property owned by the Town of Addison. Review of the VCP files indicates that the closure was based upon a prohibition on "the exposure to and use of groundwater from the site for residential, agricultural, recreational, industrial or commercial purposes without the express written pre-approval of the TNRCC or the State of Texas". The VCP case was closed as non-residential use (final Certificate of Completion letter was dated December 2001).

A Phase I Environmental Site Assessment (ESA) was performed by ESA Environmental Services, Inc. (ESA Environmental) on Tract 2 in November 1991. The Phase I ESA documented that 5015 Spectrum Drive was historically used as farmland. In the 1980s, a ready mix concrete plant was erected on the site for the development of the surrounding area. One concrete slab and patches of gravel remained on the property. 5015 Spectrum Drive has remained vacant since the 1991 Phase I ESA report, but the surrounding area has been developed with commercial office buildings and hotel properties.

In 2014, the property owner (Dallas Investment Corporation) planned to sell the property located at 5015 Spectrum Drive and requested that the property be changed from non-residential to residential usage through the TCEQ Voluntary Cleanup Program (VCP). Since the property was closed through the TCEQ VCP as non-residential, W&M Environmental Group (W&M) conducted a Limited Phase II ESA to collect additional sampling to address potential data gaps for the new VCP case and the resulting Affected Property Assessment Report (APAR). The Limited Phase II ESA Investigation was performed by W&M in January and February of 2014 and included shallow soil borings, installation of groundwater monitoring wells, yield testing, and collection of soil and groundwater samples at 5015 Spectrum Drive for analysis of potential Contaminates of Concern (COCs) that included Resource Conservation and Recovery Act (RCRA) 8 metals, Total Petroleum Hydrocarbons (TPH), and Volatile Organic Compounds (VOCs). W&M's Phase II ESA was submitted to TCEQ as part of the VCP review process.

Conclusion

As a result of the comprehensive review conducted through the Affected Property Assessment Report, TCEQ issued a Final Certificate of Completion for the property located at 5015 Spectrum Drive that certifies that the property is acceptable for residential land use; the highest standard allowable under the TCEQ Voluntary Cleanup Program.

Summary: 5015 Spectrum Drive Environmental Reports

The following table provides a chronology of events related to the environmental studies of 5015 Spectrum Drive and surrounding properties:

Date	Activity/Report Description
10/31/2014	Charles Goff received a copy of the Certificate of Completion from Taylor Bowen via email.
9/4/2014	W&M Environmental Group (W&M) prepares and submits an Affected Property Assessment Report (APAR) for 5015 Spectrum Drive to the Texas Commission on Environmental Quality (TCEQ) Voluntary Cleanup Program (VCP). The APAR documents that all concentrations of contaminants of concern (COCs) are below residential protective concentration levels (PCLs) for properties with a Class 3 aquifer.
8/26/2014	W&M and the project representative meet with TCEQ to discuss the progress of 5015 Spectrum Drive and document submittals.
6/24/2014	An updated TCEQ acceptance letter for the 5015 Spectrum Drive's entry into the (VCP 2660) is received.
6/20/2014	Per the Request of the TCEQ historical documentation and reports prepared for the adjacent Ashland Chemical Corporation and the 5015 Spectrum Drive were sent to the TCEQ.
5/9/2014	The VCP application previously submitted by W&M to the TCEQ. 5015 Spectrum Drive is approved and the Site is entered into the VCP with VCP ID No. 2660
3/19/2014	W&M completed and submitted a VCP application to the TCEQ requesting that 5015 Spectrum Drive be entered into the VCP.
Jan – Feb, 2014	W&M advanced ten shallow soil borings (SB-01 thru SB-10) and installed three permanent monitoring wells (MW-1 thru MW-3). W&M collected soil and groundwater samples with analysis for Volatile Organic Compounds (VOCs), Total Petroleum Hydrocarbons (TPH), and RCRA 8 metals. In February 2014, W&M performed a groundwater yield test to demonstrate that groundwater at 5015 Spectrum Drive is Class 3. Soil and groundwater results were below the Texas Risk Reduction Program (TRRP) protective concentrations levels for Class 3 groundwater.
October, 2001	5015 Spectrum Drive received a certificate of completion as part of a VCP Application (VCP 204) filed by the Ashland Chemical Company for their former property and two cross to down-gradient properties, one of which was 5015 Spectrum Drive. In the final Certificate of Completion (COC) 5015 Spectrum Drive was identified as Tract 2 with a restrictive covenant on the use of groundwater for Tract 2.
July, 1998	Ashland Chemical Company communicates with Dallas Investment Corporation regarding a COC for 5015 Spectrum Drive which is east and adjacent to the Ashland Chemical Corporation property.
Mar & May, 1998	Woodward-Clyde complete a Remedial Action Report and a Site Closure for the Ashland Addison Site. The reports documented groundwater

Summary: 5015 Spectrum Drive Environmental Reports

	<p>monitoring wells installed on the Ashland property and the adjacent property at 5015 Spectrum Drive (VCP 2660), removal of soil on the Ashland site, and aquifer testing. Well yield testing utilizing wells on the Ashland property and 5015 Spectrum Drive were used to determine the range between 0.15 gallons per day (GPD) and 4.90 GPD which is less than the TRRP required 150 gallons per day (GPD). Chlorinated solvents detected by Woodward-Clyde were slightly above and at the Class 3 groundwater residential protective concentration levels (PCL).</p>
April, 1994	<p>Trinity Engineering Testing Corporation conducted a Phase II Environmental Site Assessment at 5015 Spectrum Drive. Two boreholes were advanced for the collection of soil and groundwater samples and four composite soil samples were collected. Only one borehole yielded groundwater. The sampling identified TPH and metals in the soil and groundwater.</p>
November, 1991	<p>A Phase I Environmental Site Assessment (ESA) was conducted for 5015 Spectrum Drive. The Phase I ESA identified three recognized environmental concerns (RECs) located off-Site; the Ashland Chemical Company west of the Site, a sheet metal fabricating facility west of the Site, and a scrap metal aluminum recycling facility located northwest of the 5015 Spectrum Drive. The Phase I ESA also stated, the property was used as a Ready Mix Concrete batch facility in the 1980s for development occurring in the area.</p>

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 31, 2014

Mr. Rim A. Hindieh
Dallas Investment Corp
c/o Rolaco Services, Inc.
P.O. Box 7
Roslyn Heights, NY 11577-0007

Re: Certificate of Completion (COC) for 5015 Spectrum Drive, Addison, Dallas County, Texas; Voluntary Cleanup Program (VCP) No. 2660; Customer No. 604551630; Regulated Entity No. RN 107205627

Dear Mr. Hindieh:

The Texas Commission on Environmental Quality (TCEQ) has reviewed the September 10, 2014 report entitled *Affected Property Assessment Report*, as well as other requested information. Based on this review, the TCEQ has determined that the site has attained Texas Risk Reduction Program Remedy Standard A residential land use standards for all evaluated exposure pathways in accordance with 30 Texas Administrative Code §350.32. Therefore, the TCEQ issues the enclosed final COC. The TCEQ records for this site will be maintained at the Central Records office of the TCEQ in Austin, Texas.

Please be aware that there may be outstanding charges reflecting TCEQ oversight activities that may still be forthcoming. You may contact Mr. Pete Silkworth of my staff with any questions or comments you have at (512) 239-0053.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria Lebron".

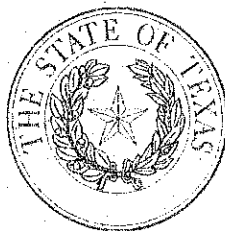
Maria Lebron, Assistant Director
Remediation Division

ML/PS/ del

cc: Mr. Patrick Johnson, W&M Environmental Group, Inc., pjohnson@wh-m.com
Mr. Sam Barrett, Waste Section Manager, TCEQ Region 4 Office, Fort Worth/Dallas

Enclosure: COC

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



VOLUNTARY CLEANUP PROGRAM
FINAL CERTIFICATE OF COMPLETION

This Final Certificate of Completion (Certificate) supersedes the Certificate issued on November 19, 2001 and applies to the tract of land described in Exhibit "A", attached hereto and incorporated herein by reference.

As provided in Section 361.609 of the Texas Health and Safety Code:

I, Maria Lebron, Assistant Director, Remediation Division, TCEQ, certify as follows:

Response actions have been completed for VCP No. 2660 as of October 24, 2014, for the tract of land described in Exhibit "A" so that the tract is acceptable for residential land use.

This certification is based on the Affidavit of Completion of Response Actions (Exhibit "B"), attached hereto and incorporated herein by reference, and on additional site information in TCEQ files.

The following persons are qualified to obtain the protection from liability described in Section 361.610 of the Texas Health and Safety Code :

- 1) An applicant who on the date of submittal of an application to the Voluntary Cleanup Program was not a responsible party under Sections 361.271 or 361.275(g) of the Texas Health and Safety Code; and
2) All persons (e.g., future owners, future lessees, future operators and lenders) who on the date of issuance of this Certificate were not responsible parties under Sections 361.271 or 361.275(g) of the Texas Health and Safety Code.

Further information concerning this matter may be found at the TCEQ Central File Room in Building E, Room 103, 12100 Park 35 Circle, Austin, Texas 78753 under Voluntary Cleanup Program No. 2660.

EXECUTED this the 31 day of October, 2014

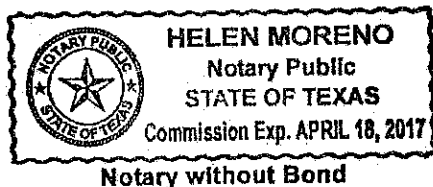
[Handwritten signature of Maria Lebron]

Maria Lebron, Assistant Director
Remediation Division

STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 31st day of October, 2014, personally appeared, Maria Lebron, Assistant Director, Remediation Division, of the Texas Commission on Environmental Quality, known to me to be a representative of said commission whose name is subscribed to the foregoing instrument and she acknowledged to me that she executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 31st day of October, 2014



[Handwritten signature of Helen Moreno]

Notary Public in and for the State of Texas

EXHIBIT "B"
Affidavit of Completion of Response Actions
VCP No. 2660

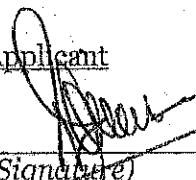
BEFORE ME, the undersigned authority, on this day personally appeared Rim Antoine Hindieh, as an authorized representative of Dallas Investment Corporation, known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

Dallas Investment Corporation (Applicant) has completed response actions pursuant to Chapter 361, Subchapter S, Texas Health and Safety Code, at the tract of land described in Exhibit "A" to this certificate that pertains to 5015 Spectrum Drive (Site), VCP No. 2660 located at 5015 Spectrum Dr., Addison, Dallas County, Texas. The Site was owned by Dallas Investment Corporation at the time the application to participate in the Voluntary Cleanup Program was filed. The Applicant has submitted and received approval from the Texas Commission on Environmental Quality (TCEQ) Remediation Division on all plans and reports required by the Voluntary Cleanup Agreement. The plans and reports were prepared using a prudent degree of inquiry of the Site consistent with accepted industry standards to identify all hazardous substances, waste and contaminated media of regulatory concern. The response actions for the Site have achieved standards acceptable for residential land use as determined by the TCEQ.

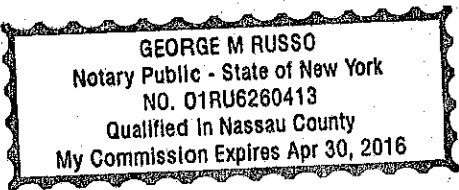
The response actions substantially eliminated present or future risk to public health and safety and to the environment from releases and threatened releases of hazardous substances and/or contaminants at or from the Site. The Applicant has not acquired this certificate of completion by fraud, misrepresentation or knowing failure to disclose material information. Further information concerning the response action at this Site may be found in the final report at the central office of the TCEQ under VCP No. 2660.

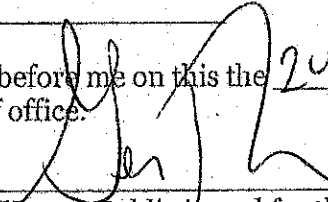
The preceding is true and correct to the best of my knowledge and belief.

Applicant

(Signature)
RIM ANTOINE HINDIEH
(Printed Name)
PRESIDENT
(Title)

STATE OF NY
COUNTY OF NASSAU

SUBSCRIBED AND SWORN before me on this the 24 day of October 2014,
to which witness my hand and seal of office.




Notary Public in and for the State of NY

VCP CFM Site Information

VCP Number: 2660
Name: 5015 SPECTRUM DRIVE
RN Number: RN107205627
Physical Address: 5015 SPECTRUM DR, ADDISON, TX, 75001-4618
Project Manager: PSILKWOR

Cleanup Rules

Program Rules	Tier	Standard	Land Use
TRRP	1	A	RESIDENTIAL

Site Operational History

Site Size (acres): 5
Current Facility Type: VACANT PROPERTY
Former Facility Type: PROPERTY COMMERCIAL
 VACANT PROPERTY

Operational History Notes

The Site is a 5 acre vacant property historically used for agriculture. However, a concrete batch plant was given a permit by the City of Addison in 1981. The batch plant was located in the southwest corner of the property and historical information suggests that the batch plant was only present on the site for 2 to 3 years. A VCP certificate of completion specifying commercial/industrial land use was issued to the site under VCP No. 206 on November 19, 2001. The current VCP applicant is seeking residential closure.

Source of Release**Source of Release**

CONCRETE BATCH PLANT LOCATED ON SW CORNER OF SITE
 OFFSITE FORMER ASHLAND CHEMICAL COMPANY IMMEDIATELY TO THE WEST

Potential/Known Source Areas Note

The only potential source located on the property is a former concrete batch plant that operated for 2 to 3 years. An offsite facility, former Ashland Chemical Company, was located adjacent to the west and operated as a chemical products tank farm from 1960 to about 1981. Based on the Ashland environmental reports, the facility stored petroleum and chlorinated solvents. A release of products to soil and groundwater were detected at the Ashland facility in 1997. Groundwater gradient maps and topographic gradient indicated groundwater contaminants migrated from the adjacent former Ashland to the northeast, toward the VCP site. Therefore, the northwestern portion of the site possessed the potential for a contaminant impact based upon the location of the former Ashland Chemical company and the groundwater flow direction.

The site has a history of agricultural use, but the concentrations of chemicals in soil are not indicative of arsenic-based pesticide, herbicide or defoliant use. Concentrations of arsenic are only slightly elevated above Texas-specific median background concentrations. As arsenic is not associated with the concrete batch plant operations, it was removed from chemical of concern consideration based upon the observed concentrations. It does not appear that any other of the RCRA 8 metals are chemicals of concern for the site, based upon past use.

Proximity and Type of Wells Present

Distance from Site	Domestic	Public Supply	Industrial	Irrigation	Unknown Use
0-500 FT	NOT PRESENT	NOT PRESENT	NOT PRESENT	NOT PRESENT	NOT PRESENT
500 FT - .25 MI	NOT PRESENT	NOT PRESENT	NOT PRESENT	NOT PRESENT	NOT PRESENT

.25 - .5 MI NOT PRESENT NOT PRESENT NOT PRESENT NOT PRESENT NOT THREATENED

Water Wells Note
 Only one water well is located within 0.5 miles of the property boundary. It is listed as 1,800 feet away and is reportedly not used and of unknown use classification. The well is drilled to a depth of 2,778 feet bgs and screened from 2,615 to 2,768 feet bgs.

Surface Water Body

Name of Nearest Surface Water WHITE ROCK CREEK
 Body:
 Distance to Nearest Surface Water 2000
 Body:
 Units: FEET
 Direction to Nearest Surface Water NORTH
 Body:

Unique or Sensitive Site Issues

There are no sensitive political or public issues for the site and there are no sensitive receptors identified within 1/2 mile of the site.

The site is currently zoned for commercial/industrial land use with the city and the VCP applicant is seeking a residential land use certificate that they plan to use to help get the site re-zoned for residential use; however, this determination by the city is independent of the TCEQ and our evaluation considers only whether the cleanup standards of the proposed future land use in the VCP application (residential) has been obtained.

Soil COC

Target COC Class	Above Res Critical PCL	Above CI Critical PCL	Delineation Complete	Above Res Critical PCL Off-Site	Response Action Required	Total Soil Combined	Complete Exposure Pathways Requiring Response Action		
							Soil to GW	Soil to Air	Ecological
METALS	NO	NO	YES	NO	NO	NO	NO	NO	N/A - TIER 1 PASSED
TPH	NO	NO	YES	NO	NO	NO	NO	NO	N/A - TIER 1 PASSED
VOCS	NO	NO	YES	NO	NO	NO	NO	NO	N/A - TIER 1 PASSED

Soil Assessment Note

Based upon the operational history and chemical of concern analyses, seventeen shallow soil borings were drilled from 4 to 11.5 feet and samples were collected across the property in a grid. Ten of the soil samples were collected on January 2014 by W&M Environmental Group, Inc. Seven of the soil samples were collected by Trinity Engineering Testing Corporation in 1994. All on site soil samples were analyzed for RCRA eight metals, total petroleum hydrocarbons, and volatile organic compounds. None of soil samples contained contaminant concentrations above residential critical protective concentration levels (PCLs) for a Class 3 groundwater resource. Earlier samples were composites across select areas of the site.

Soil Response Action

Soil Remediation Note

Soil Remediation does not appear necessary since all soil contaminant concentrations for RCRA eight metals, total petroleum hydrocarbons, and volatile organic compounds are below residential critical PCLs.

Soil Institutional/Engineering Control

Soil Individual COC Requiring Remedy

Soil Closure

Closure: SOIL

O & M Physical Inspection Required: NO

Frequency of Inspection: NA

Frequency of Reporting: NA

Technical Impracticability: NO

Using PST Closure Assumptions: NO

Groundwater Bearing Units

GW Bearing Unit	Aquifer	GW Class	Depth to GW (ft)	Gradient
GW BEARING UNIT 1		3	12.2	NORTHEAST

Groundwater COC

GW Bearing Unit	Target COC Class	Above Res Critical PCL	Above CI Critical PCL	Delineation Complete	Above Res Critical PCL Off-site	Response Action Required	Complete Exposure Pathways Requiring Response Action			
							GW Ingestion	GW to Air	GW to Sediment	GW to Surface Water
GW BEARING UNIT 1	METALS	NO	NO	YES	NO	NO	NO	NO	NO	NO
GW BEARING UNIT 1	TPH	NO	NO	YES	NO	NO	NO	NO	NO	NO
GW BEARING UNIT 1	VOCS	NO	NO	YES	NO	NO	NO	NO	NO	NO

Groundwater Assessment Note

In 1998, three monitoring wells MW-37, MW-38, and MW-39 were drilled and located onsite as part of the groundwater investigation down gradient of the former Ashland facility. All groundwater concentrations of VOCs, TPH, and RCRA eight metals were at or below residential critical PCLs. In 2014, three monitoring wells were drilled at the property. Only monitoring well MW-1 had enough groundwater to sample. Groundwater gradient based on past off-site investigation was to the northeast, and based on yield tests from monitoring well MW-1 and hydrogeological information from adjacent properties, the onsite groundwater is demonstrated to be Class 3. A groundwater sample from monitoring well MW-1 was analyzed for VOCs, TPH, and RCRA eight metals. All groundwater concentrations were at or below PCLs.

Groundwater Response Actions

GW Bearing Unit	Remediation Method	Status
-----------------	--------------------	--------

Groundwater Remediation Note

Groundwater remediation does not appear necessary since all groundwater analyses from monitoring wells MW-1, MW-37, MW-38, and MW-39 indicated groundwater concentrations at or below residential critical PCLs.

Groundwater Institutional/Engineering Control

GW Bearing Unit

Institutional/Engineering Control

Status

Groundwater Individual COC Requiring Remedy**Groundwater Closure**

Closure: GROUNDWATER

O & M GW Monitoring NO

Required:

Frequency of Reporting: NA

Frequency of Monitoring:

Using PST Closure NO

Assumption:

Technical NO

Impracticability:

Justification for Closure Request or Other Division Level Signoff

The approved APAR has provided evidence that the appropriate COCs have been investigated and concentrations of the COCs in soil and groundwater samples are all below residential critical PCLs. Therefore, the site is submitted to Division Management for consideration of VCP certificate issuance.



February 19, 2014

Dallas Investment Corp.
c/o Mr. Keith Hopson
Husch Blackwell, LLP
111 Congress Avenue, Suite 1400
Austin, Texas 78701

RE: Limited Phase II Environmental Investigation
5015 Spectrum Drive
Addison, Texas
W&M Project No. 1379.001

Dear Mr. Hopson:

W&M Environmental Group, Inc. (W&M) performed a Limited Phase II Investigation on behalf of Dallas Investment Corp. (DIC) c/o Husch Blackwell, LLP, consisting of soil and groundwater assessment at the property located at 5015 Spectrum Drive, Addison, Dallas County, Texas (Site). The Site is approximately 5 acres in size and is a vacant fenced property with grass and gravel areas and a small concrete pad located on the southwest section of the property.

Site investigation activities were conducted to assess potential impacts from the off-site sources associated with the former Ashland Chemical Company (Ashland) facility that was located west of the Site. The results of the W&M investigation are presented in this letter report. The Site location is presented on **Figure 1** and sampling locations are presented on **Figure 2**. Photographs collected during the Limited Phase II investigation are presented in **Attachment A**.

BACKGROUND INFORMATION

Ashland operated a facility in Addison, Texas on the southwest corner of Arapaho Road and Quorum Drive, which is now Edwin Lewis Drive and Quorum Drive. A limited Phase II Investigation report completed by Halff Associates, Inc. (Halff) in 1994 discussed a previous Phase I ESA completed by Halff in which permits from the City of Addison Fire Department identified the storage, handling and use of flammable liquids at the Ashland facility. The Halff report also stated the Ashland facility sought a permit for "desired storage" for an on-site tank farm with tank capacity of 500,000 gallons, drum storage with capacities of 55,000 gallons, and approximately 10,000 square feet of warehouse storage space for flammable, corrosive, and various non-hazardous materials.

As a part of the Phase II site investigation Halff collected groundwater and soil samples on the Ashland property; no sampling was performed on the DIC Site. The Halff Phase II identified detectable concentrations of volatile organic compound (VOCs) and total petroleum hydrocarbons (TPH) in the soil and groundwater.

A remedial action report completed by Woodward-Clyde and dated May 1998 stated that remedial action was conducted on the Ashland property in late 1997 and 1998. The remedial action consisted of the removal and disposal of impacted soil from an area 40 feet x 40 feet to a maximum depth of 12 feet with 1,300 cubic yards of soil removed.

The Ashland property and two additional tracts (Tract 2 and Tract 3) were entered into the Voluntary Cleanup Program (VCP) administered by the Texas Natural Resource Conservation Commission (TNRCC, predecessor to the current Texas Commission on Environmental Quality [TCEQ]). The additional tracts were presumably included in the VCP closure because affected groundwater had migrated to those properties from the Ashland facility. Ownership of Tract 2 was identified as DIC and corresponds to the Site. Tract 3 was identified as property owned by the Town of Addison. Review of the VCP files indicates that the closures were based upon a prohibition on *"the exposure to and use of groundwater from the site for residential, agricultural, recreational, industrial or commercial purposes without the express written pre-approval of the TNRCC or the State of Texas"*.

In March of 1994, Trinity Engineering Testing Corporation (Trinity) conducted a Phase II site investigation on the Site. The Phase II consisted of the installation of two soil borings to depths ranging from 22 to 25 feet and four composite samples recovered from a depth of 0 to 1 foot. The Trinity site investigation detected the presence of Resource Conservation & Recovery Act (RCRA) 8 metals and TPH in the soil samples collected at the Site. Two boreholes were advanced for the collection of groundwater samples. One borehole located near the southwest section of the property was dry and no groundwater sample was collected; a groundwater sample was collected from the other borehole. TPH and RCRA 8 metals were detected in the groundwater sample.

Based on the Ashland data and the Trinity Phase II investigation, W&M selected locations throughout the property to collect soil and groundwater samples to determine if the Site has been impacted from off-site activities.

SUBSURFACE INVESTIGATION

From January 31 through February 14, 2014, W&M conducted a limited investigation consisting of the advancement of 10 shallow soil borings, installation of three permanent groundwater monitoring wells, and yield testing to investigate the presence of chemicals of concern (COCs) in the soil and groundwater at the Site and to determine the classification of the aquifer beneath the Site.

Soil Investigation

On January 31, 2014, 10 shallow soil borings (SB-01 through SB-10) were advanced in selected locations across the property. Soil boring and sample locations are shown on **Figure 2**. The soil borings were advanced to 4 feet below ground surface (bgs) using a truck-mounted direct-push drill rig. Soil sample locations were evenly distributed across the Site and analytical parameters were determined based on the nature of activities associated with the Ashland facility. One grab sample was collected from each boring for laboratory analysis. Two soil samples were analyzed for VOCs, four soil samples were analyzed for TPH, and all 10 soil samples were analyzed for RCRA 8 metals.

Soil samples selected for chemical analysis were from the depths of highest photoionization detector (PID) readings, visually impacted soil, or the bottom interval depth of 3 to 4 feet. PID readings did not exceed 0.5 parts per million (ppm) in the soil borings. Soil samples were collected from the 3 to 4 foot since no other field indicators of contamination were noted.

A total of 10 soil samples were collected, placed in laboratory-supplied glass jars, stored on ice, and delivered to ESC Lab Sciences (ESC) in Mt. Juliet, Tennessee. Soil samples collected were analyzed for eight RCRA metals by U.S. Environmental Protection Agency (EPA) Methods 6010B and 7471, TPH by Texas Method TX1005, and VOCs by EPA Method 8260B.

Site geology in the shallow borings consists of gray and dark gray silty clay followed by weathered limestone which was encountered at depths ranging from 3 to 16 feet. Soil boring logs are provided in **Attachment B**.

Investigative derived waste (IDW) was collected in one 55-gallon steel drum, properly labeled, and stored at the Site pending analytical results.

Groundwater Investigation

On February 7, 2014, W&M returned to the Site and installed three permanent groundwater monitoring wells (MW-01 thru MW-03). Permanent groundwater monitoring wells were installed to depths ranging from 19.5 to 22.5 feet to allow for the collection of groundwater samples for RCRA 8 metals. Groundwater was not observed in the three wells following installation. The wells were allowed to recharge over a 48-hour period and W&M returned on February 10, 2014 to collect groundwater samples. Two of the three monitoring wells, MW-02, and MW-03, remained dry and were not sampled. Groundwater was observed in MW-01 and a groundwater sample was collected. Prior to collecting the groundwater sample, W&M gauged monitoring well MW-01 with the depth to water measured at 12.20 bgs. Because only one well contained groundwater, a groundwater gradient and groundwater flow direction could not be established. Based on data (network of monitoring wells) presented in the Ashland file, the groundwater flow direction is in a northeast direction.

W&M collected groundwater samples from MW-01 using a peristaltic pump with disposable tubing. Groundwater samples were collected in pre-preserved, laboratory-supplied containers, stored on ice, and delivered via overnight courier to ESC Lab Sciences in Mt. Juliet, Tennessee with analysis for VOCs, TPH, and the RCRA metals arsenic, lead, and selenium. Only three metals were analyzed based on the soil sample results, which indicated that the other RCRA 8 metals were not present in soils at concentrations above TCEQ Texas Risk Reduction Program (TRRP) Tier 1 residential protective concentration levels (PCLs). Groundwater samples collected were analyzed for RCRA metals by U.S. Environmental Protection Agency (EPA) Methods 6010B/6020, TPH by Texas Method TX 1005, and VOCs by EPA Method 8260B.

GROUNDWATER YIELD TEST

On February 14, 2014, a cyclic discharge test was performed on monitoring well MW-01 to determine the well yield. The yield test was conducted in accordance to TCEQ Regulatory Guidance document RG-366/TRRP-8 *Groundwater Classification* (Method 2a). The well was bailed dry and timed water level measurements were collected from completion of water removal until the water level reached approximately 90% of the height of the initial static water level. The recharged groundwater was evacuated from the monitoring well and the volume of the water removed was recorded. Beginning with timed water level measurements, the process was repeated twice more until three complete "bail-down and recovery" events were conducted. Approximately 7.99 gallons of water were pumped out of the well during the three bail down events. It took approximately 98 minutes to complete the three recovery events. Monitoring well MW-01 exhibited a sustainable yield of approximately 127.8 gallons per day (gpd), which is less than the TRRP-8 maximum well yield of 150 gpd and indicative of a Class 3 groundwater-bearing unit (GWBU).

SAMPLE ANALYSIS AND RESULTS

Soil Summary

Soil analytical results are summarized in **Tables 1**. The soil analytical results were initially compared to the TRRP Tier 1 PCLs for the total soil combined ($^{Tot}Soil_{Comb}$) pathway, the soil to groundwater ($^{GW}Soil_{Ing}$) pathway protective of groundwater ingestion, and the Texas-specific soil background concentration (TSBC) for RCRA 8 metals if established. Both PCLs assume residential land use (applies to industrial sites when determining TRRP applicability) and 0.5-acre source area. The laboratory analytical data package is provided in **Attachment C**.

Soil analytical results for metals were initially compared to $^{GW}Soil_{Ing}$ and the TSBC. RCRA 8 metals were detected in all 10 soil samples, with the metals arsenic, lead, and selenium at concentrations above the default PCLs. Following the completion of the well yield test identifying groundwater at the Site as a Class 3 aquifer, soil analytical results were compared to Tier 1 critical PCLs (cPCLs) for soil protective of Class 3 groundwater ($^{GW}Soil_{Class3}$). None of the RCRA 8 metals were detected at concentrations above their respective $^{GW}Soil_{Class3}$ cPCLs.

TPH was not reported above laboratory detection limits in any of the four soil samples collected from the Site. VOCs were not detected in the two soil samples above analytical detection limits.

Synthetic Precipitation Leaching Procedures

The Synthetic Precipitation Leaching Procedure (SPLP) analysis (leach test) was completed on a rush analysis schedule and was conducted prior to the installation of MW-01 and the well yield testing. SPLP was conducted on the three soil samples displaying the highest RCRA 8 metal concentrations. Soil samples SB-05, SB-09, and SB-10 were analyzed for SPLP. Soil sample SB-05 was analyzed for arsenic and lead; SB-09 and SB-10 were analyzed for arsenic and selenium. All SPLP results were below their respective ground to groundwater ($^{GW}GW_{Ing}$) pathway protective of groundwater ingestion. SPLP analytical results are summarized in **Tables 2**

Groundwater Summary Results

A groundwater sample was collected from MW-01 only, as the two other monitoring wells were dry upon well gauging. Groundwater analytical results are summarized in **Table 3**. The groundwater analytical results were compared to the TRRP cPCLs for a Class 3 aquifer ($^{GW}GW_{Class3}$) protective of groundwater ingestion and assuming residential land use. The laboratory analytical data package is provided in **Attachment C**.

Arsenic, lead, and selenium were detected in MW-01 but at concentrations lower than the $^{GW}GW_{Class3}$ cPCLs

TPH was detected in the C6 – C12 range but at a concentration lower than the $^{GW}GW_{Class3}$ cPCLs.

Twenty VOCs were detected in MW-01, but none were detected above the $^{GW}GW_{Class3}$ cPCLs.

Quality Control/Quality Assurance

W&M reviewed the laboratory review checklists (LRCs) and quality control/quality assurance data provided with the laboratory reports by ESC. The following exception reports were generated for samples collected:

Groundwater Laboratory Data Package

- The duplicate relative percent difference (RPD) exceeded the laboratory control limits for lead and selenium

Soil Laboratory Data Package

- The matrix spike or matrix spike duplicate recoveries were below the laboratory control limits for barium.
- The RPDs exceeded laboratory limits for barium.
- The duplicate RPD exceeds laboratory limits for arsenic, cadmium, lead and selenium. The serial distribution RPD exceeded laboratory limits for arsenic, barium, cadmium, chromium, and lead.

The exception reports are associated with the laboratory control samples. Additionally, no data was rejected by the laboratory as a result of these exception reports.

CONCLUSIONS

Ten shallow soil borings were advanced into the subsurface soils to a depth up to 4 feet bgs. Three permanent monitoring wells were installed at the Site at depths ranging from 19.5 to 22.5 feet. One monitoring well recharged producing groundwater, and the other two monitoring wells remained dry. Weathered limestone was encountered at the Site at depths ranging from 3 to 16 feet bgs. Well yield testing conducted at the Site, determined that the groundwater aquifer beneath the Site is a Class 3 GWBU.

TPH and VOCs were not detected in the 10 soil samples collected from the Site. RCRA 8 metals were detected in all 10 samples but all were below their respective ^{GW}Soil_{Class3} cPCLs. SPLP analysis was conducted on three soil samples and all were below their respective ^{GW}GW_{Ing} PCLs and the ^{GW}GW_{Class3} cPCLs indicating that the metals were not leaching from the soil.

Groundwater analysis was completed for three RCRA metals, arsenic, lead, and selenium from monitoring well MW-01. The three RCRA 8 metals were detected in the groundwater but at concentrations below their respective ^{GW}GW_{Class3} cPCLs (groundwater not impacted). TPH was detected in the C₆ – C₁₂ range but at a concentration lower than the ^{GW}GW_{Class3} cPCLs. Twenty VOCs were detected in MW-01, but none were detected above the ^{GW}GW_{Class3} cPCLs.

RECOMMENDATIONS

Based on the results of the groundwater and soil investigation conducted at the Site, it W&M's professional opinion that the Site is not an affected property. However, because the property received a final certificate of completion (COC) under VCP No. 204 (Tract #2) with a deed restriction for non-residential land use, a new VCP application needs to be submitted to the TCEQ for the Site to receive a final COC allowing residential land use. The COC also contains a deed restriction prohibiting the exposure to and use of groundwater from the Site for residential, agricultural, recreational and industrial/

Mr. Keith Hopson
February 19, 2014
Page 6

or commercial purposes. Assuming Client agrees with this condition, we recommend that this groundwater use restriction remain in place.

In submitting a new VCP application, two scenarios are available to address groundwater at the Site.

Scenario 1: Evaluate the Site under the current groundwater deed restriction remaining in place. This would eliminate the need to incorporate or evaluate the Site using TRRP groundwater pathway PCLs $^{GW}GW_{Ing}$ or $^{GW}GW_{Class3}$. The Site would be evaluated under the TRRP $^{Air}GW_{Inh-V}$, $^{Air}Soil_{Inh-V}$ and $^{Tot}Soil_{Comb}$ residential PCLs which are higher than the groundwater pathway PCLs.

Scenario 2: Evaluate the Site using the Class 3 groundwater aquifer designation determined for the Site during W&M's site investigation. This option will allow the use of Class 3 groundwater designation PCLs which are higher than the groundwater ingestion PCLs ($^{GW}GW_{Ing}$ or $^{GW}Soil_{Ing}$).

With both scenarios a new VCP application, \$1,000 fee and affected property assessment report (APAR) would be submitted to the TCEQ. In addition to these tasks, it is likely that the TCEQ will require a drinking water survey report (DWSR) for Scenario 2 and probably not for Scenario 1. The necessity for the DWSR would be determined by the TCEQ case coordinator.

QUALIFICATIONS

This report was prepared for the sole use of DIC and shall not be relied upon by any other party without the express prior written consent of DIC and W&M. This document was developed by employing generally accepted methods and customary practices of the environmental profession.

W&M appreciates the opportunity to be of service to you on this project. If you have any questions or need additional information, please feel free to contact Mr. Patrick Johnson at 972-509-9610.

Sincerely,

W&M ENVIRONMENTAL GROUP, INC.



Patrick Johnson, P.E.
Project Manager



Michael Whitehead.
Senior Consultant

FIGURES

TABLE SB-1B
GROUNDWATER ANALYTICAL DATA SUMMARY - ON-SITE MONITORING WELLS BY OTHERS
 5015 Spectrum Drive (SEC Quorum Dr. & Edwin Lewis Dr.)
 Addison, Texas

SAMPLE ID ¹	GW _{Ing} ² (mg/L)	GW _{Class 3} ³ (mg/L)	On-Site Samples Collected by Others ⁴						
			MW-37 (mg/L)	MW-37 (mg/L)	MW-37 (mg/L)	MW-38 (mg/L)	MW-38 (mg/L)	MW-39 (mg/L)	B-2 (mg/L)
DATE SAMPLED			4/10/1997	3/3/1998	4/9/1998	3/4/1998	4/9/1998	4/9/1998	3/23/1994
RCRA Metals⁵									
Arsenic	0.01	1	---	---	---	---	---	---	0.27
Barium	2	200	---	---	---	---	---	---	0.82
Cadmium	0.005	0.5	---	---	---	---	---	---	0.024
Chromium	0.1	10	---	---	---	---	---	---	0.14
Lead	0.015	1.5	---	---	---	---	---	---	0.081
Mercury	0.002	0.2	---	---	---	---	---	---	<0.00011
Selenium	0.05	5	---	---	---	---	---	---	<0.078
Silver	0.12	12	---	---	---	---	---	---	0.062
Total Petroleum Hydrocarbons (TPH)⁶									
TPH C6 - C12	0.98	98	---	---	---	---	---	---	---
TPH C12 - 28	0.98	98	---	---	---	---	---	---	---
TPH C28 - 35	0.98	98	---	---	---	---	---	---	---
Total TPH ⁷	---	---	---	---	---	---	---	---	35
Volatile Organic Compounds (VOCs)⁷									
Benzene	0.005	0.5	<0.100	<0.05	0.072	0.015	0.023	---	---
sec-Butylbenzene	0.98	98	---	---	---	---	---	---	---
tert-Butylbenzene	0.98	98	---	---	---	---	---	---	---
Chlorobenzene	0.1	10	5.00	2.20	3.70	<0.05	0.019	---	---
Chloroethane	9.8	980	---	---	---	---	---	---	---
2-Chlorotoluene	0.49	49	---	---	---	---	---	---	---
1,2-Dichlorobenzene	0.6	60	---	---	---	---	---	---	---
1,3-Dichlorobenzene	0.73	73	---	---	---	---	---	---	---
1,4-Dichlorobenzene	0.075	7.5	0.230	<0.050	0.095	---	---	---	---
1,1-Dichloroethane	4.9	490	---	---	---	---	---	---	---
1,1-Dichloroethene	0.007	0.7	---	---	---	---	---	---	---
cis-1,2-Dichloroethene	0.070	7	---	---	---	<0.05	0.350	0.0033	---
trans-1,2-Dichloroethene	0.100	10	---	---	---	<0.05	0.012	---	---
Ethylbenzene	0.7	70	1.20	0.18	0.420	---	---	---	---
Isopropylbenzene	2.4	240	---	---	---	---	---	---	---
Methyl tert-butyl ether	0.24	24	---	---	---	---	---	---	---
Toluene	1	100	---	---	---	---	---	---	---
Trichloroethene	0.005	0.5	---	---	---	---	---	---	---
Vinyl chloride	0.002	0.2	---	---	---	0.26	0.200	---	---
Xylenes, Total	10	1,000	4.100	0.54	1.400	---	---	---	---

Notes:

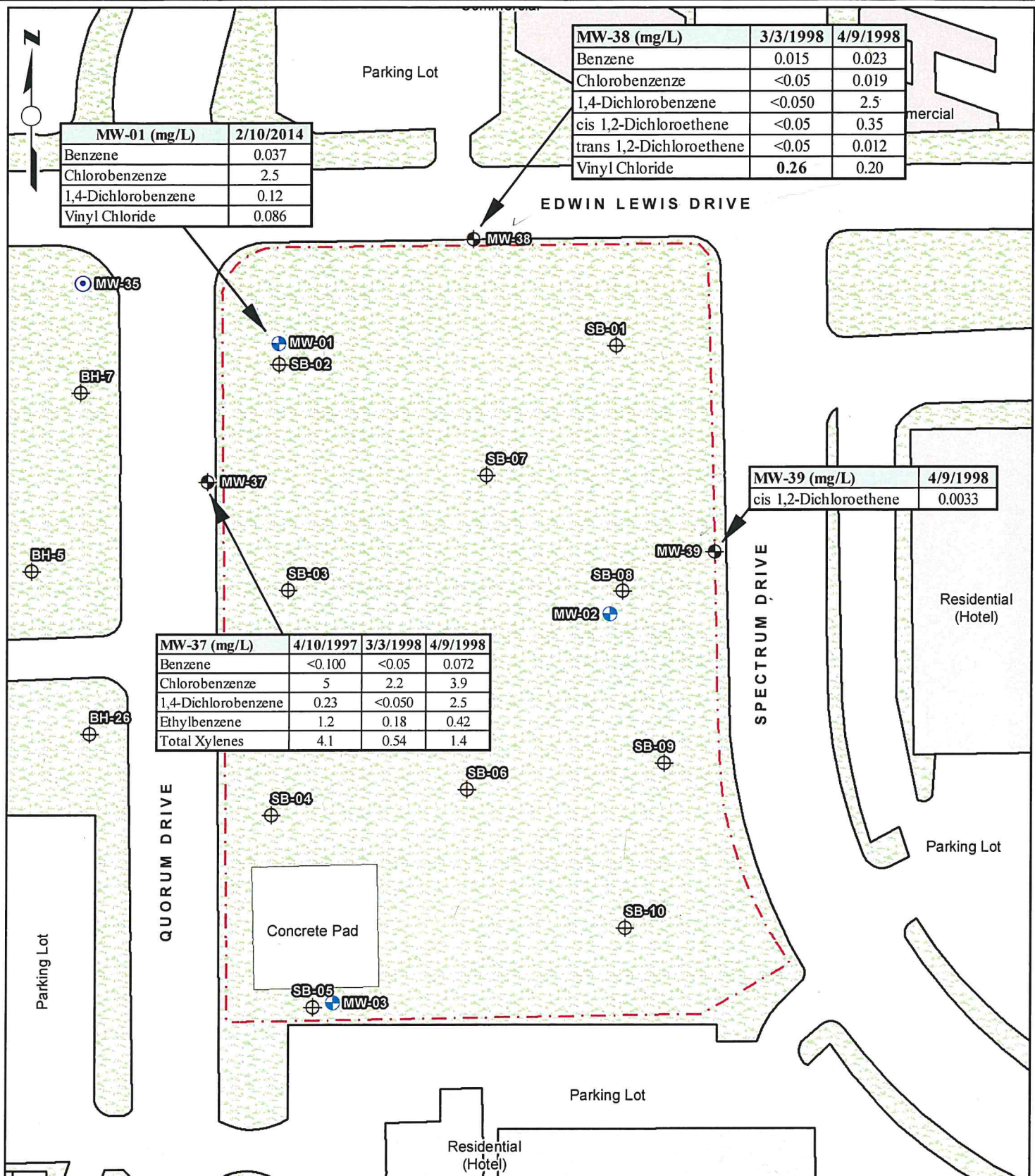
- ¹Samples collected by W&M Environmental Group, Inc. and analyzed by ESC Lab Sciences in Mt. Juliet, Tennessee.
- ²Texas Risk Reduction Program (TRRP) GW_{Ing} for Residential.
- ³Texas Risk Reduction Program (TRRP) GW_{Class 3} for Residential.
- ⁴Groundwater sample collected from B-1 by Trinity Engineering Testing Corporation and analyzed by EET, Inc. in Austin, Texas; and groundwater samples collected from monitoring wells MW-37, MW-38, and MW-39 were collected by Woodward-Clyde.
- ⁵Resource Conservation and Recovery Act (RCRA) Metals analyzed by EPA Method 6010/7471B.
- ⁶Total TPH analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 418.1
- ⁷Volatile organic compounds (VOCs) analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 8260.
- J - Estimated value below the lowest calibration point. Confidence correlates with concentration.
- P1 - RPD value not applicable for sample concentrations less than 5 times the reporting limit.
- Bold indicates the action level and concentrations in exceedance of applicable PCL.**
- Any VOC analyte not listed was below the sample detection limit.

TABLE 1D
SOIL ANALYTICAL DATA SUMMARY
5013 Spectrum Drive (SEC Quorum Dr. & Edwin Lewis Dr.)
Addicks, Texas

SAMPLE ID ¹ DEPTH (ft) DATE SAMPLED	1 st Soil _{max} ²	2 nd Soil _{avg} ³	3 rd Soil _{max} ⁴	Texas Specific Background Value	On-Site Samples Collected By Others ^{5a}												Samples Collected By W&M											
					B-1 2-3.5 ft 3/23/94	B-1 6-8 ft 3/23/94	B-2 10-11.5 ft 3/23/94	Area 1 0-1 ft 3/23/94	Area 2 0-1 ft 3/23/94	Area 3 0-1 ft 3/23/94	Area 4 0-1 ft 3/23/94	SB-01-4 ft 4 ft 1/31/14	SB-02-4 ft 4 ft 1/31/14	SB-03-4 ft 4 ft 1/31/14	SB-04-4 ft 4 ft 1/31/14	SB-05-4 ft 4 ft 1/31/14	SB-06-4 ft 4 ft 1/31/14	SB-07-4 ft 4 ft 1/31/14	SB-08-4 ft 4 ft 1/31/14	SB-09-4 ft 4 ft 1/31/14	SB-10-4 ft 4 ft 1/31/14							
Total Petroleum Hydrocarbons (TPH) ⁶ (mg/kg)																												
TPH C ₁ -C ₁₀	1,600	65	6,500	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---								
TPH C ₁₁ -C ₂₀	2,300	200	20,000	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---								
TPH C ₂₁ -C ₃₀	2,300	200	20,000	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---								
Total TPH	---	---	---	---	21	<5.0	47	54	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0	<5.0								
ARCA Metals ⁸ (mg/kg)																												
Arsenic	24	5	500	5.9	10	7.4	<1.4	<1.4	<1.4	<1.4	5.3	1.7	6	6.9	8.1	7.2	7	8.1	6.1	6.6								
Barium	8,100	440	44,000	300	100	27	24	24	25	24	20	24	130	49	200	160	220	160	100	200								
Cadmium	52	1.5	150	---	2.2	0.86	0.36	0.30	0.44	0.23	0.37	0.34	0.34	0.27	0.30	0.43	0.81	0.45	0.35	0.73								
Chromium	33,000	2,400	240,000	30	16	7	7.2	5.7	7.2	6.9	23	23	32	17	38	38	42	34	35	40								
Lead	500	3	300	15	10	1.9	2.8	2.6	3.6	1.1	3.9	3.9	15	9.1	17	16	22	15	16	18								
Mercury	3.6	0.0078	0.78	0.04	<0.0061	<0.0061	<0.0061	0.0092	<0.0061	<0.0061	0.013	<0.0061	0.0083	0.024	0.0073	0.012	0.011	0.0091	0.011	0.012								
Selenium	310	2.3	230	0.3	<3.3	<3.3	<3.3	<3.3	<3.3	<3.3	<3.3	<3.3	2.6	2.9	2.1	2.8	0.52	2.5	2.4	1.6								
Silver	97	0.48	48	---	17	1.6	<0.17	<0.17	<0.17	<0.17	<0.17	<0.17	<0.14	<0.14	<0.14	<0.14	0.140	<0.14	<0.14	<0.14								

Notes:

- ¹ Samples collected by W&M Environmental Group, Inc. and analyzed by ESC Lab Sciences in Mt. Juliet, Tennessee.
- ² Texas Risk Reduction Program (TRRP) ¹⁰Soil_{max} residential protective concentration level (PCL), 0.5 acre source area.
- ³ TRRP ¹⁰Soil_{avg} residential protective concentration levels PCLs, 0.5 acre source area.
- ⁴ TRRP ¹⁰Soil_{max} residential protective concentration levels PCLs, 0.5 acre source area.
- ⁵ Sample B-1, B-2, and Areas 1, 2, 3, and 4 collected by Trinity Engineering Testing Corporation and analyzed by EET, Inc. in Austin, Texas.
- ⁶ Composite sample taken from multiple shallow borings for Areas 1, 2, 3, and 4.
- ⁷ Volatile organic compounds (VOCs) analyzed by U.S. Environmental Protection Agency (EPA) Method 8260.
- ⁸ Total petroleum hydrocarbons (TPH) analyzed by Texas Commission on Environmental Quality (TCEQ) Texas Method 1005.
- ⁹ Total TPH analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 418.1.
- ¹⁰ Resource Conservation and Recovery Act (RCRA) 8 Metals analyzed by EPA Method 60107/471B.
- ¹¹ Estimated value below the lowest calibration point. Confidence correlates with concentration.
- ¹² Sample diluted due to matrix interferences that impaired the ability to make an accurate analytical determination. The detection limit is elevated in order to reflect the necessary dilution.
- SDI - Sample Detection Limit
- Bold indicates concentrations in exceedance of applicable PCL.**
- Any VOC analyte not listed was below the sample detection limit.
- = No value available



MW-01 (mg/L)	2/10/2014
Benzene	0.037
Chlorobenzene	2.5
1,4-Dichlorobenzene	0.12
Vinyl Chloride	0.086

MW-38 (mg/L)	3/3/1998	4/9/1998
Benzene	0.015	0.023
Chlorobenzene	<0.05	0.019
1,4-Dichlorobenzene	<0.050	2.5
cis 1,2-Dichloroethene	<0.05	0.35
trans 1,2-Dichloroethene	<0.05	0.012
Vinyl Chloride	0.26	0.20

MW-37 (mg/L)	4/10/1997	3/3/1998	4/9/1998
Benzene	<0.100	<0.05	0.072
Chlorobenzene	5	2.2	3.9
1,4-Dichlorobenzene	0.23	<0.050	2.5
Ethylbenzene	1.2	0.18	0.42
Total Xylenes	4.1	0.54	1.4

MW-39 (mg/L)	4/9/1998
cis 1,2-Dichloroethene	0.0033

Legend

- Approximate Site Boundary
 - Grassed Area
 - Sample Location
 - Monitoring Well - W&M
 - Monitoring Well - Woodward-Clyde
 - Monitoring Well - Off-Site
- Source: Dallas Central Appraisal District, ESRI (12/2010)
 Note: Sample locations are approximate
- 0 50 100 200 Feet
 SCALE: 1"=100'

Figure 5B-1
Groundwater COC
Concentration Map - VOCs
 5015 Spectrum Drive
 Addison, Texas



TABLE SB-1
GROUNDWATER ANALYTICAL DATA SUMMARY - ONSITE MONITORING WELLS
5015 Spectrum Drive (SEC Quorum Dr. & Edwin Lewis Dr.)
Addicks, Texas

SAMPLE ID ¹	c ² GW ^{mg} ²		c ³ GW ^{cas} ³		On-Site Samples Collected by Others ⁴						Sample Collected by W&M	
	(mg/L)	(mg/L)	(mg/L)	(mg/L)	MW-37 (mg/L)	MW-37 (mg/L)	MW-37 (mg/L)	MW-38 (mg/L)	MW-38 (mg/L)	MW-39 (mg/L)		B-2 (mg/L)
DATE SAMPLED					4/10/1997	3/3/1998	4/9/1998	3/4/1998	4/9/1998	4/9/1998	3/23/2014	2/10/2014
RCRA Metals⁵												
Arsenic	0.01	1	***	***	***	***	***	***	***	***	0.27	0.0050
Barium	2	200	***	***	***	***	***	***	***	***	0.82	***
Cadmium	0.005	0.5	***	***	***	***	***	***	***	***	0.024	***
Chromium	0.1	10	***	***	***	***	***	***	***	***	0.14	***
Lead	0.015	1.5	***	***	***	***	***	***	***	***	0.081	0.00055 J, P1
Mercury	0.002	0.2	***	***	***	***	***	***	***	***	<0.00011	***
Selenium	0.05	5	***	***	***	***	***	***	***	***	<0.078	0.00099 J, P1
Silver	0.12	12	***	***	***	***	***	***	***	***	0.062	***
Total Petroleum Hydrocarbons (TPH)⁶												
TPH C6 - C12	0.98	98	***	***	***	***	***	***	***	***	***	1.6
TPH C12 - 28	0.98	98	***	***	***	***	***	***	***	***	***	<0.60
TPH C28 - 35	0.98	98	***	***	***	***	***	***	***	***	***	<0.60
Total TPH	***	***	***	***	***	***	***	***	***	***	***	35
Volatile Organic Compounds (VOCs)⁷												
Benzene	0.005	0.5	<0.100	<0.05	0.072	0.015	0.023	***	***	***	***	0.037
sec-Butylbenzene	0.98	98	***	***	***	***	***	***	***	***	***	0.0022
tert-Butylbenzene	0.98	98	***	***	***	***	***	***	***	***	***	0.0031
Chlorobenzene	0.1	10	5.00	2.20	3.70	<0.05	0.019	***	***	***	***	2.5
Chloroethane	9.8	980	***	***	***	***	***	***	***	***	***	0.0043 J
2-Chlorotoluene	0.49	49	***	***	***	***	***	***	***	***	***	0.032
1,2-Dichlorobenzene	0.6	60	***	***	***	***	***	***	***	***	***	0.11
1,3-Dichlorobenzene	0.73	73	***	***	***	***	***	***	***	***	***	0.023
1,4-Dichlorobenzene	0.075	7.5	0.230	<0.050	0.095	***	***	***	***	***	***	0.12
1,1-Dichloroethane	4.9	490	***	***	***	***	***	***	***	***	***	0.032
1,1-Dichloroethene	0.007	0.7	***	***	***	***	***	***	***	***	***	0.00043 J
cis-1,2-Dichloroethene	0.070	7	***	***	***	<0.05	0.350	0.0033	0.00043 J	0.00043 J	***	0.052
trans-1,2-Dichloroethene	0.100	10	***	***	***	<0.05	0.012	***	***	***	***	0.0017
Ethylbenzene	0.7	70	1.20	0.18	0.420	***	***	***	***	***	***	0.00078 J
Isopropylbenzene	2.4	240	***	***	***	***	***	***	***	***	***	0.00064 J
Methyl tert-butyl ether	0.24	24	***	***	***	***	***	***	***	***	***	0.0014
Toluene	1	100	***	***	***	***	***	***	***	***	***	0.0015 J
Trichloroethane	0.005	0.5	***	***	***	***	***	***	***	***	***	0.0011
Vinyl chloride	0.002	0.2	***	***	***	0.26	0.200	***	***	***	***	0.086
Xylenes, Total	10	1,000	4.100	0.54	1.400	***	***	***	***	***	***	0.0015 J

Notes:
¹Samples collected by W&M Environmental Group, Inc. and analyzed by ESC Lab Sciences in Mt. Juliet, Tennessee.
²Texas Risk Reduction Program (TRRP) c² GW^{mg} for Residential.
³Texas Risk Reduction Program (TRRP) c³ GW^{cas} for Residential.
⁴Groundwater sample collected from B-1 by Trinity Engineering Testing Corporation and analyzed by EET, Inc. in Austin, Texas; and groundwater samples collected from monitoring wells MW-37, MW-38, and MW-39 were collected by Woodward-Clyde Resource Conservation and Recovery Act (RCRA) Metals analyzed by EPA Method 6010/7471B.
⁵Total petroleum hydrocarbons (TPH) analyzed by Texas Commission on Environmental Quality (TCEQ) Texas Method 1005.
⁶Total TPH analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 418.1
⁷Volatile organic compounds (VOCs) analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 8260.
⁸J - Estimated value below the lowest calibration point. Confidence correlates with concentration.
⁹P1 - RPD value not applicable for sample concentrations less than 5 times the reporting limit.
10 - RPD indicates the action level and concentrations in exceedance of applicable PCL.
 Any VOC analyte not listed was below the sample detection limit.

TABLE SB-2
GROUNDWATER ANALYTICAL DATA SUMMARY - OFF-SITE SAMPLING
SVC Quorum Dr. & Echon Lewis Drive
Addicks, Texas

Sample ID ¹⁾	Date Collected	TPH (mg/L) ²⁾	Benzene	Bromobenzene	Bromodichloro methane	Chlorobenzene	Cis-1,2-Dichloroethene	Ethylbenzene	1,2-Dichlorobenzene	1,4-Dichlorobenzene	1,1-Dichloroethane	Trans-1,2-Dichloroethene	Tetrachloroethene	Toluene	Trichloroethene	Vinyl Chloride
MW-33	3/4/1998	---	---	---	---	---	<0.010	---	---	---	---	<0.010	---	---	<0.010	---
MW-36	3/4/1998	---	---	---	---	---	<0.025	---	---	---	---	0.016	---	---	0.086	---
MW-36	4/9/1998	---	---	---	---	---	0.990	---	---	---	---	---	---	---	---	---
BH-5	7/25/1994	---	---	---	---	0.006	---	---	0.0	0.0	---	<0.005	---	0.005	0.017	<0.010
BH-5	8/11/1994	---	---	---	---	<0.015	---	---	0.005	0.0	<0.001	<0.001	---	0.0031	0.013	0.002
BH-5	9/10/1996	---	---	---	---	0.0027	0.028	---	0.025	0.0055	0.0071	0.0022	---	<0.001	0.024	0.002
BH-5	4/10/1997	---	---	---	---	<0.001	0.029	---	0.045	0.0071	---	---	---	<0.001	0.024	<0.001
BH-7	8/9/1994	1.4	<0.200	<0.250	---	3.100	0.10	0.300	0.200	0.40	---	---	---	0.400	---	<0.500
BH-7	9/10/1996	---	0.03	---	---	6.40	0.17	0.180	<0.026	0.69	---	---	---	0.0031	---	0.140
BH-7	4/10/1997	---	0.12	---	---	4.100	<0.100	0.450	0.52	---	---	---	---	0.260	---	<0.100
BH-7	3/31/1998	---	<0.050	---	---	2.6	<0.050	0.100	<0.050	0.36	---	---	---	0.052	---	<0.050
BH-9	8/9/1994	---	<1.000	---	<0.500	2.50	7.80	<1.000	9.10	2.200	---	---	---	<1.000	---	<2.500
BH-9	9/10/1996	---	0.330	---	0.06	6.70	13.00	0.098	9.50	<0.021	---	---	---	0.110	---	1.800
BH-9	4/10/1997	---	<0.500	---	<0.500	4.00	14.00	<0.500	6.20	1.400	---	---	---	<0.500	---	1.800
BH-9	3/31/1998	---	<0.500	---	<0.500	0.670	19.00	<0.500	6.00	0.620	---	---	---	0.780	---	<0.500
BH-17	8/9/1994	24	---	---	---	4.100	<0.300	<0.500	1.000	0.800	<0.300	---	---	<0.500	---	<0.300
BH-17	9/10/1996	---	---	---	---	3.600	0.170	0.260	0.840	0.740	0.120	---	---	0.130	---	<0.090
BH-17	4/10/1997	---	---	---	---	3.300	0.140	0.730	0.550	0.500	0.180	---	---	<0.050	---	0.130
BH-17	3/31/1998	---	---	---	---	0.670	<0.025	0.075	0.046	0.093	<0.025	---	---	<0.025	---	<0.025
BH-26	9/26/1994	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-26	9/10/1996	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-26	4/10/1997	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-26	3/31/1998	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-27	9/26/1994	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-27	9/10/1996	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-27	4/10/1997	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-27	3/31/1998	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-31	9/26/1994	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-31	9/10/1996	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-31	4/10/1997	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
BH-31	3/31/1998	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
GW _{Area 1}	3/31/1998	---	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL	<SDL
GW _{Area 1} Tier 1 Residential PCL ⁴⁾	---	---	0.500	20.000	1.500	10.000	7.000	70.000	60.000	7.500	490.000	10.000	0.500	1	1	0.20
GW _{Area 1} Tier 2 Residential PCL ⁴⁾	---	---	0.005	0.200	0.015	0.100	0.070	0.700	0.600	0.075	4.900	0.100	0.005	1	0	0.0

Notes:
¹⁾ Samples collected by Woodward-Clyde in 1997 and 1998.
²⁾ Groundwater sample collected from BH-1 was collected by Trinity Engineering Testing Corporation and analyzed by BET, Inc. in Austin, Texas; and groundwater samples collected from monitoring wells MW-37, MW-38, and MW-39 were collected by Woodward-Clyde.
³⁾ Total TPH analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 418.1
⁴⁾ The Texas Risk Reduction Program (TRRP) ^{GW} GW_{Area 1} for Residential protective concentration levels (RCLs) are presented for data comparison.
⁵⁾ The Texas Risk Reduction Program (TRRP) ^{GW} GW_{Area 1} for Residential PCL are presented for data comparison.
⁶⁾ Volatile organic compounds (VOCs) analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 8260.
⁷⁾ J - Estimated value below the lowest calibration point. Confidence correlates with concentration.
<SDL - Less than sample detection limit.
Bold indicates the action level and concentrations in exceedance of applicable PCL.
Any VOC analyte not listed was below the sample detection limit.

TABLE 4D
SOIL ANALYTICAL DATA SUMMARY
5015 Spectrum Drive (SEC Quorum Dr. & Edwin Lewis Dr.)
Addicks, Texas

SAMPLE ID¹	¹Soil _{10m} ²	¹Soil _{1g} ³	¹Soil _{1m} ⁴	Texas Specific Background Value	B-1 2-3.5 ft	B-1 6-8 ft	On-Site Samples Collected By Others¹⁵								Samples Collected By W&M															
							B-2 10-11.5 ft	Aves 1 0-1 ft	Aves 2 0-1 ft	Aves 3 0-1 ft	Aves 4 0-1 ft	SB-01-4 ft	SB-02-4 ft	SB-03-4 ft	SB-04-4 ft	SB-05-4 ft	SB-06-4 ft	SB-07-4 ft	SB-08-4 ft	SB-09-4 ft	SB-10-4 ft									
DATE SAMPLED					3/23/94	3/23/94	3/23/94	3/23/94	3/23/94	3/23/94	3/23/94	3/23/94	3/23/94	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	1/31/14	
All Other VOCs		Varies		Varies	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
Total Petroleum Hydrocarbons (TPH)⁶ (mg/lb)		1,600	65	6,500	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
TPH C ₁₂ - C ₁₆		2,300	200	20,000	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
TPH C ₇ - C ₉		2,300	200	20,000	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Total TPH⁷		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
RCRA Metals⁸ (mg/kg)																														
Arsenic		24	5	500	10	7.4	<1.4	<1.4	<1.4	5.3	1.7	6	6.9	8.1	7.2	7	8.1	6.1	6.6	9.2	6.4									
Barium		8,100	440	44,000	100	27	24	24	22	20	24	150	49	200	160	220	160	100	200	58	24									
Cadmium		52	1.5	150	2.2	0.86	0.36	0.30	0.44	0.23	0.37	0.34 J	0.27 J	0.30 J	0.43	0.81	0.45	0.35	0.73	0.37	0.19 J									
Chromium		33,000	2,400	240,000	16	7	7.2	5.7	7.7	6.9	23	32	17	38	38	42	34	35	40	21	9.4									
Lead		500	3	300	10	1.9	2.8	2.6	3.6	1.1	3.9	15	9.1	17	16	22	15	16	18	9.8	5.2									
Mercury		3.6	0.0078	0.78	<0.0061	<0.0061	0.0092	<0.0061	0.013	<0.0061	0.0083 J	0.024	0.0073 J	0.012 J	0.012 J	0.011 J	0.0091 J	0.011 J	0.012 J	0.016 J	0.018 J									
Selenium		310	2.3	230	<3.3	<3.3	<3.3	<3.3	<3.3	<3.3	2.6	2.9	2.1	2.1	2.8	0.57 J	2.5	2.4	1.6	2.7	3.4									
Silver		97	0.48	48	17	1.6	<0.17	<0.17	<0.17	<0.17	<0.17	<0.14	<0.14	<0.14	<0.14	0.14 O	<0.14	<0.14	<0.14	<0.14	<0.14									

Notes:
 ¹ Samples collected by W&M Environmental Group, Inc. and analyzed by ESC Lab Sciences in Mt. Juliet, Tennessee.
 ² Texas Risk Reduction Program (TRRP) ¹Soil_{10m}, residential protective concentration level (PCL), 0.5 acre source area.
 ³ TRRP ¹Soil_{1g}, residential protective concentration levels (PCL), 0.5 acre source area.
 ⁴ TRRP ¹Soil_{1m}, residential protective concentration levels (PCL), 0.5 acre source area.
 ⁵ Samples B-1, B-2, and Aves 1, 2, 3, and 4 collected by Trinity Engineering, Testing, Corporation and analyzed by HET, Inc. in Austin, Texas.
 ⁶ Composite sample taken from multiple shallow borings for Aves 1, 2, 3, and 4.
 ⁷ Volatile organic compounds (VOCs) analyzed by U.S. Environmental Protection Agency (EPA) Method 8260.
 ⁸ Total petroleum hydrocarbons (TPH) analyzed by Texas Commission on Environmental Quality (TCEQ) Texas Method 1005.
 ⁹ Total TPH analyzed by U.S. Environmental Protection Agency (EPA) EPA Method 4181.
 ¹⁰ Resource Conservation and Recovery Act (RCRA) 8 Metals analyzed by EPA Method 60107471B.
 ¹¹ Estimated value below the lowest calibration point. Confidence correlates with concentration.
 O - Sample diluted due to matrix interferences that impaired the ability to make an accurate analytical determination. The detection limit is elevated in order to reflect the necessary dilution.
 SDL = Sample Detection Limit.
Bold indicates concentrations in excess of applicable PCL.
 Any VOC analyte not listed was below the sample detection limit.
 --- = No value available

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Manager

AGENDA CAPTION:

Present, Discuss, And Consider Action On Strategic Planning And Environmental Testing For Town-Owned Properties Located Along The Cotton Belt Corridor In The General Vicinity Of The Intersection Of Quorum Drive And Arapaho Road, Including The +/- 5.6 Acre Site Located At 5035 Arapaho Road.

BACKGROUND:

The 2013 Comprehensive Land Use Plan identified ten areas within the Town that warranted more in-depth assessment. To date, three of the ten areas have been studied. One of the remaining study areas listed is the Town-owned properties along the proposed Cotton Belt Rail Line. The Town owns approximately 12 acres of undeveloped land that it has been holding while awaiting the arrival of passenger rail service.

With DART's recent decision to expedite the implementation of passenger service on the Cotton Belt Corridor to the year 2022, the Town must develop a plan for future development of the Town's properties, DART's transit center and adjacent property at the Northeast corner of Addison Road and Arapaho Road, and the private properties generally known as the Old Addison development on Broadway Street.

The Fiscal Year 2017 budget for Development Services includes \$150,000 to fund Special Area Studies. Staff is requesting confirmation from the City Council regarding the selection of these properties as the next study area.

Additionally, while staff has no knowledge of industrial uses occurring on any of the Town-owned properties, there is a history of industrial activities in the area. Therefore, in addition to the study process, environmental assessments should be completed to understand the environmental condition of the Town's properties, including any remediation actions that must occur to make the properties suitable for development.

Should the Council agree, staff will begin the process for selecting planning consultant to facilitate the special area study process and environmental consultants to conduct the environmental assessment.

RECOMMENDATION:

Staff requests direction from Council.

AI-2147

20.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Manager

AGENDA CAPTION:

Discussion And Possible Action Regarding A Review Of **The Current Transparency Policy And Practice.**

BACKGROUND:

Mayor Todd Meier requested this item be placed on the agenda to review and discuss the current policy and practice regarding transparency. The main point of discussion is related to defining the Town's current transparency policy and practice and determining if it should be in writing. The attachment to this agenda memo outlines the issues and concerns Mayor Meier would like to discuss.

RECOMMENDATION:

Provide policy direction to staff.

Attachments

Outline for discussion as provided by Mayor Meier

Insert to go with Agenda item that :”Discussion and possible action regarding a review of our current transparency policy and practice. What is our current transparency policy and should it be in writing?”

What is our Transparency policy?

Last summer on July 12, 2016 at the request of two council members the council had a discussion and concluded that “more is better”.

The only written statement I could find addressing Transparency is in our budget Book;

Under the Roles of Council;

“The role of Council is to develop a long term vision for the Town, to develop policies necessary to achieve the vision, and communicate with, and seek input from, stakeholders. This includes

...promoting **transparency** in communicating with residents, businesses, and regional partners.” Page 10, 2016-17 Building a Solid Foundation,
Budget

Book.

I have updated the outline we covered of our history of Transparency in July of 2016.

“What is our history in Addison?”

The progress we have made since the “Dark Days” following the FBI investigation, death of our mayor and the Rolfe report back in the 80s, much has changed.

Began with Town hall meetings 2 times per year,
followed by meeting and exceeding the legal requirements for financial disclosure with our award winning Budget Books and Certified Annual Reports (CAFR) from our finance department.

A push for video broadcasting and archiving of council meetings began in 2008 initially meeting strong resistance yet by 2010 was implemented.

Since May of 2011

Town Hall meetings 2x a year continued with the agenda and presentations determined by mayor and council members. Each meeting concluding with an extensive open mic Q&A session.

Video of all Regular council meetings was expanded to include P&Z meetings. Work sessions relocated downstairs to “parlor” for easier access and more comfortable space for spectators.

Police department began providing annual reports, weekly reports, sex offender reports and other crime information on line. Joined with citizens to reform Neighborhood Watch groups.

Finance department brought access to CAFR on line, Budget Book on line, Kanter reports and responses on line and archived, website updated to include easy access to all financial materials including on line check book and access to Open Gov. com.

Availability of mayor to media; DMN, DBJ, TV News, Blogs including Truth in Addison and Facts Matter.

Mayor and council ease of access by email and ipads. Open Public comment section at the beginning of each Regular Council meeting.

Full time certified City Secretary to facilitate and expedite the Freedom of Information Act (FOIA) requests.

Economic Development luncheons to highlight our local restaurateurs on the first Monday of each month. Posted as an open meeting.

Mayor Coffees 2x month; First Wednesday and Third Thursday. Posted as Open meetings.

Waiver of Attorney Client privilege with respect to certain documents.

Weekly Mayor Newsletter since July 2011, in June 2016 over 2,000 subscribers.

Mayor Newsletter subscription list available to each council member for their own newsletter since 2013.

May 2016 council members Walden, Duffy, Angell, Arfsten and Hughes voted to terminate the mayor’s newsletter.

Not long after the termination of the mayor's newsletter, the staff began writing a Town Newsletter. Council did not provide any guidance as to content.

Town to begin broadcast on cable channel in April 2017. No current council policy in place for guidance for staff as to content, advertising, etc.,,

Are those practices consistent with "promoting transparency in communicating with residents, businesses, and regional partners."?

Do we agree that one of the intended purposes of Transparency is to "build and maintain trust"?

Are our current practices consistent with that purpose?

Do all council members make themselves available to the public?

Do council members have private meetings? If so, is that a good practice?

Are there other current practices that may be inconsistent with building and maintaining trust?

June of 016 council members Walden, Duffy, Angell, Hughes and Arfsten voted to terminate the mayor's newsletter.

Soon thereafter Town staff began to write and distribute a weekly newsletter entitled; "A weekly wrap up of All Things Addison."

That Town newsletter uses the subscription list of email addresses that were developed for the mayor's newsletter.

The Town staff has added one full time person to our Communications and Marketing Staff.

The Council has not provided any policy guidelines for the Town newsletter.

What is the intended purpose of the Town newsletter?

Is it intended to fully inform our community
about "All Things Addison"?

What are the minimum disclosure requirements for our Town newsletter?

What are the reasonable expectations of our community about those disclosures and information?

Should the Town newsletter only report the “good” news as a marketing piece or all of the news?

In a recent Town newsletter there was a promotion of an event at a mayoral candidate’s business; is that a good practice?

In a recent Town newsletter there was mention and promotion of a public hearing for a playground issue yet in the very same newsletter there was no mention of a public hearing for a major rezoning of commercial property to residential to permit 349 apartments, is that good practice?

The Town newsletter reports on a limited number of council actions; not all.

What process is used in determining which actions are reported?

The Town newsletter does not report how each council member voted on any item, is that good practice?

The Town newsletter does not report on attendance statistics for council members, is that good practice?

Should the Town newsletter report on personnel changes on our staff?

Should the Town newsletter keep the community apprised of the status of investigations involving former employees? I.e. Former Addison Police Officer and treasurer of the Addison Police Association James Easterling?

In terms of keeping our community well informed what notices should be provided for Public Hearings, important council matters and zoning issues?

Should additional resources be used to inform our community; above the state minimums? I.e., 200 feet, use of the Dallas Commercial Record

Additional possible resources;

Town newsletter?

Signage?

Mail?

Social Media?

Develop and utilize an Addison APP?

How will the council guide staff on the utilization of our new TV Channel to fully and fairly inform our community?

What other current practices should be addressed, revised or new practices developed to “Build and Maintain Trust”?

While certainly intent is important, perception often guides public opinion. Full and open communication is the central component of our commitment to Transparency.

In the coming years Transparency that leads to building and maintaining trust will be critical for Addison. As we face the challenges of funding our necessary Infrastructure upgrades and deal with mandatory revenue caps that require community approval, the trust of our community will be essential for our continued success.

Abraham Lincoln; “Healing schisms requires a high level
of communication.”

George Washington; “It is essential that public opinion
be enlightened.”

Transparency takes time, pace and commitment.

Transparency is the key to building and maintaining trust.

AI-2148

21.

Work Session and Regular Meeting

Meeting Date: 03/28/2017

Department: City Manager

AGENDA CAPTION:

Discuss And Consider Action Regarding A Review Of **Current Council Ethics Guidelines And The Need For Process And Sanctions.**

BACKGROUND:

Mayor Todd Meier requested this item be placed on the agenda to review and discuss current City Council ethics guidelines and the need for process and sanctions. The main point of discussion is related to determining if there are adequate process and enforcement mechanisms in place for the Town's ethics ordinance.

The Town's Code of Ethics in its entirety can be found in the Town's Code Of Ordinances at the following link:

https://www.municode.com/library/tx/addison/codes/code_of_ordinances

(Please copy and paste to your browser if the link does not work).

Attached you will find the City of Richardson ethics ordinance. Sections 2.7, 2.8, & 2.9 pertain specifically to process and enforcement mechanisms.

RECOMMENDATION:

Provide policy direction to staff.

Attachments

City of Richardson Code of Ethics

ARTICLE I. - CODE OF ETHICS

Sec. 2-1. - Purpose.

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the city; that no officer shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of such person's duties in the public interest; that public office not be used for personal gain; and that the city council at all times shall be maintained as a nonpartisan body. To implement such a policy, the city council deems it advisable to enact a code of ethics for officials, as defined in this article, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms, the overriding interest being that such officers of the city shall at all times strive to avoid even the appearance of impropriety.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-2. - Title; application.

- (a) This section shall be known as the code of ethics.
- (b) This code of ethics shall apply to all officials as defined in this article.
- (c) This code of ethics does not apply to employees, including those individuals employed on a full-time, part-time or internship basis (including those who may serve on a city board, committee or commission) nor to independent contractors of the city. The standards of conduct for employees are governed by the City of Richardson Personnel Policies and the City Charter.
- (d) This code of ethics applies to members of all city boards, committees or commissions as defined in this article.
- (e) This code of ethics applies to the conduct or actions of public officers, as defined in this article which occurs in whole or in part after the date of adoption of this article.
- (f) This code of ethics applies to officers only while such persons hold such position or office.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-3. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Benefit means anything reasonably regarded as pecuniary or economic gain or pecuniary or economic advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Business entity means any person, entity, corporation (whether for-profit or nonprofit), general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, holding company, joint-stock company, receivership, or other entity recognized by law, whether or not organized for profit, which has an economic interest, or seeking such, in conducting business with the city. Business entity also includes any business entity that represents a party conducting or seeking to conduct business with the city.

City means the City of Richardson, Texas.

City council means the governing body of the city.

Confidential information means any information to which an official has access in such person's official capacity which may not be disclosed to the public except pursuant to state and/or federal law and which is not otherwise a matter of public record or public knowledge. Confidential information includes the following information, however transmitted: (i) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act or other law regardless of whether disclosure violates the Texas Open Meetings Act or Texas Public Information Act; (ii) any information protected by attorney client, attorney work product, or other applicable legal privilege; and (iii) any information deemed confidential by law.

Contract means any lease, claim, account or demand against or agreement with any entity or person, whether express or implied, executed or executory, oral or written.

Corporation means any corporation that has a board of directors appointed in whole or in part by the city council that is operating under the direct authority of or subject to the direct control of the city council.

Employee means any person employed by the city, including those individuals on a part-time or internship basis, but does not include independent contractors.

Gift means anything of value, regardless of form, offered or given in the absence of adequate and lawful consideration. It does not include the receipt or acceptance of campaign contributions which are regulated by federal, state and/or local laws or ordinances.

Knowingly means a person acts knowingly, or with knowledge, with respect to the nature of the person's conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result.

Officer or official means any member of the city council and any appointed member of a city board, commission or committee established by ordinance, Charter, state law or otherwise, on a temporary or permanent basis, operating either under the direct or indirect authority or subject to either the direct or indirect control of the city council. Such term includes but is not limited to the members of the city plan commission, the board of adjustment, the building and standards commission, the tax increment reinvestment financing zone boards of directors, the civil service board and appeals board, the library board, the parks and recreation board, the arts commission, animal shelter advisory board, the environmental advisory commission. Such term also includes the members of the boards of directors of corporations, such as the Richardson Improvement Corporation.

Relative means any person related to an officer within the second degree by consanguinity or affinity. This relationship includes the spouse, parents, children, stepchildren, father and mother-in-law, or son and daughter-in-law, grandparents, grandchildren, sisters and brothers of the officer.

Special privileges means a right, advantage or favor of or for a particular person, occasion or purpose not otherwise available to others.

Substantial interest means: (i) the ownership of ten percent or more of the voting stock or shares of a business entity; (ii) the ownership of ten percent or more, or \$15,000.00 or more of the fair market value of a business entity; or (iii) funds received from the business entity exceed ten percent of the person's gross income for the previous year, and action on the matter involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. It is expressly provided herein that an investment or ownership in a publicly held company, in an amount less than \$15,000.00 does not constitute a substantial interest. Substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of \$2,500.00 or more; and it is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. (Ownership includes any partnership, joint or corporate ownership or any equitable or beneficial interest as a beneficiary of a trust.) An officer is considered to have a substantial interest under this code of ethics if a person related to the officer in the second degree of consanguinity or affinity has a substantial interest under this code of ethics.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-4. - Standards of conduct.

No officer of the city or a relative thereof shall:

- (a) Have a financial interest, direct or indirect, in any contract with the city, nor shall such person be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The "financial interest" contemplated under this section

and under the City Charter section 21.01 requires that such person receive an actual financial benefit from the transaction with the city. An actual financial benefit from the transaction shall include:

- (1) An ownership in the entity transacting business with the city where the ownership interest is more than ten percent.
- (2) Compensation as an employee, officer or director of the entity transacting business with the city where such compensation is affected by the entity's transaction with the city.
- (b) Participate in a vote or decision on any matter in which the officer has a substantial interest.
- (c) Represent or appear in behalf of private interests of others before the city council, or any agency, board, commission, corporation, or committee of the city, nor shall represent any private interests of others in any action or proceeding involving the city, nor voluntarily participate on behalf of others in any litigation to which the city is, or might be, an adverse party. The restrictions of this subsection 2-4(c) do not prohibit an officer, or relative of an officer, who is the president, vice president or officer of a homeowner's association from appearing before the city council, or any agency, board, commission, or committee of the city to represent such homeowner's association, except that no such officer or relative of such officer shall appear before the agency, board, commission or committee of the city of which such officer is a member.
- (d) Accept any gift from any person that might reasonably tend to influence such officer in the discharge of such person's official duties. The prohibition against gifts shall not apply to:
 - (1) A lawful campaign contribution;
 - (2) An honorarium in consideration for services unless the officer would not have been asked to provide the services but for the officer's position;
 - (3) Meals, lodging, transportation in connection with services rendered by the officer at a conference, seminar or similar event that is more than merely perfunctory;
 - (4) Complimentary copies of trade publications and other related materials;
 - (5) Attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
 - (6) Any gift which would have been offered or given to the person if such person was not an officer or employee of the city;
 - (7) An occasional item with a value less than \$50.00;
 - (8) Tee shirts, caps and other similar promotional material;
 - (9) Meals, transportation and lodging in connection with a seminar or conference at which the officer is providing services;
 - (10) Gifts on account of kinship or a personal, or professional, or business relationship independent of the officer's status;
 - (11) Complimentary attendance at political or charitable fundraising events; and
 - (12)

Meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official city business, if furnished by the sponsor of such public events.

- (e) Use such person's official position to secure special privileges or benefits for such person or others.
- (f) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group.
- (g) Disclose confidential information.
- (h) Engage in any outside activities which will conflict with or will be incompatible with such person's official position or duties as an officer of the city.
- (i) Use city supplies, personnel, property, equipment or facilities (whether tangible or intangible) for any purpose other than the conduct of official city business, unless otherwise provided for by law, ordinance or city policy.
- (j) Act as a surety on any official bond required for any officer or employee of the city, or for a business that has a contract, work or business with the city.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-5. - Additional standards.

- (a) No member of the city council who is on the board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the city council.
- (b) With the exception of those proceedings allowed under this article, no member of the city council shall personally appear in such person's own behalf before the city council, or any city board, commission, corporation or committee but may designate and be represented by a person of such person's choice in any such personal matter.
- (c) No member of the city council, the city plan commission, or board of adjustment shall participate in, or vote on, any land use matter in which such officer has a substantial interest in any real property within 200 feet of the real property, the subject of the land use matter. For purposes of this subsection 2-5(c) "land use matter" shall mean zoning, plat approval, site plan or other development approvals or permits, variances or exceptions. The term "land use matter" does not include studies or similar matters that are for the benefit of the city and which are not unique to real property within 200 feet of the real property, the subject of the land use matter, in which the officer has a substantial interest.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-6. - Disclosure of substantial interest.

Any officer, who has a substantial interest in any matter pending before the body, board, commission, corporation or committee of which the officer is a member, before a vote or decision on such matter, shall file an affidavit stating the nature and extent of the substantial interest, and shall abstain from further participation in such matter. The affidavit shall be on a form provided by the city and must be filed with record keeper for such body, board, commission, corporation or committee.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-7. - Complaints against officers.

- (a) All complaints or allegations of a violation of this code of ethics against an officer shall be made in writing on a form provided by the city, sworn to before a notary public, and filed of record with the city secretary. Such complaint shall describe in detail the act or acts complained of and the specific section(s) of this code of ethics alleged to have been violated. A general complaint lacking in detail shall not be sufficient to invoke the investigation procedures contained herein; and anonymous complaints shall not be considered. The city secretary shall provide a copy of the complaint to the affected officer and the city council, and immediately refer the complaint to the city attorney, who shall initially review the complaint to determine if the complaint contains sufficient detail and alleges a violation of the code of ethics. The affected officer may file a written response to the complaint within seven business days after the complaint is filed with the city secretary, who shall forward the response, if any, to the city attorney.
- (b) The city attorney shall submit a written report to the city council as soon as possible but not later than 15 business days after the receipt of the complaint, unless an extension is granted by a majority of the non-implicated city council members. The city attorney may contact the complainant, interview witnesses and examine any documents necessary for the report. Such report shall be comprehensive and explain in detail all facts, findings, and conclusions in support of the city attorney's opinion as to whether or not a violation of this code of ethics occurred. When the city attorney receives a vague complaint or one lacking in detail, the city attorney shall contact the complainant to request a written clarification. If the complainant fails to provide the city attorney with written clarification, or if after written clarification is provided, it is the opinion of the city attorney that the complaint is insufficient in detail and/or fails to allege a prima facie violation of the code of ethics, a written report to that effect shall be submitted to the city council. If the city attorney determines that a criminal violation may exist, the city attorney shall refer the matter to the appropriate law enforcement agency.
- (c) If it is determined by the city attorney that the facts as alleged could constitute a violation of this code of ethics, then the city attorney shall, within 15 business days after receipt of the complaint, notify the mayor and city council members of the existence and nature of the complaint. The city council shall cause a meeting to convene, whether regular or special, within 15 business days after being so notified by the city attorney to further consider said complaint in executive session with mayor or any three members of the city council (excluding the mayor) causing such a meeting to be convened. In any event,

the city attorney shall immediately proceed to fully investigate the alleged improprieties. For purposes of this investigation, the city attorney shall have all of the powers of investigation as are given to the city council by reason of the City Charter and shall report back to the city council as soon as possible but in no event more than 15 business days from the date of notification of the city council unless an extension is granted by the city council. Said report shall be comprehensive and explain in detail all facts, findings and conclusions in support of the city attorney's opinion as to whether a violation of this code of ethics occurred.

- (d) The city council shall consider the complaint and the city attorney's report at an executive session of the city council. The affected officer may request that the complaint be considered in a public meeting. At such meeting, the city attorney shall present a written report to the city council describing in detail the nature of the complaint and the city attorney's findings and conclusions as to a possible violation of this code of ethics. The affected officer shall have the right to a full and complete hearing before the city council with the opportunity to call and cross-examine witnesses and present evidence in such person's behalf. The non-implicated city council members in attendance shall conduct a hearing and review the complaint. The city council may reject the complaint or take action authorized under section 2-8, violations.
- (e) No action or decision with regard to the complaint shall be made except in a meeting which is open to the public.
- (f) The city council may appoint outside legal counsel, or may direct the city attorney to appoint outside legal counsel, or the city attorney in the city attorney's discretion, may appoint outside legal counsel, to perform the duties and responsibilities of the city attorney under subsections (b), (c) and (d) of this section.
- (g) A complaint or allegation of a violation of this article may only be made against an officer while such person holds such position or office. A complaint made against an officer pursuant to this section shall be processed and resolved even if such person resigns from, or ceases to hold such position or office, prior to resolution of the complaint.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-8. - Violations.

The city council may take any one or more of the following actions in an open meeting concerning a complaint:

- (1) Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith.
- (2) Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the officer of any steps to be taken to avoid future violations.
- (3) Issue a letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification.

- (4) Issue a reprimand when a violation has been committed knowingly or intentionally.
- (5) Remove from office an officer, other than a city council member, for a serious or repeated violation of this code of ethics. Removal shall be, to the extent by and allowed, in compliance with the Charter and state law.
- (6) Pass a resolution of censure or a recommendation of recall when the city council finds that a serious or repeated violation of this code of ethics has been committed intentionally by a member of the city council.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-9. - Interpretation of content.

Any officer may request and the city attorney shall issue, a verbal or written opinion (as deemed appropriate) concerning the meaning or effect of any section, word, or requirement of this code of ethics as it affects such person.

(Ord. No. 3785, § 1, 9-27-10)

Sec. 2-10. - Review.

The city council shall review this article once every two years following its adoption on September 27, 2010.

(Ord. No. 3785, § 1, 9-27-10)

Secs. 2-11—2-25. - Reserved.